
CENTRAL COMMISSION FOR THE NAVIGATION OF THE RHINE

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Diplomatic conference organised by the CCNR
for the adoption of the Revised Strasbourg Convention
on the limitation of liability in inland navigation (CLNI)
(Strasbourg, 25 - 27 September 2012)

**Examination of the draft of the Revised Strasbourg Convention on the
Limitation of Liability in Inland Navigation
(CLNI 2012)**

Communication from IVR

The economic operators represented within the IVR support the intention of the Central Commission for the Navigation of the Rhine (CCNR) to draft a new Convention on the Limitation of Liability in Inland Navigation (CLNI) with the particular aim of extending the scope of the Convention. A uniform liability limitation regime boosts legal security and thus insurability in combination with adequate insurance covering.

This presupposes, however, an adequate increase of the limits of liability in the Convention taking account of the specific criteria of the shipping industry.

With regard to the last draft version, document CLNI/EG (12) 8 2 of 21 May 2012, we would like to propose to the diplomatic conference the following modifications.

These proposals are supported by the Association for European Inland Navigation and Waterways (VBW).

Article 1 – Persons entitled to limit liability, definitions

In order to maximise the scope of the CLNI convention so as to protect the vessel owner and avoid gaps, article 1, paragraph 2 (b) and (e) should be amended to read as follows.

Article 1

Persons entitled to limit liability, definitions

1. Vessel owners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.

2. The term:

...

(b) "Vessel" shall mean an inland navigation vessel **used for commercial navigational purposes** and shall also include hydrofoils, ferries and small craft but not air-cushion vehicles. A vessel is an inland navigation vessel within the meaning of this Convention if it is intended for navigation on inland waterways or if it is essentially used for that purpose. The term "vessels" shall also cover dredgers, floating cranes, elevators and all other floating and mobile appliances or plant of a similar nature;

(e) "Navigable waterway" shall mean navigable inland waterways, including lakes and coastal waters.

Article 6 – The general limits

Referring to the arguments already presented in its first opinion (CLNI/EG (11) 4), the IVR calls for an increase of the original limits in article 6, paragraph 1 (a) by a maximum of 50 %.

Article 6

The general limits

1. The limits of liability for claims other than those mentioned in Articles 7 and 8, arising on any distinct occasion, shall be calculated as follows:

a) in respect of claims for loss of life or personal injury,

i) for a vessel not used for cargo, in particular a passenger vessel, 300 units of account per cubic metre of displacement at maximum permitted draught, increased for vessels equipped with mechanical means of propulsion by ~~4050~~1400 units of account per kW of power of the machines providing the propulsion;

ii) for a cargo vessel, 400 units of account per tonne of the vessel's deadweight, plus 1050 units of account per kW of power of the machines providing the propulsion for vessels equipped with mechanical means of propulsion;

iii) for a pusher or tug, 1050 units of account per kW of power of the machines providing the propulsion;

iv) for a pusher which, at the moment when the damage was caused, was coupled to barges in a pushed train, the amount of liability calculated in conformity with (iii) shall be increased by 150 units of account per tonne of deadweight of the pushed barges; this increase shall not apply in so far as it can be proved that the pusher has provided salvage services to one or more of these barges;

- v) for a vessel equipped with mechanical means of propulsion which at the time when the damage was caused was providing propulsion for other vessels coupled to this vessel, the amount of liability calculated in conformity with (i), (ii) or (iii) shall be increased by 150 units of account per tonne of deadweight or cubic metre of displacement of the other vessels; this increase shall not apply insofar as it can be proved that this vessel has furnished salvage services to one or more of the coupled vessels;
- vi) for floating and mobile appliances or plant in the sense used in the second sentence of Article 1, paragraph 2 (b), their value at the time of the occurrence;

Article 7 – The limits applicable to claims for damage arising from the carriage of dangerous goods in conjunction with article 18 paragraph 1 (b) – Reservations

In connection with the introduction of separate provisions for claims for damage arising from the carriage of dangerous goods, it seems to be contrary to the spirit of unification to introduce additional reservation possibilities for the introduction of higher national limits, especially since liability for the carriage of dangerous goods is already foreseen to be twice the general limits provided for in article 6.

For this reason, we call for the deletion of article 18 paragraph 1 (b).

Article 18

Reservations

1. Any State may, at the time of signature, ratification, acceptance, approval or accession and at any subsequent time, reserve the right to exclude the application of the rules of this Convention in their entirety or in part:
 - (a) to claims for damage due to a change in the physical, chemical or biological quality of the water;
 - (b)
 - (c) to claims mentioned in Article 2 paragraph 1 (d) and (e) of this Convention;
 - (d) to lighters exclusively used in ports for transshipments.
2. Any State that avails itself of the option provided for in paragraph 1(b) ~~or in paragraph 2~~, must notify the Depository of the amounts of the limits of liability that have been adopted or of the fact that there is no such limit of liability.
3. Reservations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.
4. Any State which has made a reservation to this Convention may withdraw it at any time by means of a notification addressed to the Depository. The withdrawal shall take effect on the date the notification is received or on a later date specified therein.
5. Reservations other than those provided for in this Convention shall not be admissible.

Article 8 – The limits applicable to passenger claims

Pursuant to article 7 the amount of the liability of vessel owners for passenger claims will be significantly higher than according to the current CLNI Convention. To safeguard the interests of the victims, it is deemed acceptable to increase the liability of the vessel owner, as proposed in paragraph 1, up to an amount of 175 000 SDR, which is in line with the amount provided for in the Convention on Limitation of Liability for Maritime Claims of 1996.

However, with regard to the **general limits** proposed in (a) to (c), we call for an **adequate increase** for the reasons already mentioned above (insurability and safeguard of the interests of the victims).

We therefore call for maintaining adequate general limits by analogy with the current Convention.

Article 8

The limits applicable to passenger claims

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a vessel, the amount of the liability of the owner thereof shall be an amount of 100 000 units of account multiplied by:

(a) the number of passengers which the vessel is authorized to carry according to the vessel's certificate, or,

(b) if the number of passengers which the vessel is authorized to carry is not prescribed, the number of passengers actually carried by the vessel at the time of the occurrence.

2.

This amount shall not be less than 2 000 000 units of account.

a) 8 000 000 units of account for vessels with authorized capacity not exceeding 100 passengers;

b) 12 000 000 units of account for vessels with authorized capacity not exceeding 180 passengers;

c) 20 000 000 units of account for vessels with authorized capacity of more than 180 passengers.

Article 17 – Entry into force

Article 17 aims at preventing the coexistence of two Conventions on the Limitation of Liability in Inland Navigation. The current wording carries the risk that the current Convention will be denounced and cease to apply before the new Convention enters into force. We therefore propose an addition to paragraph 2.

Article 17

Entry into force

1. This Convention shall enter into force on the first day of the month following the expiry of a period of one year as from the date on which four States have deposited their instruments of ratification, acceptance, approval or accession, or on the date on which the Strasbourg Convention on the limitation of liability of owners of inland navigation vessels (CLNI) ceases to be in force, whichever date is the later.

2. A State that ratifies, accepts, approves or accedes to this Convention and is a Contracting Party to the Strasbourg Convention on the limitation of liability of owners of inland navigation vessels (CLNI) shall be required to denounce the latter **with effect from the date of entry into force referred to in paragraph 1.**

Article 18 – Reservations

See in this respect the observations on article 7: **Deletion of paragraph 1 (b).**

Article 21 – Meeting for increasing the amounts of the limits

The current article 20 on the modification of the limits has been redrafted on the model of the Montreal Convention in order to simplify the review. This guarantees an inflation adjustment and makes article 21 superfluous. The IVR therefore calls for deleting article 21.

The IVR and the VBW invite the governmental delegations to take account of these proposals when adopting the draft Convention at the diplomatic conference in September 2012.

29 June 2012