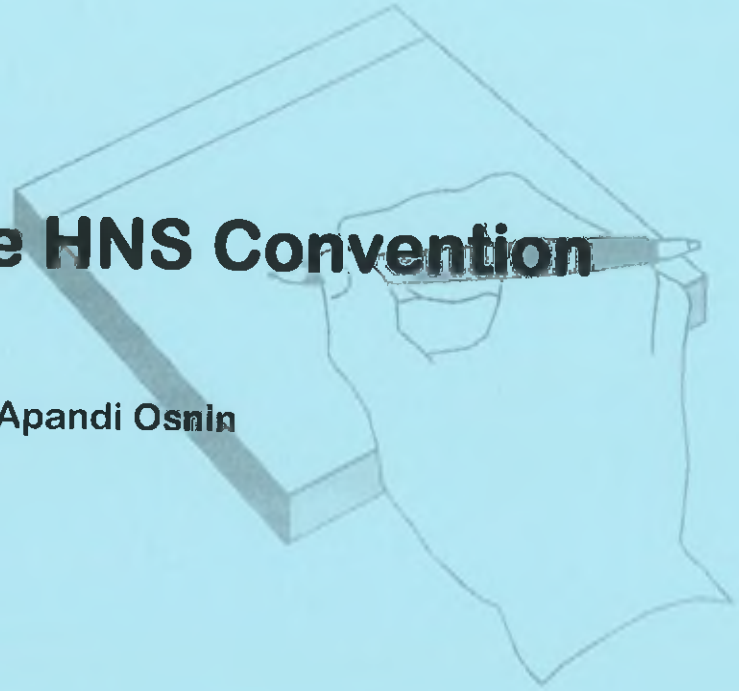
The HNS Convention



Noor Apandi Osnin
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The Conferment of IKMAL Honorary Fellow to Tun Dr. Mahathir Mohamad by H.R.H. Sultan of Selangor

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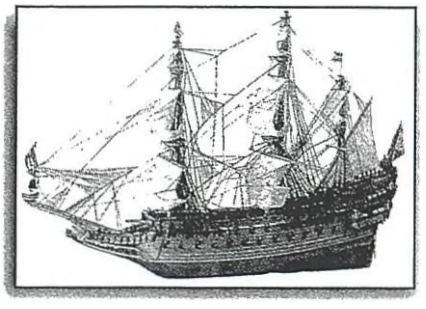

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The HNS Convention

Introduction

Noor Apandi Osnin MIK

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) was adopted on 3 May 1996 by the International Maritime Organisation (IMO), to address the need for an international compensation and liability regime governing damage arising from the carriage of hazardous and noxious substances (HNS) by sea. The Convention contains 54 Articles in six Chapters with two Annexes. The main objective of this convention is to provide adequate, prompt and effective compensation for loss or damage arising in connection with the carriage of HNS on sea going ships by establishing a guaranteed level of compensation up to 250 million Special Drawing Rights (SDR) for claims arising from HNS incidents. The SDR is the International Monetary Fund (IMF) special drawing right derived from currencies of leading industrialized nations. SDR 250 m is approximately £ 200 m or USD 303 m.

Background To Compensation Regime

The Torrey Canyon incident in 1967 provided an incentive to the development of voluntary agreements and international Conventions to ensure that compensation is available to those who suffer pollution damage as a result of a spill of persistent hydrocarbon mineral oil from ships.

The voluntary agreements of TOVALOP (Tanker Owners Voluntary Agreement Concerning Liability for Oil Pollution) and CRISTAL (Contract Regarding a Supplement to Tanker Liability for Oil Pollution) were established by the tanker and oil industries in the late 1960s as interim arrangements pending the widespread ratification of two international Conventions developed by the International Maritime Organisation (IMO). The original Conventions were the 1969 International Convention on Civil Liability for Oil Pollution Damage (1969 CLC) and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971 Fund Convention). This old regime was amended in 1992 by two Protocols, which increased the compensation limits and broadened the scope of the original Conventions. The amended Conventions are commonly known as the 1992 Civil Liability Convention (1992 CLC) and the 1992 Fund Convention.

The voluntary agreements lasted far longer than expected, even as their relevance was progressively eroded as countries around the world ratified the international Conventions. In view of this, and the entry into force in 1996 of Protocols, which updated the original Conventions, the voluntary agreements of TOVALOP and CRISTAL were terminated on 20 February 1997.