

# The HNS Compensation Regime



IOPC Funds



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# The HNS Convention

## Principles



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- 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*



### "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

### Localisation

- Caused by HNS in connection with their transport by sea
- Applies to damage caused by HNS in the territory (including the territorial sea) 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

# Damage by packaged goods

*A significant change*



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- **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



# 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



# 1996 HNS Convention

## Challenges



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### Reporting Requirements: Challenges

- 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

14 States ratified, including

- Cyprus, Hungary, Lithuania, Morocco, Russia, Slovenia, Syria, Angola, Tonga, Samoa

But only 2 submitted reports on contributing cargo

- Cyprus, Slovenia

# 2010 HNS Protocol

## Overcoming obstacles to ratification



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### 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

# Shipowners' Liability

## *First Tier*



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### **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



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- **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)

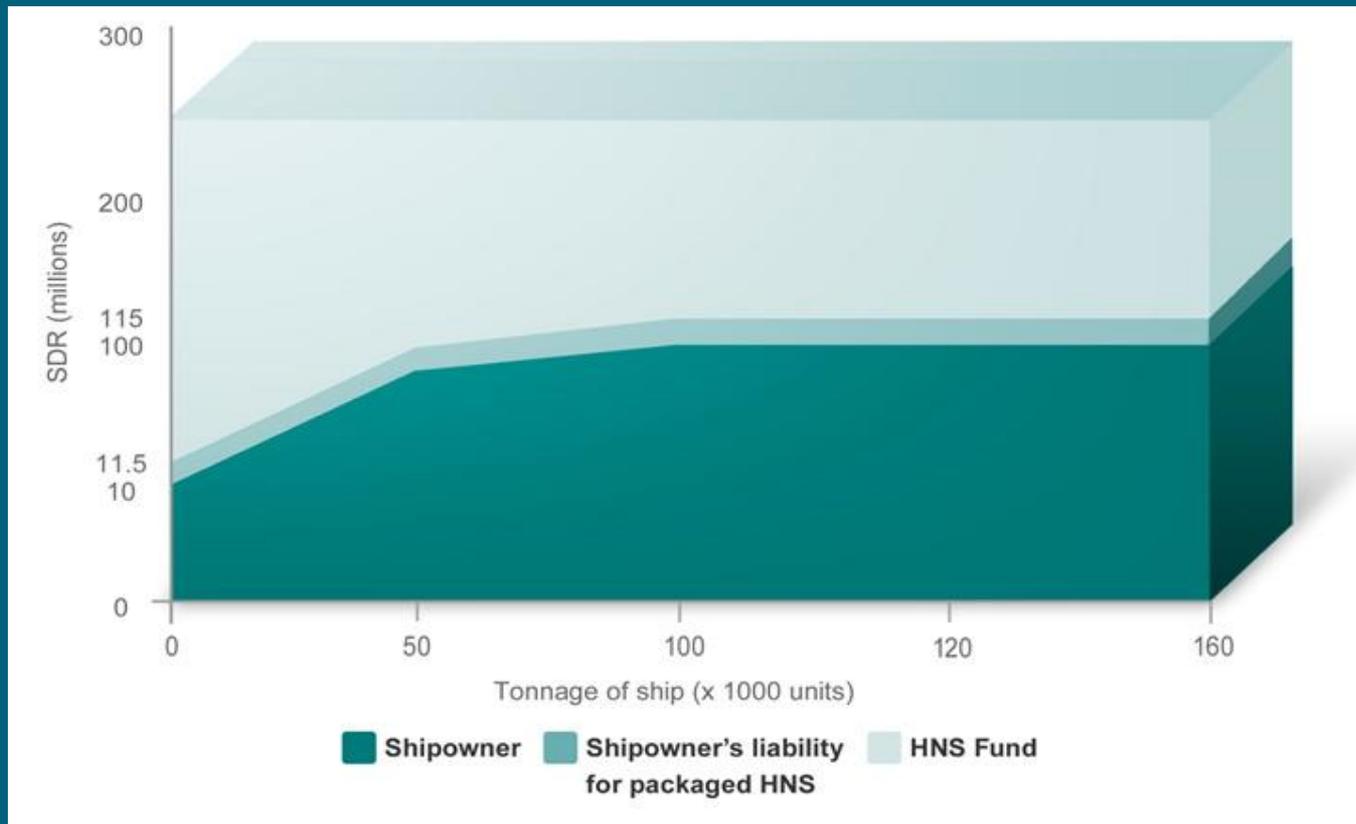
# HNS Convention

## *Shipowner's liability and HNS Fund limits*



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### Maximum limits of compensation



# Financing of the HNS Fund

## Contributions and Accounts



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### Cargo Accounts Table

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

\*Condition for entry into force

# 2010 HNS Convention

## Entry into force



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### 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*



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**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?*



- **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 (2010 edition)
  - HNS Website
- **Engagement with stakeholders to raise awareness**



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[www.hnsconvention.org](http://www.hnsconvention.org)

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