

LEGAL COMMITTEE
106th session
Agenda item 3

LEG 106/3
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**FACILITATION OF THE ENTRY INTO FORCE AND
HARMONIZED INTERPRETATION OF THE 2010 HNS PROTOCOL**

Note by the Secretariat

SUMMARY

Executive summary: This document provides a note on the status of work on the 2010 HNS Protocol

Strategic direction, if applicable: 6

Output: 6.12

Action to be taken: Paragraph 13

Related documents: LEG 105/14 and Assembly resolution A.1123(30)

Introduction

1 At its 105th session, the Legal Committee recalled that, with the entry into force of the Nairobi Wreck Removal Convention on 14 April 2015, the 2010 HNS Convention was the remaining gap in the global framework of liability and compensation conventions. The Committee also recalled that, at its 104th session, it had agreed that the HNS Correspondence Group had completed all work items in its mandate.

2 On 28 June 2018, Denmark deposited an instrument of ratification of the Protocol, thereby bringing the number to four Contracting States. Each of the four Contracting States has more than 2 million units of gross tonnage. With the present four Contracting States, the 2010 HNS Protocol needs only eight more States to ratify or accede to it, and the Convention is significantly closer to its entry into force.

3 On 16 October 2018, Canada deposited a declaration with the Secretary-General in accordance with article 5 of the HNS Convention, in order to exclude the application of the Convention to ships which do not exceed 200 gross tonnage, carry hazardous and noxious substances only in packaged form, and are engaged in voyages between ports or facilities within Canada.

IMO workshop in London, April 2018

4 On 26 and 27 April 2018, a two-day workshop organized by IMO in cooperation with the IOPC Funds was held at IMO Headquarters to assist Member States in their work towards further ratifications of the Protocol. More than 100 delegates attended the workshop, representing 46 Member States, one Associate Member, two intergovernmental organizations (IGOs) and seven non-governmental organizations (NGOs).

5 A variety of topics were covered during the workshop, which focused on practical issues likely to be encountered by States implementing the 2010 HNS Convention. Presentations were provided by IMO, the IOPC Funds, the International Tanker Owners Pollution Federation Limited (ITOPF) and the International Group of Protection and Indemnity Associations (P&I Clubs), as well as by the shipping industry and cargo interests, such as the International Chamber of Shipping (ICS), the Oil Companies International Marine Forum (OCIMF) and the World Liquefied Petroleum Gas Association (WLPGA).

6 Presentations were also delivered by Member States that had ratified the Protocol or were in the process of preparing for ratification. Furthermore, the HNS Scenarios Presentation tool was also delivered. Mr. François Marier (Canada) acted as moderator during the workshop. All the presentations that were delivered are available in a dedicated folder under the LEG documents on IMODOCS.

7 At the workshop, a united front of support emerged for the Convention which was demonstrated by both shipping and cargo interests who were proactively encouraging States to proceed with the implementation process. Participation of the domestic industry stakeholders during the consultation process would also be very important for the Member States. Member States were also encouraged to collaborate and to make use of the advice provided by other States, the expertise of IMO and the IOPC Funds, and the tools that had been made available to assist in promoting the understanding of the Convention within their Administrations.

Further regional and national workshops

8 The entry into force of the 2010 HNS Protocol depends on the proactive approach of IMO Member States. The IMO Secretariat, as part of the IMO Integrated Technical Cooperation Programme (ITCP), intends to organize further regional and national workshops to promote the ratification and the implementation of the Protocol. Member States are encouraged, individually or as a group, to submit requests to the Secretariat for such activities. The Secretariat, together with the IOPC Funds and the International Group of P&I Clubs, already delivered several national and regional workshops on the international liability and compensation regime and offers to provide further assistance, funded by the IMO ITCP, in the future.

9 In this regard, and in view of the importance of a coordinated approach to the ratification of the Protocol amongst States, in order to ensure "a level playing field" between ports and the industry, the IMO Secretariat offers to deliver regional or national workshops in States that do not fall under ITCP, and would welcome offers to host them.

IOPC Fund meetings, October 2018

10 In October 2018, during the meetings of the IOPC Funds, the 1992 Fund Administrative Council noted the list of tasks previously conducted by the IOPC Funds Secretariat in cooperation with the IMO Secretariat and other interested stakeholders. In particular, the Administrative Council noted that once the conditions for entry into force of

the 2010 HNS Protocol were fulfilled, the Secretary-General of IMO would, in accordance with article 43 of the 2010 HNS Convention, convene the first Assembly of the HNS Fund.

11 The 1992 Fund Administrative Council agreed that the IOPC Funds Secretariat should continue its work to prepare for the setting up of the HNS Fund and the first session of the HNS Fund Assembly as described in Conference Resolution No.1, adopted at the International Conference of 2010 on the Revision of the HNS Convention. The IMO Secretariat will be working in close cooperation with the IOPC Funds on any preparatory items for the first Assembly.

MHB substances

12 In respect of the application of the 2010 HNS Convention to substances that are hazardous when carried in bulk (MHB substances), the IMO Secretariat will carry out further work to update the list of substances, as referred to in IMO Circular Letter No.3144, to take into account a number of amendments relating to the International Maritime Solid Bulk Cargoes Code (IMSBC Code).

Action requested of the Committee

13 The Legal Committee is invited to take note of the information contained in this document and to comment, as appropriate.
