

# **Limits of liability for shipping raised with adoption of amendments to 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims**

The International Convention Relating to the Limitation of the Liability of Owners of Seagoing Ships, first signed in Brussels in 1957 and coming into force in 1968, dealt with the general question of the limitation of liability for maritime claims. The International Maritime Organisation (IMO) later adopted a new convention in 1976, which raised the limits, in some cases by 300%. The compensation limits of the 1976 Convention were raised by means of the Protocol adopted in 1996.

Under the Convention, specified limits of liability are set for two types of claims against shipowners: claims for loss of life or personal injury, and for property claims (such as damage to other ships, property or harbour works).

On 19<sup>th</sup> April 2012, the Legal Committee of the IMO revised these limits to increase the applicable limits of liability. The view was taken that, bearing in mind inflation rates, the limits set in the 1996 Protocol were inadequate to cover the costs of claims, especially those arising from incidents involving bunker fuel spills, as in the case of the “Pacific Adventurer” bunker oil spill in Queensland in 2009, when the clean-up costs were thought to have exceeded the applicable limitation amount. A number of governments had requested the IMO to review the limits; the new limits are expected to enter into force 36 months from the date of notification of the adoption, under the tacit acceptance procedure. This is expected to be during 2015.

The Convention provides for a virtually unbreakable system of limiting liability. There are not understood to be any changes to the circumstances in which parties entitled to limit may break the limits of liability. Shipowners and salvors may limit their liability except if “it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such a loss, or recklessly and with knowledge that such loss would probably result”.

New limits:

Under the amendments to the 1996 Protocol, the limits are raised as follows:

The limit of liability for claims for loss of life or personal injury on ships not exceeding 2,000 gross tonnage is 3.02 million SDR \* (up from 2 million SDR).

For larger ships, the following additional amounts are used in calculating the limitation amount:

- For each ton from 2,001 to 30,000 tons, 1,208 SDR (up from 800 SDR)
- For each ton from 30,001 to 70,000 tons, 906 SDR (up from 600 SDR)
- For each ton in excess of 70,000, 604 SDR (up from 400 SDR).

The limit of liability for property claims for ships not exceeding 2,000 gross tonnage is 1.51 million SDR (up from 1 million SDR).

For larger ships, the following additional amounts are used in calculating the limitation amount:

- For each ton from 2,001 to 30,000 tons, 604 SDR (up from 400 SDR)
- For each ton from 30,001 to 70,000 tons, 453 SDR (up from 300 SDR)
- For each ton in excess of 70,000 tons, 302 SDR (up from 200 SDR).

\* Special Drawing Rights (SDR)

The daily conversion rates for SDRs can be found on the International Monetary Fund IMF website: <http://www.imf.org/> )

*Based on IMO Briefing 12/2012 of 19 April 2012*