|  |  |  |
| --- | --- | --- |
|  | IMO-logo-rgb | ***E*** |

|  |  |
| --- | --- |
| LEGAL COMMITTEE  103rd session  Agenda item 3 | LEG 103/3  XX April 2016  Original: ENGLISH |

**FACILITATION OF THE ENTRY INTO FORCE AND HARMONIZED INTERPRETATION OF THE HNS PROTOCOL, 2010**

**Report of the HNS Correspondence Group**

**Submitted by Canada**

|  |  |
| --- | --- |
| **SUMMARY** | |
| *Executive summary:* | This document provides a report to the Legal Committee of the work of the HNS Correspondence Group and proposes an extension of the Correspondence Group until its next session. |
| *Strategic direction:* | 2 |
| *High-level action:* | 2.0.1 |
| *Output:* | 2.0.1.4 |
| *Action to be taken:* | Paragraph 12 |
| *Related documents:* | LEG 101/3, LEG 101/12, LEG 102/3, LEG 102/3/1 and LEG 102/12 |

**Introduction**

1 At its 101st session, the Legal Committee considered and agreed to reconstitute an HNS Correspondence Group (see paragraphs 3.6-3.7 of document LEG 101/12). The Legal Committee also agreed that Canada would coordinate the Correspondence Group and that it would report on its activities at the next session of the Committee. At its 102nd session held on 14 to 16 April 2015, the Coordinator of the HNS Correspondence Group presented a report and recommended that the mandate of the Correspondence Group be extended in order to continue to dialogue among States and industry stakeholders working towards the 2010 HNS Convention’s entry into force. The Legal Committee agreed to extend its mandate until its next session and added three specific items to its Terms of Reference.

2 The revised terms of reference for the HNS Correspondence Group are as follows (see Annex 2 of document LEG 102/12):

1. to provide a forum for an exchange of views concerning HNS implementation issues and to monitor and inform the implementation process in States;
2. to provide, with a view to encouraging early entry into force of the HNS Convention at a global level, and for the benefit of both potential State Parties and affected industries seeking a coordinated approach to ratification, accession or acceptance, guidance and assistance on issues regarding the implementation and operation of the Convention such as, but not limited, to:

* the collection of information on contributing cargo, the development of appropriate reporting and verification systems, and the contribution system in accordance with the Guidelines on reporting of HNS contributing cargo;
* the acceptability of insurance or other financial security for the purpose of Article 12 of the 2010 HNS Convention;
* assisting the 1992 Fund with the development of the various documents and decisions required for the first sessions of the HNS Assembly, in accordance with Resolution 1 on setting up the HNS Fund agreed at the international conference which adopted the 2010 HNS Protocol;

1. to develop three specific items:

* ‘Understanding the HNS Convention’ publication;
* HNS Scenarios; and
* a draft resolution on implementation and entry into force of the 2010 HNS Convention; and

1. to report to the Legal Committee at its next session.

**The HNS Convention: “Why it is Needed” Brochure**

3 At the 102nd session of the Legal Committee, an outline of the proposed ‘Understanding the HNS Convention’ publication was presented in document LEG 102/3/1 and subsequently endorsed by the Committee so that the publication can be finalised by the Correspondence Group. This publication has the purpose of providing information on the fundamental policy intent of the HNS Convention rather than explaining in detail how the Convention would work. The target audience for the brochure are policy and decision makers in States as well as industry stakeholders and it could assist them in their implementation work.

4 The further development and completion of this publication was the first task which the Correspondence Group focused on with the assistance of secretariats of the IMO, the IOPC Funds and the International Tanker Owners Pollution Federation (ITOPF). Several versions were considered by the Correspondence Group and it was formatted as a brochure of six pages. It contains information on the global trade in HNS, the risk and number of incidents, their potential consequences, the coverage and benefits offered by the HNS Convention, and the steps to be taken by states.

5 From its initial concept to completion, the brochure was finalised in about one and a half years and can be seen as an achievement in the tools available to states and industry stakeholders in promoting the HNS Convention. The brochure was published in three languages (English, French and Spanish) in November 2015 and is available on the IMO website (<http://www.imo.org/en/MediaCentre/HotTopics/Pages/HNS-2010.aspx>) or the HNS Convention’s website (<http://www.hnsconvention.org>) as well as those of the IOPC Funds and ITOPF.

**HNS Incident Scenarios**

6 The second specific item added to the HNS Correspondence Group’s Terms of Reference are the HNS Incident Scenarios. This is also intended to be an information tool for States and industry stakeholders in a PowerPoint presentation format. The outline developed to date within the Correspondence Group includes basic information on HNS as an important global trade and the risks of HNS incidents from ships. It would present several hypothetical scenarios of different types of HNS incidents with the damage that could occur. These scenarios are being developed by experts in several organisations as well as information from actual past HNS incidents. The scenarios would be followed by a comparison of the coverage between the HNS Convention and the limits of liability available under the International Convention on the Limitation of Liability for Maritime Claims (LLMC).

7 The HNS Correspondence Group has developed an outline of the presentation, which is presented in a separate document (LEG 103/3/1). A draft will also be presented at this session of the Legal Committee.

**Draft Resolution on the Implementation and Entry into Force of the HNS Convention**

8 The third specific item added to the HNS Correspondence Group’s Terms of Reference is the development of a draft resolution on the implementation and entry into force of the HNS Convention for the consideration by the Legal Committee. This draft resolution would have the intent of encouraging States to take the steps necessary to implement the HNS Convention domestically using the tools available and with the aim of rapidly bringing the Convention into force. The draft resolution would also encourage collaboration among States in order to ensure a coordinated effort, which is essential to have the critical mass of States to trigger its entry into force. Finally, the draft resolution would potentially propose a timeframe to achieve this. A separate document (LEG 103/3/2) contains the text of the draft resolution.

**Conclusions**

9 The Correspondence Group has continued to prove to be a beneficial forum for states to continue to exchange views and share information and best practices on the implementation of the 2010 HNS Convention. This is a view shared by many states who are actively involved in the work of the Correspondence Group. In addition, the HNS Incident Scenarios presentation will need further development in light of the Committee’s comments in order to make it readily available to assist states and industry stakeholders.

10 With the consideration of the draft resolution, should it be adopted by the Legal Committee at its 103rd session, it would send a strong signal to states to continue to collaborate with a common purpose. States and others thus need a venue to do so and opportunities to come together to share best practices and crucial information. The Committee is invited to request that the Correspondence Group develop a program for a workshop or conference on the HNS Convention that could be held in conjunction with its 104th session.

11 Given the work done by the Correspondence Group over the last two years and the critical need to facilitate the entry into force of the HNS Convention, it is recommended that the Correspondence Group continue to work during the next intersessional period and to report on its work at the next session of the Committee.

**Action requested of the Legal Committee**

12 The Legal Committee is invited to:

1. take note of the information contained in this document, and
2. to extend the mandate of the Correspondence Group to work intersessionally and to report at its next session.