

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 IOPC Funds Secretariat

SUMMARY

Executive summary: This document indicates the availability of an information note prepared by the IOPC Funds Secretariat containing a summary of the main issues to be resolved regarding the reporting of HNS contributing cargo, as well as two questionnaires related to the HNS reporting system which are to be completed by Contracting States to the HNS Convention and those preparing to soon ratify. This information note is accessible via a link to the HNS Convention website as well as through document LEG 110/INF.5. The results of the study will help to identify the issues which need to be further clarified in that matter.

Strategic direction, if applicable: 7

Output: 7.12

Action to be taken: Paragraph 11

Related documents: LEG 110/3 and LEG 110/INF.5

Introduction

1 In 2022, the IOPC Funds Secretariat continued its efforts to contribute to the work undertaken by IMO to support States in their progress towards the ratification of the 2010 HNS Convention. The work carried out was reported and discussed at the meetings of the IOPC Funds' governing bodies in March and October 2022 and a summary is reported to the Legal Committee in document LEG 110/3.

Improvement of the HNS reporting guidelines

2 As indicated in document LEG 110/3, ensuring correct HNS reporting is a major issue for existing and future Contracting States.

3 Following discussions with a number of Member States currently in the process of implementing or preparing for ratification, it has been recognized that an efficient and jointly approved system for reporting HNS contributing cargo is key to ensuring the success of the 2010 HNS Convention. As a consequence, the IOPC Funds Secretariat has been actively working on the development of some documents for Member States and their industry to support their efforts regarding HNS reporting and contributions.

4 For now, the IOPC Funds Secretariat has finalized a note summarizing the main HNS reporting issues to be resolved as well as two questionnaires which should encourage Contracting States and those Member States expected to soon ratify, to provide information on their domestic legislation regarding HNS reporting, to inform the Secretariat of any issues they have faced and to raise any questions they may have regarding some of the more advanced issues related to HNS reporting.

5 The summary and the questionnaires were sent by email to the established HNS contacts from the relevant Member States in January 2023. They have also been published under the reporting section of the HNS Convention website (www.hnsconvention.org) to facilitate the access of this document to a wider group of Member States and industry contacts and are available directly here: <https://bit.ly/3I58emF>

6 This information is also available as document LEG 110/INF.5 to facilitate its access during the discussion in the Committee.

7 Once completed and returned, these questionnaires will help the Secretariat to provide additional documentation clarifying certain aspects of HNS reporting, in particular terms such as the "Receiver", the "Principal", the "Agent" (and other types of names used to describe these roles). This should also assist all parties to better manage their reporting process going forward, including getting assistance from the Secretariat to identify individual contributors and any other issues raised. It is important for Member States to identify their actual receivers and to be in a position to provide their own contributing cargo reports, especially when the Convention comes into force. Indeed, article 21.1 states that *each State Party shall ensure that any person liable to pay contributions [...] appears on a list to be established and kept up to date by the Director [of the HNS Fund].*

8 It is recommended that the results of this questionnaire filling exercise be discussed during the HNS Convention Workshop, which will be held on 3 and 4 April 2023 at IMO.

9 The report and conclusions from the Workshop will be made available prior to the next meeting of the IOPC Funds' governing bodies, during the week of 22 May 2023. This will allow a period of time between the Workshop and the meeting when Member States will be able to raise further questions or provide updates following the conclusions of the Workshop. The IOPC Funds meeting will provide an opportunity to discuss and agree improvements to the process of reporting HNS contributing cargo, for final consideration by the Committee when available.

10 Once that step is complete, other documents will be circulated by the Secretariat to continue supporting efforts regarding HNS reporting and contributions.

Action requested of the Committee

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