



Agenda Item 8	IOPC/OCT17/8/2	
Date	6 October 2017	
Original	English	
1992 Fund Assembly	92A22	●
1992 Fund Executive Committee	92EC69	
Supplementary Fund Assembly	SA14	

HNS CONVENTION AND PROTOCOL

Note by the Secretariat

Summary:	This document provides an update of the work carried out by the 1992 Fund Secretariat with regard to the administrative preparations necessary for the setting up of the International Hazardous and Noxious Substances Fund (HNS Fund).
Action to be taken:	<p><u>1992 Fund Assembly</u> Information to be noted.</p>

1 Introduction

- 1.1 In April 2010, an international conference on the revision of the HNS Convention adopted 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 (2010 HNS Protocol).
- 1.2 Resolution 1 of the Conference requested the 1992 Fund Assembly to instruct the Director of the IOPC Funds to carry out the tasks necessary to set up the International Hazardous and Noxious Substances Fund (HNS Fund) and make preparations for the first session of the HNS Assembly. To this end, the 1992 Fund Secretariat has undertaken a number of administrative tasks in cooperation with the International Maritime Organization (IMO) and has reported progress at least to each regular session of the 1992 Fund Assembly (see documents [IOPC/OCT16/8/2](#) and [IOPC/APR17/5/1](#) for the latest updates).
- 1.3 The tasks were aimed at providing States with all the instruments and support required to ratify the 2010 HNS Protocol, namely:
 - (a) development of HNS contributing cargo reporting guidelines to assist States' ratification of or accession to the 2010 HNS Protocol. The guidelines were accompanied by model reporting forms for providing data on the total quantities of HNS contributing cargo received in a State;
 - (b) publication of a brochure describing the main features of the HNS Convention with its first edition in 2010 followed by an updated version in 2014;
 - (c) development and maintenance of a dedicated website aimed at providing all interested stakeholders with a comprehensive source of information about the HNS Convention;
 - (d) development, maintenance and expansion of the HNS Finder, the online database of substances that fall within the definition of HNS, including contributing cargo, under the 2010 HNS Protocol;
 - (e) ongoing support provided to the Coordinator of the HNS Correspondence Group (François Marier of Canada) set up by the IMO Legal Committee at its 101st session in April 2014; and

- (f) continued engagement with States considering ratifying the Protocol and the industry stakeholders potentially affected by the Convention.
- 1.4 With reference to paragraph 1.3 (e), the IMO Legal Committee at its 104th session in April 2017, having considered that the HNS Correspondence Group had completed its mandate, decided not to extend it further.
- 2 Ongoing activities**
- 2.1 HNS scenarios presentation
- 2.1.1 One of the outcomes of the work of the HNS Correspondence Group was the development of a presentation about HNS incidents. The presentation is intended to complement the HNS brochure and serves as useful supporting material to be used by State administrations and other stakeholders in meetings, conferences or seminars, by explaining in simple terms and via clear examples why it is so important to have this compensation regime in place.
- 2.1.2 The presentation was approved by LEG 104 (see document LEG 104/15 paragraph 3.8) and subsequently finalised by IMO with the support of the 1992 Fund Secretariat and ITOPF. It has been made available online via the IMO and HNS Convention websites (www.hnsconvention.org).
- 2.2 HNS website and HNS Finder
- 2.2.1 The consolidated list of HNS covered by the HNS Convention (the HNS Finder) continues to be updated regularly to take into account changes in the codes and lists referred to in the HNS Convention. The most recent update in March 2017 incorporated the changes to the list following the latest IMO circular MEPC.2/Circ.22 (Tripartite agreements).
- 2.2.2 Despite the closure of the HNS Correspondence Group, which was the main feed for the HNS blog, the Secretariat decided to maintain the blog live on the website, thus allowing interested stakeholders to continue to exchange information via this flexible platform.
- 2.3 Engagement with States considering ratifying the Protocol and the industry stakeholders potentially affected by the Convention
- 2.3.1 An important activity aimed at supporting States considering implementing the HNS Convention is the two-day workshop to be organised jointly by IMO and the IOPC Funds in London in April 2018. This was one of the proposals of the HNS Correspondence Group which was approved by LEG 104 and was to be scheduled on the occasion of the Legal Committee and IOPC Funds meetings.
- 2.3.2 Following a discussion between the IMO and IOPC Funds Secretariats, it was decided to hold the HNS workshop immediately after LEG 105 with both events taking place the week before the IOPC Funds meetings. It was done in order to facilitate participation from delegations that would wish to take part in the Legal Committee and the workshop, and those that would wish to take part in the workshop and the Funds meetings. Accordingly, the timetable will be as follows:
- 23 to 25 April 2018 - LEG 105
 - 26 to 27 April 2018 - HNS workshop
 - 30 April to 2 May 2018 - IOPC Funds meetings

- 2.3.3 The main objective of the workshop is to focus on practical issues raised by States implementing the 2010 HNS Convention. These issues are mainly linked to the reporting of contributing cargo that need to be in place prior to a State being able to ratify or accede to the Convention. Time will also be allocated to the programme for discussions on HNS incidents and risks.
- 2.3.4 Invitations to the workshop will be issued to IMO Member States and observer organisations in early 2018.
- 2.3.5 Since the last update at the April 2017 sessions of the governing bodies (see document [IOPC/APR17/5/1](#)), the 1992 Fund Secretariat has continued to use the opportunity of meetings and overseas trips to give presentations on the HNS Convention.

3 Entry into force of the 2010 HNS Convention

3.1 Status of ratification and accession

- 3.1.1 As at 6 October 2017, one State, Norway, had deposited its instrument of ratification to the 2010 HNS Protocol, together with its report on receipt of HNS contributing cargo on 21 April 2017.
- 3.1.2 Seven more States (Canada, Denmark, France, Germany, Greece, the Netherlands and Turkey) have signed the 2010 HNS Protocol, subject to ratification.
- 3.1.3 Among the States that have adopted implementing legislation as a first measure prior to ratification or accession, Denmark has now been receiving reports on HNS contributing cargo for three consecutive calendar years, whereas Canada will, in early 2018, collect its first reports for the calendar year 2017.
- 3.1.4 Other States that might have adopted such legislation are invited to share that information via the HNS blog as well as to communicate that information directly to the 1992 Fund Assembly.
- 3.1.5 The 1992 Fund Secretariat remains available to support States in their efforts to prepare for ratification/accession to the HNS Convention and industry stakeholders on technical issues.

3.2 Draft IMO Assembly Resolution

- 3.2.1 The HNS Correspondence Group had also worked on a draft Resolution on the implementation and entry into force of the 2010 HNS Protocol to encourage Member States to consider implementing and ratifying/acceding to the 2010 HNS Protocol in a timely manner.
- 3.2.2 The draft Resolution was adopted at LEG 104 and will be presented to the IMO Assembly for adoption in November 2017 (See document LEG104/15 paragraph 3.8).

3.3 Decisions of the Council of the European Union

- 3.4 At European level, two decisions (2017/769 and 2017/770) of the Council of the European Union (EU) on ratification and accession by EU Member States on behalf of the Union to the 2010 HNS Protocol were formally adopted on 25 April 2017, providing the appropriate legal framework for EU Member States to proceed with accession or ratification.

3.5 In particular, article 2 in both decisions states that:

- Member States shall endeavour to take the necessary steps to deposit the instruments of ratification of, or accession to, the Protocol of 2010 within a reasonable time and, if possible, by 6 May 2021.

- Member States shall inform each other and the Council and the Commission in an appropriate manner when the system for the reporting of HNS contributing cargo becomes operational.
- Member States shall seek to exchange best practices, in particular on the system for the reporting of HNS contributing cargo under the Protocol of 2010.

4 Action to be taken

1992 Fund Assembly

The 1992 Fund Assembly is invited to take note of the information contained in this document.
