



International Oil Pollution
Compensation Funds

Agenda Item 8	IOPC/OCT19/8/2	
Date	1 October 2019	
Original	English	
1992 Fund Assembly	92A24	●
1992 Fund Executive Committee	92EC73	
Supplementary Fund Assembly	SA16	

2010 HNS CONVENTION

Note by the Secretariat

Summary:	This document provides reports on the status of the entry into force of the 2010 HNS Protocol, as well as an update on the work carried out by the 1992 Fund Secretariat with regard to the administrative tasks necessary for the setting up of the HNS Fund and the preparations for the first session of the HNS Assembly.
Action to be taken:	<u>1992 Fund Assembly</u> Information to be noted.

1 Introduction

- 1.1 In April 2010, an international conference on the revision of the HNS Convention adopted the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (2010 HNS Protocol).
- 1.2 Resolution 1 of the Conference requested the 1992 Fund Assembly to instruct the Director of the IOPC Funds to carry out the tasks necessary to set up the International Hazardous and Noxious Substances Fund (HNS Fund) and make preparations for the first session of the HNS Assembly. To this end, the 1992 Fund Secretariat has undertaken a number of administrative tasks in cooperation with the International Maritime Organization (IMO) and has regularly reported progress at sessions of the 1992 Fund Assembly (for the latest update, see document IOPC/APR19/5/1).

2 Progress towards entry into force of the 2010 HNS Protocol

- 2.1 The 2010 HNS Protocol shall, under its Article 21, enter into force 18 months after the date on which the following conditions are fulfilled:
 - (a) at least 12 States, including four States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it; and
 - (b) the Secretary-General of IMO has received information in accordance with Article 20, paragraph 4 and 6 that those persons in such States who would be liable to contribute pursuant to Article 18, paragraphs 1 (a) and (c) of the HNS Convention, as amended by the Protocol, have received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo contributing to the general account.
- 2.2 On 15 July 2019, the Republic of South Africa deposited with IMO an instrument of accession to the 2010 HNS Protocol, becoming the fifth Contracting State to the Protocol, joining Canada, Kingdom of Denmark, Kingdom of Norway and the Republic of Turkey.

- 2.3 Since four of those States have reported more than 2 million units of gross tonnage (Canada, Denmark, Norway and Turkey), one of the conditions for entry into force of the 2010 HNS Protocol is already fulfilled.
- 2.4 The States referred to in paragraph 2.2 have been reporting to IMO the total quantities of HNS Contributing Cargo they receive each year in respect of the general account. In conformity with Article 28.2 (a) (ii) of the 2010 HNS Protocol, IMO issued circular HNS.2/Circ.6 on 22 July 2019, setting out the 2018 data on contributing cargo. The total contributing cargo reported under the general account for 2018 in those five States was 9 794 535 tonnes.
- 2.5 Given the relative complexity of the contributing cargo reporting obligations, IMO, with support from the IOPC Funds Secretariat when possible, has been offering assistance to new Contracting States in verifying contributing cargo data when required.
- 2.6 A number of other States have indicated on several occasions that they are working towards implementation of the Convention in 2019 with a view to ratifying or acceding to it during the course of 2020 or 2021. Those States are encouraged to provide an update on their progress during the governing bodies sessions.

3 Work carried out so far to facilitate the entry into force of the 2010 HNS Protocol

3.1 HNS Convention website

- 3.1.1 The HNS Convention website (www.hnsconvention.org) is an important tool for accessing information related to the HNS Convention and its progress towards entry into force. The Secretariat has been maintaining the site since 2011, ensuring that its structure and content remained fit for purpose. On the occasion of its migration to a new management platform during the first quarter of 2019, the look and feel of the site were modified and some new features were added.
- 3.1.2 One of those new features was to provide access to a moderated blog section within the main site, allowing States and other interested stakeholders to ask questions and share information. This replaces the previous blog which, although maintained by the IOPC Funds, sat outside of the website and was used for the purpose of encouraging communication among the HNS Correspondence Group established by the Legal Committee of IMO. However, since the release of the new blog in April 2019, it has been used very little. The Secretariat would like to urge all interested parties to consider using that blog to share information, ask questions or raise issues so that other interested stakeholders can also benefit and widen their knowledge of the subject. In addition, the Secretariat is currently working on a series of questions and answers to be posted on the blog, based on its current experience dealing with enquiries and issues such as contributing cargo reporting and the applicability of the Convention in specific cases.
- 3.1.3 The Secretariat would welcome any feedback on the site's existing features as well as suggestions for new developments.

3.2 HNS Finder

- 3.2.1 The HNS Finder is an online database of substances that fall within the definition of HNS, including contributing cargo. The Finder is aimed at facilitating the identification of HNS contributing cargo by entities liable to submit reports. It has been in operation since 2011 and has been updated annually by the 1992 Fund Secretariat.
- 3.2.2 At its April 2019 session, the 1992 Fund Administrative Council was informed that since the HNS Finder was getting used more by governments and potential contributors, it was important that its accuracy was kept under regular review. To that end, the Secretariat, in cooperation with the relevant technical divisions of IMO and external experts, has been undertaking a full review of the list during the course of 2019.
- 3.2.3 The work has now been completed and the updated HNS Finder is in the process of being made available

via the online interface on the HNS Convention website. Information to that effect will be posted on the website and an update will be given during the 1992 Fund Assembly. An internal document describing the process to be followed for further updates has also been prepared.

3.2.4 The recent update also includes some changes to the Finder's online interface with the aim of improving its usability, in particular the access to previous years' versions of the Finder.

3.3 Administrative tasks necessary for setting up the HNS Fund

3.3.1 In October 2018, the 1992 Fund Administrative Council endorsed the proposal that the Secretariat should continue its work to prepare for the setting up of the HNS Fund and the first session of the HNS Fund Assembly. In particular, it considered that it would be useful for the Secretariat to undertake the tasks originally listed in document IOPC/OCT18/8/2 and to report on its progress to the 1992 Fund Assembly on a regular basis. Those tasks are listed below:

- (a) the HNS contributing cargo reporting and contributions system;
- (b) the handling of claims for compensation, including the preparation of a Claims Manual and a proposed mechanism for cooperation with P&I Clubs;
- (c) financial matters, including the preparation of Financial Regulations, the assessment of annual contributions and the budget;
- (d) operational matters, in particular the preparation of Internal Regulations and a proposal for the appointment of auditors;
- (e) the functioning of the HNS Fund Assembly and subsidiary bodies, including the adoption of Rules of Procedure and the relationship with non-State parties, intergovernmental and international non-governmental organisations;
- (f) the location of the HNS Fund's headquarters and the preparation of a Headquarters Agreement; and
- (g) the Secretariat of the HNS Fund, including the preparation of Staff Regulations and Staff Rules.

3.3.2 Given the limited resources available within the Secretariat to work on HNS matters, the priority has been the issue of HNS contributing cargo reporting, in particular the updating of the HNS Finder which is considered to be an important tool in support of States' implementation of the HNS Convention. It has also been the subject of specific questions received from a number of States during the year.

3.3.3 In the meantime, the Secretariat is continuing to work on an action plan, in consultation with other stakeholders, such as IMO and the International Group of P&I Associations, setting out the priorities for undertaking the other administrative tasks listed above.

3.3.4 The Secretariat will provide a progress report at the next regular session of the 1992 Fund Assembly.

3.4 Assistance provided to States considering the ratification of or accession to the 2010 HNS Protocol

3.4.1 Since the last progress report from the Secretariat (document IOPC/APR19/5/1), the Secretariat has continued to use the opportunity of national and regional workshops and other overseas trips to give presentations on the HNS Convention. In addition, it has continued to engage with interested States to promote the use of the tools specifically developed to create awareness about the Convention internally and assist them with their implementation efforts. In particular, States are encouraged to use the HNS incidents scenarios presentation which is readily available on the HNS Convention website.

3.4.2 The Secretariat also uses the opportunity of visits from university students to London or lectures delivered to universities abroad, in particular the World Maritime University in Malmö and the International Maritime Law Institute in Malta, to promote the HNS Convention.

4 Action to be taken

1992 Fund Assembly

The 1992 Fund Assembly is invited to take note of the information contained in this document.
