

The HNS Compensation Regime



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Jose Maura

Director

International Oil Pollution Compensation Funds

The HNS Convention

Principles



IOPC Funds

- Based on the successful model of the Civil Liability and Fund Conventions for oil pollution from tankers
- Establishes a **two-tier regime for compensation**
 - first tier paid for by the shipowner and insurer
 - second tier paid for by the HNS Fund
- Provides compensation for loss or damage to **persons, property and the environment** arising from the carriage of HNS by sea
- Covers both pollution damage and damage caused by other risks (e.g. fire and explosion)



Scope of the Convention

Damage covered



IOPC Funds

“Damage”

- Loss of life or personal injury
- Loss of or damage to property, economic losses
- Costs of preventive measures, clean-up, reasonable measures of reinstatement of the environment

Scope of application

- Caused by HNS in connection with their transport by sea
- Applies to any damage caused by HNS in the territory (including the territorial sea) of a State Party
- Applies to environmental damage in the EEZ of a State Party
- Applies to damage (other than contamination) caused outside the territory and the territorial sea of any State – if caused by HNS carried on board a ship registered in a State Party
- Applies to preventive measures taken anywhere to prevent or minimize damage as referred above

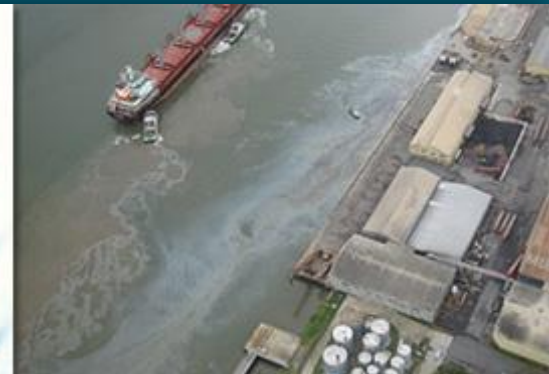
Scope of the Convention

Exclusions



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- Oil pollution damage from tankers, as defined in the Civil Liability Convention
- Damage from bunker fuel oil
- Damage caused by radioactive materials
- Optional – ships up to 200GT doing cabotage and carrying HNS in packaged form only



Shipowners' Liability

First Tier



IOPC Funds

Strict liability of the registered shipowner

- few exemptions (same as CLC)
- channelling of liability

Compulsory insurance

- approved insurers and state certification
- direct action by claimants against insurer

Limits of liability per incident

- maximum 100m SDR (\$155m) for bulk HNS
- maximum 115m SDR (\$180m) for packaged HNS
- priority given to death and personal injury claims

HNS Fund

Second Tier



IOPC Funds

- **Creates an intergovernmental organization**
- **Pays compensation when**
 - shipowner's liability insufficient
 - he is exonerated or financially unable to meet obligation
- **Limited exemptions**
Act of war, hostilities, insurrection or spill from warships
- **Establishes four accounts**
 - General
 - Oil (non-persistent and persistent)
 - LNG
 - LPG
- **Funded by receivers of bulk HNS in States Parties**
- **Limit of compensation per incident**
Up to 250m SDR (\$380m)

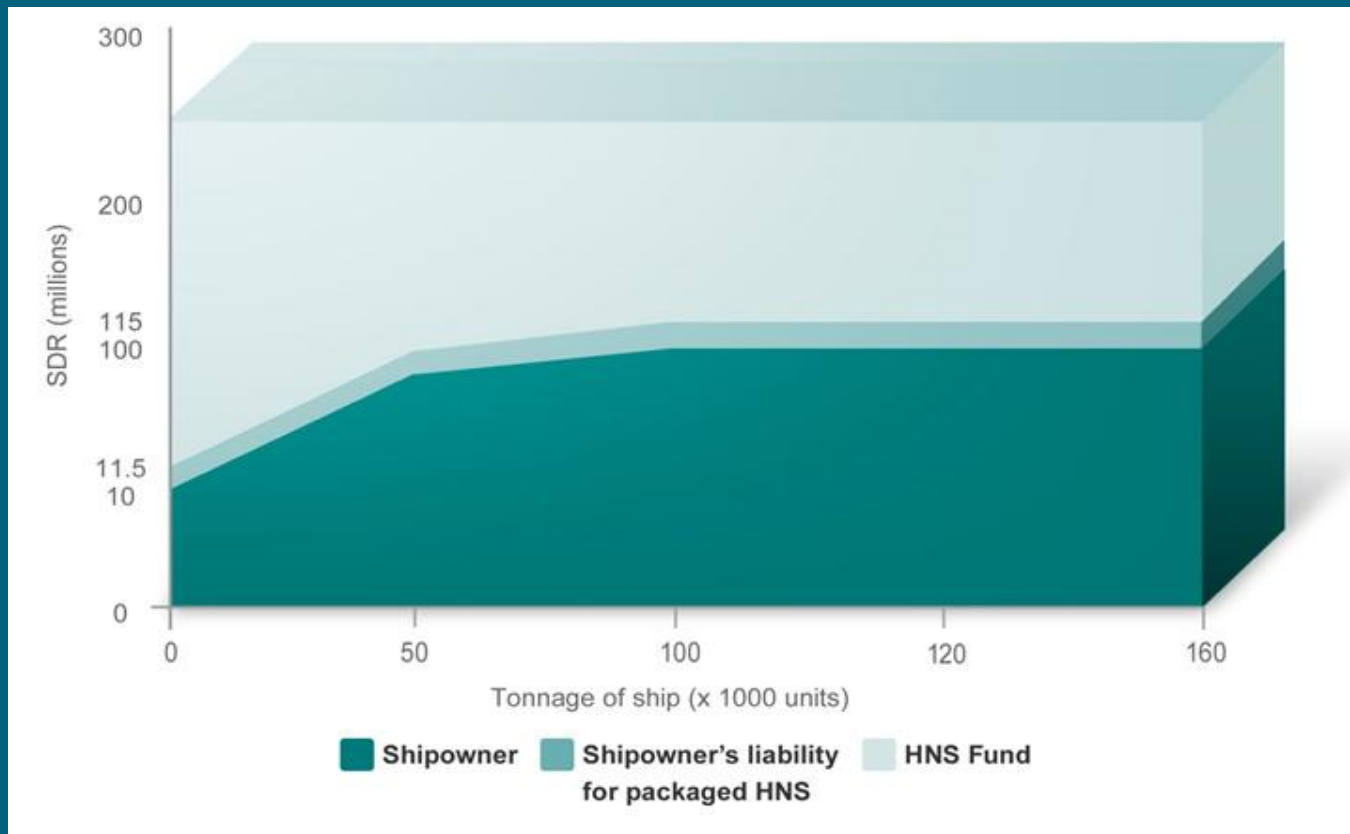
HNS Convention

Shipowner's liability and HNS Fund limits



IOPC Funds

Maximum limits of compensation



Financing of the HNS Fund

Contributions and Accounts



IOPC Funds

Cargo Accounts Table

	Establishment of account	Contributions to account
General Account	40 million tonnes*	
<ul style="list-style-type: none">• Bulk solids• Other HNS		20 000 tonnes
Oil Account	350 million tonnes	
<ul style="list-style-type: none">• Persistent oil• Non-persistent oil		150 000 tonnes 20 000 tonnes
LPG Account	15 million tonnes	20 000 tonnes
LNG Account	20 million tonnes	No minimum

*Condition for entry into force

HNS Claims process

General considerations



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- Practices of the CLC/Fund regime to be used as model wherever possible
 - Clean-up operations and preventive measures
 - Property damage
 - Economic losses
- To be established for other claims
 - Death and personal injury
 - Environmental damage
- Potential issue with timing to assess claims
 - Up to 10 years time bar
 - Difficulty to prove damage for personal injury claims in some cases
- HNS Assembly to decide claims guidelines/procedure after entry into force

1996 HNS Convention

Historical challenges



IOPC Funds

14 States ratified the 1996 Convention

- Angola, Cyprus, Ethiopia, Hungary, Liberia, Lithuania, Morocco, Russia, St Kitts, Samoa, Sierra Leone, Slovenia, Syria, Tonga

But only 2 submitted reports on contributing cargo

- Cyprus, Slovenia

Reporting Requirements was a serious challenge

- Heavy burden on States to ensure reporting on packaged substances
- Member States could claim without reporting
- Responsibility for contribution with LNG titleholder – issues with localisation

2010 HNS Protocol

Overcoming obstacles to ratification



IOPC Funds

Expediting entry into force

Reporting issues

6,500 HNS in the General Account. Many carried in packaged form and no consolidated list



Packaged goods covered by the Convention but do not contribute

Bulk cargoes are covered and the only contributors to the General Account.

Who contributes?

LNG cargo titleholder is responsible for contribution



Shifts responsibility for contribution to LNG cargo receiver in principle

Unfair cost sharing

Member States can claim without reporting contributing cargo



Ratification of Protocol must be accompanied by reports. Compensation is suspended in case of default, except for death and personal injury

Damage by packaged goods

A significant change



IOPC Funds

- **Packaged goods excluded** from the definition of contributing cargo in the 2010 HNS Protocol
- **Damage caused by packaged goods covered** by the compulsory insurance (“first tier” of liability)
- If the “first tier” is insufficient, HNS Fund pays out the excess, even though receivers of packaged goods don’t contribute to financing the second tier



2010 HNS Convention

Entry into force



IOPC Funds

Current signatories

Canada, Denmark, France, Germany
Greece, The Netherlands, Norway, Turkey



1. **Including 4** States each with fleet greater than **2 million** gross tonnage
2. The general account's contributing cargo volume must be at least **40 million** tonnes

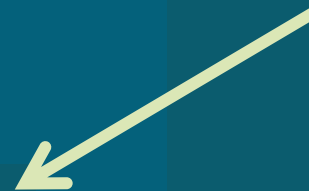
By 31 October 2011
8 States had signed the Protocol
(subject to ratification)



When minimum of
12 States ratify



Protocol enters into force
18 months later



HNS Convention

Role of the IOPC Funds



IOPC Funds

April 2010

- **Adoption of the 2010 HNS Protocol**
 - Resolution 1 of the International Conference requests the 1992 Fund Assembly to instruct the IOPC Funds to carry out tasks necessary to set up the HNS Fund

October 2010

- **1992 Fund Assembly instructs the Director**



- ✓ To carry out the administrative tasks for setting up the HNS Fund
- ✓ To give all necessary assistance to IMO
- ✓ To make the necessary preparations for the first Assembly of the HNS Fund

Role of the IOPC Funds

What has been done?



IOPC Funds



- **Administrative tasks to help set up the HNS Fund**
 - March 2013, IMO formally endorsed the contributing cargo reporting guidelines
- **Updated list of substances covered by the HNS Protocol**
 - HNS Finder
- **Production and dissemination of information material**
 - HNS Brochure (2014 edition just out)
 - HNS Website
- **Engagement with stakeholders to raise awareness**

Setting up the HNS Fund

To do list



IOPC Funds

IOPC Funds Secretariat

- Consensus among States for a joint Secretariat for HNS and IOPC Funds
- Draft rules of procedure
- Draft internal and financial regulations
- Discuss headquarters agreement with host government



HNS Fund Assembly

- Formally decide on location of the HNS Fund
- Appointment of a Director
- Review and approval of internal and financial regulations
- Establishment of a committee on claims for compensation
- Adoption of a claims manual
- Appointment of auditors





IOPC Funds

www.hnsconvention.org
