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| LEGAL COMMITTEE  103rd session  Agenda item 3 | LEG 103/3/1  XX April 2016  Original: ENGLISH |

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

**HNS Incident Scenarios**

**Submitted by Canada**

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| **SUMMARY** | |
| *Executive summary:* | This document provides an outline of the HNS Incident Scenarios presentation being developed by the HNS Correspondence Group. |
| *Strategic direction:* | 2 |
| *High-level action:* | 2.0.1 |
| *Output:* | 2.0.1.4 |
| *Action to be taken:* | Paragraph 5 |
| *Related documents:* | LEG 101/3, LEG 101/12, LEG 102/3, LEG 102/12 and LEG 103/3 |

**Introduction**

1 The HNS Correspondence Group, whose mandate was extended by the Legal Committee at the 102nd session, is developing a presentation (PowerPoint) on HNS Incident Scenarios. Its purpose is reported in the HNS Correspondence Group’s report in document LEG 103/3, paragraphs 6 and 7.

**Initial Overview and Outline**

2 The HNS Correspondence Group considered a preliminary draft text of the HNS Incident Scenarios with an outline of the presentation and what information would be contained on the various slides. Several comments were provided by states and observer delegations, which have been incorporated into the outline as appropriate. Annex 1 of this document contains the draft outline of the presentation, which may continue to be slightly altered by the Correspondence Group. It is important to note that the Annex is meant to show an outline of the presentation and should not be interpreted as a final text. A draft presentation based on this outline is being prepared and will be presented at the Legal Committee’s 103rd session.

**Next Steps**

3 Similar to the process undertaken to develop the ‘HNS Convention: Why it is Needed’ brochure, the Correspondence Group would further refine the content and layout of the presentation. Given that it is also intended to be a very visual tool, it is important that the information be laid out in a way that makes the presentation useful and relevant.

4 Should the Legal Committee endorse the outline as well as extend the mandate of the Correspondence Group, the HNS Incident Scenarios presentation would be further developed and considered through the correspondence group in 2016.

**Action requested of the Legal Committee**

5 The Legal Committee is invited to:

.1 take note of the information contained in this document, and

.2 endorse the proposed outline of the HNS Incident Scenarios presentation and that it be further developed by the HNS Correspondence Group for publication in 2016.

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**ANNEX**

**HNS INCIDENT SCENARIOS OUTLINE**

**Slide 1 – Title/Cover:**

* Title Slide with logos of sponsoring organizations

**Slide 2 – Introduction:**

* The HNS Convention fills a gap in the global network of marine liability and compensation conventions
* It sets out a liability and compensation regime for damage arising from the international or domestic carriage of bulk and packaged HNS by sea.
* Covers over 2000 types of substances such as chemicals, refined oil, acids, fertilizers, alcohols, LNG, and LPG
* Covers sea-going ships carrying hazardous and noxious substances to, from, within a State Party
* Covers the territory, territorial sea, and EEZ of State Parties

**Slide 3 – Risks and Impacts Associated with HNS Incidents**

* Fire, explosion
* Dispersion of HNS into water
* Dispersion of HNS into the air
* Summary of possible consequences: short and long-term health risks, death and personal injury, evacuation of local population, impact on fisheries and aquaculture, decrease in tourism, interruption of navigation and port traffic, impacts on wildlife and sensitive habitats, etc.
* Summary of clean up costs: preventive measures to minimize damage, clean-up and removal costs, restoration of sensitive habitats and fisheries, etc.

**Slides 4-7 – What HNS Incidents May Look Like**

Each scenario will contain a calculation of the limit of liability under the LLMC 96 compared to the compensation available under the HNS Convention.

**Slide 4:**

* **Scenario 1**: Ship of 20,000 gross tons carrying flammable, toxic and corrosive substances in bulk hit by storm
  + Ship is in territorial waters
  + Hull cracks, substances leak into water
  + Certain substances ignite on contact with water threatening crew onboard the ship
  + Toxic and corrosive substances present a threat to fisheries

**Slide 5:**

* **Scenario 2**: Container ship of 100,000 gross tons carrying explosive, toxic and corrosive substances collides with another ship
  + Ships are in EEZ
  + The collision causes an explosion and fire on the container ship
  + Certain containers explode threatening the crews of both ships
  + Substances in other containers are vaporized releasing toxic gases and fumes and threatening the crews of both ships as well as responders.

**Slide 6:**

* **Scenario 3**: Chemical tanker of 35,000 gross tons carrying flammable, explosive, toxic and corrosive substances in bulk is hit by storm and grounds ashore
  + Ships are in internal waters
  + Close to an inhabited area
  + Incident includes explosion, fire, dispersion of substances into water and air
  + Private property and public infrastructure nearby
  + Fisheries and aquaculture nearby
  + Sensitive areas (beach, nature reserve)

**Slide 7:**

* + **Scenario 4:** Liquefied petroleum gas carrier of 12,000 gross tons carrying propane suffers a mechanical failure and drifts to shore near a populated area
  + Ship is disabled in bad weather and majority of crew are rescued
  + Ship is drifting towards a populated coastal area which is a popular tourism destination
  + Attempts to restart engines and tow ship are unsuccessful and ship runs aground
  + Incident includes explosion and intense fire

**Slide 8 – What is Covered by the HNS Convention?**

* The HNS Convention
  + Covers loss of life or personal injury on board or outside the ship (not covered by existing oil regime), loss or damage of property outside ship, loss or damage by contamination of the environment, costs of reasonable measures of reinstatement, costs of preventive measures and loss or damage caused by preventive measures.

**Slide 9 – How would the HNS Convention provide compensation?**

* + The HNS Convention
  + Requires shipowners to have compulsory insurance
  + Provides for the strict liability of the shipowner and direct action by claimants
  + Entitles shipowners to limit their liability based on the size of their ship
    - Approximately 26 million SDR for bulk HNS incidents for a ship of 20,000 tonnes
    - Approximately 42 million SDR for packaged HNS incidents for a ship of 20,000 tonnes

**Slide10 – How would the HNS Convention provide compensation?**

* + The HNS Convention (Continued)
  + Creates the HNS Fund, which would provide compensation when the shipowner’s liability is exhausted or when the shipowner does not provide compensation
  + The HNS Fund is made up of contributions from receivers of bulk HNS cargoes in state parties
  + The maximum amount of compensation available under the Convention between the shipowner’s liability and the HNS Fund is 250 million SDR

**Slide 11 – LLMC versus HNS Convention**

* + HNS Convention is a comprehensive liability regime that provides for prompt and adequate compensation;
  + LLMC is only a limitation regime and does not provide for strict liability of the shipowner but substantial HNS claim depends on applicable national legislation
  + HNS channels liability to one person (the shipowner)
  + Comparison of HNS Convention versus LLMC limits of liability

**Slide 12 – For more Information**

* Contact information of sponsoring organizations (IMO, IOP Funds, ITOPF).