

Why is the HNS Convention necessary? The role of the IOPC Funds

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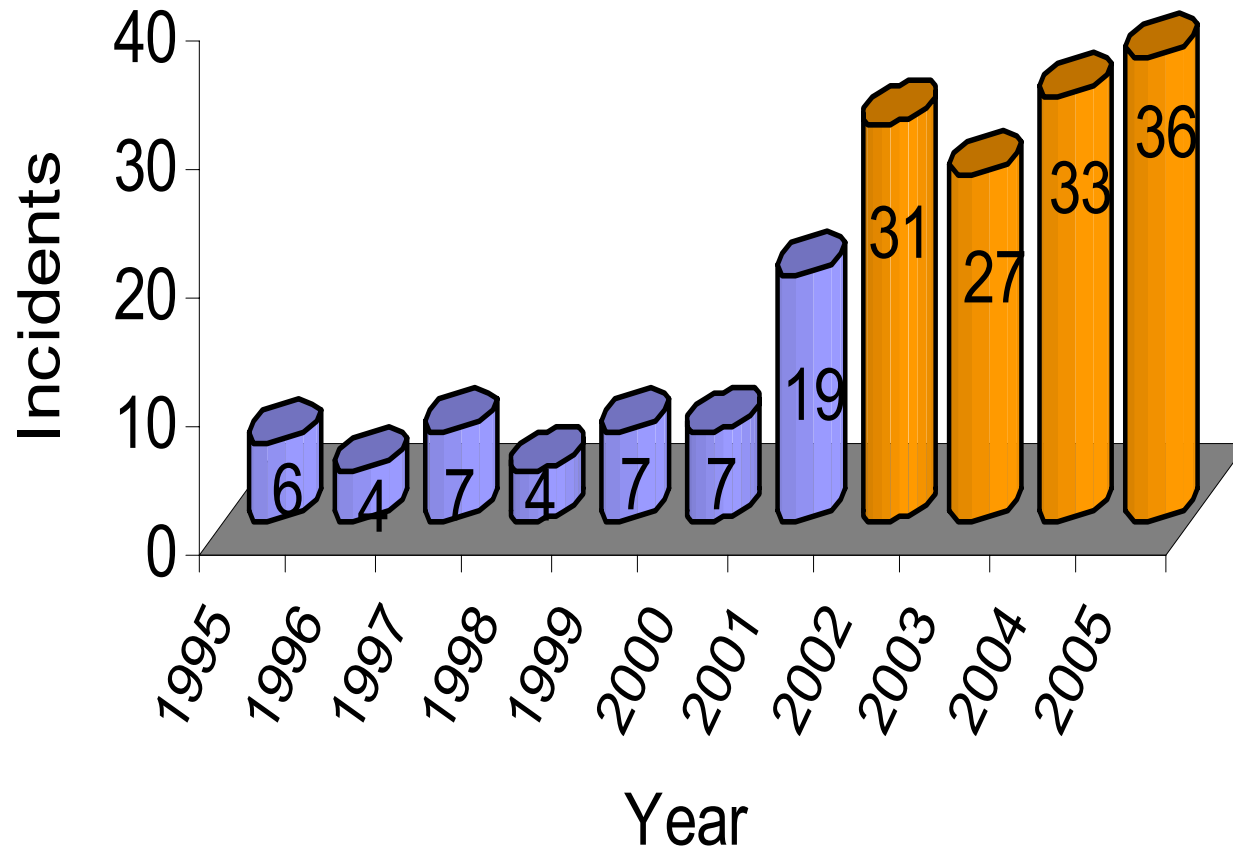
25 & 26 May 2006

London



International Oil Pollution Compensation Funds

Number of HNS Incidents



Incidents in 2005 by vessel type

and HNS cargoes

<u>Vessel type</u>	<u>Number</u>	<u>HNS Cargoes</u>
Ro / Ro ferry	2	Carbide, LPG Tanks
Chemical / Product tanker	20	Non-persistent oils, toluene, benzene, sulphuric acid, palm oil, sunflower oil, fluorosilicic acid, alcohol
General cargo ship	6	Gas cylinders, fireworks, explosives, misc. chemicals
Container ship	5	Formaldehyde, misc. chemicals
LPG tanker	2	Propane
LNG tanker	1	LNG
Total	<u>36</u> incidents	



Aim of the HNS Convention

To ensure adequate, prompt and effective compensation for:

- Damage to persons and property
- Costs of clean-up and reinstatement measures
- Economic losses

caused by maritime transport of hazardous and noxious substances (HNS)



What does the Convention not cover?

- Pollution damage caused by persistent oil (already covered by CLC/Fund regime)
- Loss or damage caused by radioactive substances



Who will pay compensation?

- First tier – individual shipowner and his insurer, via compulsory insurance
- Second tier – HNS Fund, contributed to by all receivers of HNS after sea transport in States Party to the Convention



Compensation limits

Shipowner

- ships up to 2000 GT - 10 million SDR (US\$15 million), rising to
- ships $\geq 100\ 000$ GT - 100 million SDR (US\$150 million)

HNS Fund

- maximum of 250 million SDR (US\$370 million) (including amount paid by shipowner/insurer)



Maritime Liability & Compensation Conventions

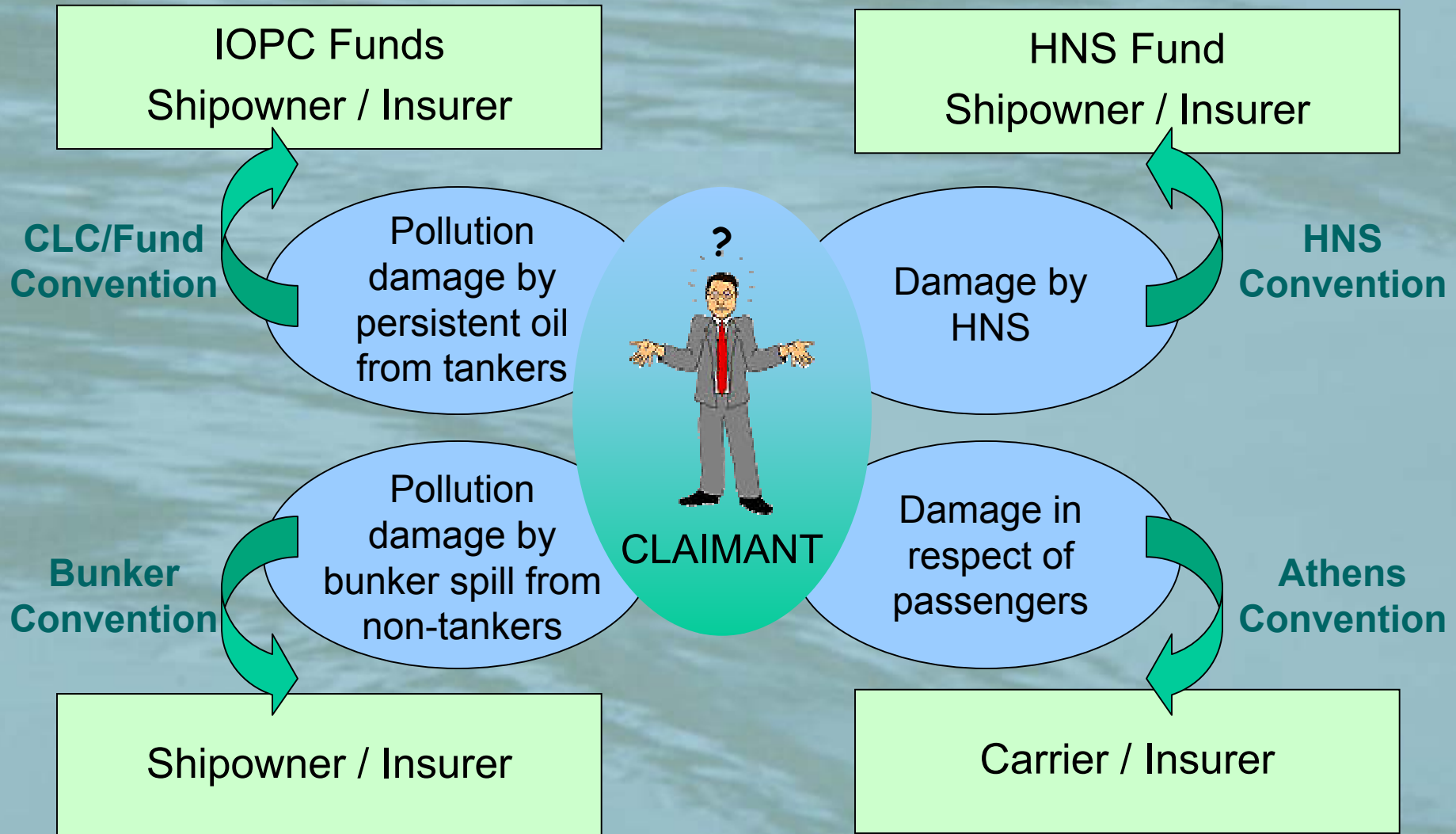
- HNS Convention
- 1992 Civil Liability Convention
- 1992 Fund Convention
- Supplementary Fund Protocol
- Bunker Convention
- Athens Convention
- Convention on Limitation of Liability for Maritime Claims (LLMC)



Inter-relationship between Maritime Liability & Compensation Conventions

- Adequate financial protection only if all these treaties are ratified
- Inter-relationship between Maritime Liability Conventions is not just theoretical - a number of incidents falling within several of these treaties have occurred





SCENARIO 1

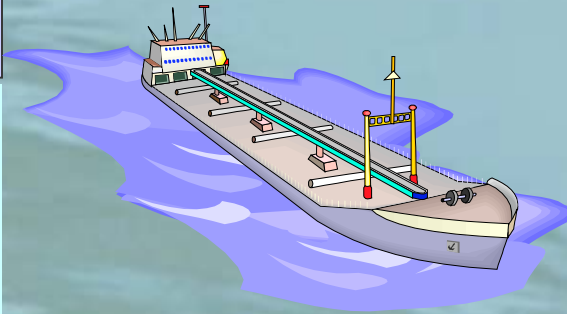
HNS Convention only

Chemical tanker (15 000 GT) with cargo of benzene ruptures tank during berthing. Some immediate deaths amongst caged fish in port area and possible long term effects to mariculture and human health.

HNS Convention

Shipowner	29.5	million SDR
HNS Fund	220.5	million SDR
Total	250	million SDR

Preventive measures,
Property damage,
Studies of damage to
environment & human health
Economic loss due to preventive
measures & property damage



SCENARIO 2

HNS Convention, CLC/Fund Convention, Bunker Convention & Athens Convention

Chemical tanker (20 000 GT) and cruise ship (85 000 GT) collide, killing 5 and injuring 30 passengers and breaching the cruise ship's bunker tanks. The tanker spills some of its cargoes of lube oil & epichlorohydrin, killing 10 more passengers.

HNS Convention

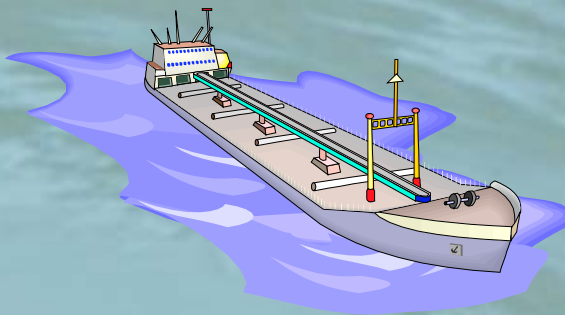
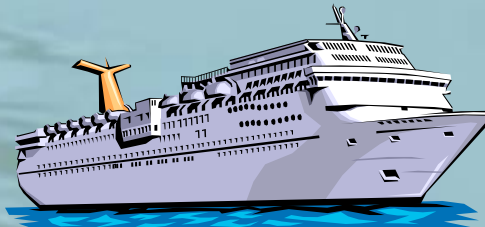
Shipowner	37	million SDR
HNS Fund	213	million SDR
Total	250	million SDR

Damage caused by epichlorohydrin, including: passenger deaths

Bunker Convention

Shipowner	8.2	million SDR
Total	8.2	million SDR

Damage caused by bunker fuel, including: cleanup, property damage, consequential economic loss



CLC/Fund Convention

Shipowner	13.975	million SDR
1992 Fund	189.025	million SDR
Supp. Fund	547	million SDR
Total	750	million SDR

Damage caused by lube oil, including: cleanup

Athens Convention

No fault

Carrier	11.25	million SDR
	(250 000 SDR per passenger)	

With fault

Carrier	18	million SDR
	(400 000 SDR per passenger)	

Damage caused by collision: passenger deaths & injuries



Conditions for entry into force

18 months after ratification by at least 12 States,
subject to:

- 40 million tonnes of contributing cargo (bulk solids and other HNS) received in these States in previous calendar year, and
- 4 States each having ships with a total tonnage of at least 2 million GT



When will the HNS Convention enter into force?

- Eight States have ratified the Convention (Angola, Cyprus, Morocco, the Russian Federation, Saint Kitts and Nevis, Samoa, Slovenia and Tonga)
- EU States – target date for ratification of June 2006
- Entry into force – 2008??



The HNS Fund

- Will be set up when the HNS Convention enters into force
- Primary aim of providing compensation for damage caused by HNS if protection available from the shipowner and his insurer is inadequate or such protection is not available



Operation of the HNS Fund

- Governed by an Assembly composed of all Member States
- Will operate in a similar way to the 1992 Fund
 - Assessment and payment of claims for compensation
 - Receive reports of contributing cargo
 - Levy contributions
 - Close cooperation with P&I Clubs, industry and governments



Operation of the HNS Fund (cont.)

Important differences compared to the 1992 Fund:

- Not just pollution damage but other types of claims eg death and personal injury
- Contribution system much more complicated



Operation of the HNS Fund (cont.)

- Committee on Claims for Compensation with 7-15 members, similar to 1992 Fund's Executive Committee
- Memoranda of Understanding (MOU's) with:
 - organisations involved in incidents
eg International Group of P&I Clubs
 - the 1992 Fund, to ensure same experts used in assessment of claims



Contributions

- HNS Fund financed by contributions based on quantities of contributing cargo received in Member States after sea transport
- Both initial and annual contributions
- Contributions to general account (divided into sectors) and to separate accounts



Contributions (cont.)

Administrative expenses

- IOPC Funds: £3.6 million (\$6.5 million)
- HNS Fund: estimate £1.0 million (\$1.8 million)

Compensation payments

- Maximum amount payable by HNS Fund for one incident is 250 million SDR (\$370 million)
- Levies for a major incident probably spread over several years



Secretariat and Director

- HNS Fund will be administered by a Secretariat, headed by a Director
- Joint Secretariat with the IOPC Funds would
 - enable the HNS Fund to benefit from the experience of the IOPC Funds
 - reduce administrative costs for both the IOPC Funds and the HNS Fund
- Separate Secretariat would
 - reflect different membership of the HNS Fund
 - ensure clear delineation of HNS Fund's operation and costs



Secretariat and Director (cont.)

- 1992 Fund Director instructed to base preparatory work on assumption of joint Secretariat
- Ottawa meeting requested IMO's Legal Committee to recommend joint Secretariat, located in London
- Final decision will be made by HNS Fund Assembly



FURTHER INFORMATION AVAILABLE FROM IOPC FUNDS

- Guide to the Implementation of the HNS Convention
- HNS Convention website - www.hnsconvention.org
- HNS Contributing Cargo Calculator (HNS CCCC)
 - CD-ROM
 - website www.hnscccc.org

