



International Oil Pollution
Compensation Funds

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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:	<u>1992 Fund Assembly</u> Information to be noted.

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 to each regular session of the 1992 Fund Assembly (see document [IOPC/OCT15/8/3](#) for the latest update).
- 1.3 The tasks were aimed at providing States with all the instruments and support required to ratify the 2010 HNS Protocol, namely:
- 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;
 - 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;
 - development and maintenance of a dedicated website aimed at providing all interested stakeholders with a comprehensive source of information about the HNS Convention;
 - 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 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.

2 Ongoing activities

2.1 Work of the HNS Correspondence Group

2.1.1 At its April 2016 session, the 1992 Fund Administrative Council considered the report of the Correspondence Group contained in document [IOPC/APR16/5/1](#). Subsequently, in June 2016, the IMO Legal Committee also examined that same report (see document LEG 103/3) and was informed by the Coordinator of the HNS Correspondence Group, Mr. François Marier (Canada), of the publication of the brochure 'The HNS Convention: Why it is Needed', the work done on HNS Incident Scenarios and developments regarding drafting an assembly resolution on implementation and entry into force of the 2010 HNS Protocol.

2.1.2 The IMO Legal Committee decided, in particular, to:

- extend the mandate of the Correspondence Group until its next session;
- endorse the outline of the HNS Incidents Scenarios and requested the HNS Correspondence Group to further develop the presentation with a view to consideration at LEG 104;
- refer the draft resolution to the HNS Correspondence Group for finalisation with a view to further consideration at LEG 104; and
- to consider at LEG 104 whether to hold a workshop on the HNS Convention on the basis of a programme to be developed by the HNS Correspondence Group.

2.1.3 The 1992 Fund Secretariat provided support for the preparation of the brochure and has been actively contributing to the development of the presentation on HNS scenarios. The presentation is intended to complement the brochure and will provide a useful supporting material to be used by State administrations and other stakeholders in meetings, conferences or seminars, to explain in simple terms and via clear examples why it is so important to have this regime in place. The presentation will cover the general purpose of the HNS Convention, the type of damages covered and will use four hypothetical scenarios to demonstrate how the convention's mechanism would provide compensation to victims.

2.1.4 It is intended that the Secretariat will continue to work with IMO, ITOPF and members of the Correspondence Group in the coming months to finalise that presentation.

2.2 HNS website and HNS Finder

2.2.1 In line with the changes undertaken to the IOPC Funds website following the office relocation and change of logo, the HNS website (www.hnsconvention.org) has undertaken the same changes and has also been transferred to the same content management system as the IOPC Funds website in order to facilitate its maintenance and further development as required.

2.2.2 The consolidated list of HNS covered by the HNS Convention (the HNS Finder) has continued 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 September 2016 incorporated the changes to the list following the latest IMO circular MEPC.2/Circ.21 (Tripartite agreements) and IMDG Code Amendments 37-14 Dec 15 errata.

2.3 Engagement with States considering ratifying the Protocol and the industry stakeholders potentially affected by the Convention

2.3.1 Since the October 2014 sessions of the governing bodies, the 1992 Fund Secretariat has had a number of opportunities to make presentations related to the HNS Convention.

2.3.2 In November 2015, the Secretariat took part in a workshop on the implementation of maritime liability conventions held in IMO for the benefit of the Myanmar administration and, in addition to the tanker oil pollution compensation regime, presented the outlines of the HNS Convention

2.3.3 As previously reported orally at the April 2016 sessions of the governing bodies, the Secretariat has attended a meeting of the European Council in December 2015, providing presentations on both the legal framework of the Convention and the reporting obligations. This was a contribution to the ongoing debate within the European Union about the draft European Council decision on the ratification and accession by Member States on behalf of the Union to the 2010 HNS Protocol.

2.3.4 In March 2016, Transport Canada hosted a two-day Workshop on the 2010 HNS Convention in Montreal. The workshop had a full programme which attracted speakers and participants from government and industry and covered many of the key areas pertinent to the entry into force of the Convention. The workshop was moderated by the Coordinator of IMO's HNS Correspondence Group, Mr Francois Marier. A summary of the topics covered at the workshop were set out in document [IOPC/APR16/5/1](#).

2.3.5 The Secretariat took part in a training session on liability and compensation organised by the European Maritime Safety Agency (EMSA) in November 2015 which focused on the international civil liability regime, including the HNS Convention.

2.3.6 On the occasion of Spillcon, the international conference on pollution preparedness and response that took place in May 2016 in Perth, Australia, the Secretariat had the opportunity to make presentations on the HNS Convention and its importance as the last gap in the overall regime for pollution compensation from ships.

2.3.7 Similarly, that opportunity presented itself again during the Oil Spill India Conference in August 2016 in Mumbai, India where the benefits of having an HNS compensation regime in place as soon as possible was highlighted.

2.3.8 Planned for after the sessions of the governing bodies in October 2016, the Secretariat will take part in the International Salvage & Wreck Conference in November 2016 in London to present on the principles of the HNS Convention. The Secretariat will also support IMO in the delivery of a national workshop on the maritime civil liability conventions for Thailand and will present on the 1992 Civil Liability Convention (1992 CLC) and Fund regime as well as on the HNS Convention. This workshop will take place in November 2016, in Bangkok.

3 Entry into force of the 2010 HNS Convention

3.1 Eight States (Canada, Denmark, France, Germany, Greece, the Netherlands, Norway and Turkey) signed the 2010 HNS Protocol, subject to ratification. As at 5 September 2016, no State had deposited an instrument of ratification or accession to the 2010 HNS Protocol.

- 3.2 However, some States have now adopted implementing legislation as a first measure prior to ratification or accession. These States are Canada, Denmark and Norway, and they have provided detailed information in that regard through the HNS Protocol Blog. In addition, Denmark has now obtained reports on HNS contributing cargo for two consecutive calendar years, thus effectively testing their legislation ahead of ratification.
- 3.3 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.
- 3.4 At European level, the draft European Council decision on ratification of the HNS Convention by EU Member States mentioned in paragraph 2.3.3 was still being considered within the European Union system at the time of writing this document.
- 3.5 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.

4 Action to be taken

1992 Fund Assembly

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