

LEGAL COMMITTEE
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Agenda item 3

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

Note by the IMO and IOPC Funds Secretariats

SUMMARY

<i>Executive summary:</i>	This document provides a note on the status of work on the 2010 HNS Protocol and the efforts of both the IMO and IOPC Funds Secretariats to promote further ratifications and entry into force of the HNS treaty
<i>Strategic direction, if applicable:</i>	6
<i>Output:</i>	6.12
<i>Action to be taken:</i>	Paragraph 19
<i>Related documents:</i>	LEG 106/16, LEG 106/3 and resolution A.1123(30)

Introduction

1 At its 106th 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.

2 On 15 July 2019, South Africa deposited an instrument of accession to the Protocol, thereby bringing the number to five Contracting States. Four of these Contracting States each have more than 2 million units of gross tonnage. With the present five Contracting States, the 2010 HNS Protocol needs only seven more States to ratify or accede to it plus the required contributing cargo, thus the Convention is significantly closer to its entry into force.

Promotion and developments regarding the entry into force of the Protocol

3 As reported in document LEG 106/3, the two-day workshop organized by IMO in cooperation with the IOPC Funds, on 26 and 27 April 2018, concluded that the entry into force of the 2010 HNS Protocol depended on the proactive approach regarding the implementation process by the IMO Member States.

4 The IMO Secretariat, as part of the IMO Integrated Technical Cooperation Programme (ITCP), organized further regional and national workshops, often in conjunction with the 1992 Fund Secretariat to promote the ratification and implementation of the international liability and compensation regime and offers to provide further assistance, funded by the IMO ITCP, in the future. Member States are encouraged, individually or as a group, to submit requests to the Secretariat for such activities.

5 During 2019, the 1992 Fund Secretariat continued to use the opportunity of national and regional workshops and other overseas trips to give presentations on the HNS Convention and promote the use of the tools specifically developed to create awareness about the HNS Convention and assist with implementation efforts. These tools included the HNS incidents scenarios presentation which is readily available on the HNS Convention website as well as on the IMO website.

6 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 regional or national workshops in States that do not fall under the ITCP, and would welcome offers to host them.

7 Once the conditions for entry into force of the 2010 HNS Protocol are fulfilled, the Secretary-General of IMO will, in accordance with article 43 of the 2010 HNS Convention, convene the first Assembly of the HNS Fund.

IOPC Funds meeting – October 2019

8 In October 2019, during the meeting of the IOPC Funds, the 1992 Fund Assembly recalled the list of tasks previously carried out by the IOPC Funds Secretariat in cooperation with the IMO Secretariat and other interested stakeholders (document IOPC/OCT19/11/1, paragraph 8.2.1).

9 It was recalled that Resolution 1 of the International Conference of 2010 on HNS which adopted the 2010 HNS Protocol requested the 1992 Fund Assembly to instruct the Director of the 1992 Fund to carry out tasks necessary for the setting up of the HNS Fund and to make preparations for the first session of the HNS Assembly.

10 At its seventh session, held in October 2010, the 1992 Fund Administrative Council instructed the Director:

- .1 to carry out, in addition to the tasks under the 1992 Fund Convention, the administrative tasks necessary for setting up the HNS Fund, in accordance with the provisions of the 2010 HNS Convention, on condition that this does not unduly prejudice the interests of the Parties to the 1992 Fund Convention;
- .2 to give all necessary assistance for setting up the HNS Fund; and
- .3 to make the necessary preparations for the first session of the Assembly of the HNS Fund, which is to be convened by the Secretary-General of the International Maritime Organization (IMO), in accordance with Article 43 of the 2010 HNS Convention.

11 The 1992 Fund Assembly noted that the IOPC Funds Secretariat continued to work on an action plan, setting out the priorities for undertaking the administrative tasks assigned to the 1992 Fund and that it would discuss it with the Contracting States to the HNS Protocol, the IMO Secretariat and other stakeholders as soon as possible.

Improvements to the HNS Convention website

12 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 1992 Fund Secretariat established and has been maintaining the site since 2011, while also ensuring that its structure and content remain fit for purpose. At the occasion of its migration to a new content management platform during the first quarter of 2019, the look and feel of the site were modified and some new features were added.

13 One of those new features was to provide access to a moderated blog section within the main site, allowing Member States and other interested stakeholders to ask questions and share information. This replaces the previous blog which, although maintained by the 1992 Fund Secretariat, sat outside of the website and was used for the purpose of encouraging communication among the HNS Correspondence Group established by the Legal Committee. Since its release in April 2019, the new blog has been used by Government officials and others and their questions, often regarding specific aspects of the HNS Convention, and the 1992 Fund Secretariat's responses thereto, are available to read within the blog, which is accessible via the Home page of the website or via the IMO Website: <http://www.imo.org/en/OurWork/Legal/HNS/Pages/HNSConvention.aspx> or <http://www.imo.org/en/MediaCentre/HotTopics/Pages/HNS-2010.aspx>. The IMO and 1992 Fund Secretariats would like to urge all interested parties to use that blog to share information, ask questions or raise issues so that others can also benefit and widen their knowledge of the subject.

14 In addition, the 1992 Fund Secretariat is currently working on a series of questions and answers to be posted on the website, based on its current experience dealing with enquiries and issues such as contributing cargo reporting and the applicability of the HNS Convention in specific cases. The 1992 Fund Secretariat would welcome any feedback on the website's existing features as well as suggestions for new developments.

Review and update of the HNS Finder

15 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.

16 Since the HNS Finder is being used more frequently by governments and potential contributors, it is important that its accuracy is kept under regular review. To that end, the 1992 Fund Secretariat, in cooperation with the relevant technical divisions of IMO and external experts, undertook a full review of the list during the course of 2019. 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. 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. Information to that effect will be posted on the website as soon as it is completed.

Further administrative tasks

17 Furthermore, the 1992 Fund Assembly noted that, for the administrative task related to the handling of claims for compensation, the IOPC Funds Secretariat had approached a number of organizations with relevant expertise, namely the Centre of Documentation, Research and Experimentation on Accidental Water Pollution (Cedre), International Chamber of Shipping (ICS), International Group of Protection and Indemnity Associations (P & I Clubs), the International Tanker Owners Pollution Federation Limited (ITOPF) and IMO. These organizations will hold a meeting in the near future, together with other interested parties, to discuss this issue further (document IOPC/OCT19/11/1, paragraph 8.2.8).

MHB substances

18 In respect of the application of the 2010 HNS Convention to substances that are hazardous when carried in bulk (MHB substances), the IMO Secretariat continues to carry out further work to update the list of substances, as referred to in 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

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