

Implementation of the HNS Convention: The HNS Fund

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Objective of the HNS Fund

- 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
- Assembly's functions include reviewing:
 - the scope of definition of contributing cargo
 - the implementation of the Convention, with particular reference to the calculation of levies and the contribution mechanism for domestic trade



Operation of the HNS Fund (cont.)

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
- Ottawa meeting recommended 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



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



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.)

- General account and separate accounts will compensate damage caused by HNS covered by the respective account, ie no cross-subsidization
- Amounts to be levied to each account
 - Assembly decides
- Distribution between sectors of general account:
 - Regulations in Annex II
- Distribution of administrative costs
 - Assembly decides



Contributions (cont.)

1992 Fund

- General Fund: administrative expenses and compensation payments up to 4 million SDR (\$5.9 million) per incident
- Major Claims Funds: payments over 4 million SDR per incident

HNS Fund

- No similar provisions so only one type of contribution



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



Contributions (cont.)

Regulations in Annex II apply to the general account

- Designed to distribute contributions between the sectors of the general account according to the relative risks of each sector
- Weighted arithmetic average of the ratio of established claims to the volume of contributing cargo for each sector over the previous 10 years



Contributions (cont.)

1971 Fund:

- Initial and annual contributions

1992 Fund:

- Only annual contributions

HNS Fund:

- Initial and annual contributions



Contributions (cont.)

1992 Fund

- General Fund contributions:
 - based on oil received in preceding year
 - pro-rated according to part of year for which State was a Member
- Major Claims Fund contributions:
 - based on oil received in year before incident
 - not pro-rated
 - only payable in respect of States which were Members on the date of the incident



Contributions (cont.)

HNS Fund

- Annual contributions based on contributing cargo received in preceding year, or such other year as the Assembly may decide
- Annual contributions may cover two or more incidents which occurred in different years
- HNS Fund Assembly decides whether annual contributions should be pro-rated according to part of year for which State was a Member, regardless of whether State was Member when incident occurred



Contributions (cont.)

State joining the HNS Fund:

- Contributors in that State may have to pay contributions for incidents which occurred before the Convention was in force for that State

State leaving the HNS Fund:

- Contributors in that State may not have to pay all contributions for incidents that occurred whilst the Convention was in force for that State
- Any obligations to pay contributions in respect of such incidents continue to apply after the Convention has ceased to be in force for that State

