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**Interinstitutional File:**  
**2015/0135 (NLE)**

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TRANS 133  
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#### 'I/A' ITEM NOTE

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	11330/16 MAR 199 TRANS 307 ENV 504 JUSTCIV 193
No. Cion doc.:	10248/15 JUSTCIV 155 TRANS 220
Subject:	Draft Council Decision on the ratification and accession by Member States, in the interest of the European Union, to the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, with the exception of the aspects related to judicial cooperation in civil matters – Adoption

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#### INTRODUCTION

1. On 22 June 2015, the Commission submitted this proposal to the Council.
2. The proposal aims at authorising Member States to ratify and accede to the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 ('1996 HNS Convention').

3. The 1996 HNS Convention was adopted in 1996 to make it possible for compensation to be paid to victims of accidents involving hazardous and noxious substances, such as chemicals. The 1996 HNS Convention is based on the same principles that govern international conventions on civil liability for oil pollution damage. However, it goes much further in that it covers not only pollution damage but also the risks of fire and explosion, including loss of life or personal injury as well as loss of or damage to property. Council Decision 2002/971/EC<sup>1</sup> authorised Member States to ratify or accede to the 1996 HNS Convention.
4. A lack of ratifications meant that the 1996 HNS Convention was failing to come into force and, as a result, the Protocol of 2010 was developed under the auspices of the International Maritime Organization ('IMO') to address practical problems that had prevented many States from ratifying the 1996 HNS Convention.
5. The Protocol of 2010 has the effect of replacing the 1996 HNS Convention and parts of it fall under the exclusive competence of the Union in the area of maritime transport. Therefore, Member States need to be authorised to be able to ratify or accede to the Protocol of 2010.
6. As is the case with the 1996 HNS Convention, the Protocol of 2010 contains provisions that affect Union secondary legislation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. Those matters are covered by a separate proposal for a Council decision to be adopted in parallel to this proposal.

## WORK WITHIN THE COUNCIL

7. The proposal was examined by the Shipping Working Party at several meetings during the second half of 2015.
8. On 10 December 2015, the Council agreed in principle on the draft Council decision and decided to transmit it to the European Parliament for consent<sup>2</sup>.

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<sup>1</sup> Council Decision 2002/971/EC of 18 November 2002 authorising the Member States, in the interest of the Community, to ratify or accede to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (the HNS Convention) (OJ L 337, 13.12.2002, p. 55).

<sup>2</sup> Doc. 13142/15.

9. The Commission entered a statement in the Council minutes on that occasion<sup>3</sup>.
10. On 17 December 2015, the draft Council Decision was transmitted to the European Parliament for its consent.

## **WORK WITHIN THE EUROPEAN PARLIAMENT**

11. The Parliament committee responsible, the Committee on Legal Affairs (JURI), appointed Mr Pavel Svoboda (EPP-CZ) as rapporteur.
12. On 8 June 2016, the Parliament adopted a resolution containing recommendations to the Council and the Commission as regards certain aspects of the draft Council Decision<sup>4</sup>.
13. On 5 April 2017, the Parliament eventually decided to give its consent to the draft Council Decision.

## **CONCLUSION**

14. The Permanent Representatives Committee/Council are invited to adopt the Decision as set out in document 13806/15, as prepared by the legal-linguistic experts.

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<sup>3</sup> Doc. 13142/15 ADD 1.

<sup>4</sup> Doc. 11062/16 + COR 1.