



International Oil Pollution
Compensation Funds

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2010 HNS CONVENTION

Note by the Secretariat

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| Summary: | <p>This document provides an update on the progress of the action plan to be delivered by the 1992 Fund Secretariat in relation to the preparations for the entry into force of the 2010 HNS Convention. It includes the work carried out during the HNS Workshop of 3 and 4 April 2023, organised by Canada, IMO and the IOPC Funds.</p> <p>This document also provides information about recent outreach and technical assistance activities.</p> |
| Action to be taken: | <p><u>1992 Fund Assembly</u></p> <p>Information to be noted.</p> |

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 1992 Fund to carry out the tasks necessary to set up the International Hazardous and Noxious Substances Fund (HNS Fund) and prepare for the first session of the HNS Fund 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. More information can be found in document IOPC/MAR22/5/1, which also contains a copy of the document submitted to the 109th session of the IMO Legal Committee by the Secretariats of the IOPC Funds and IMO (document LEG 109/3/1).
- 1.3 This document provides an update on the progress being made towards entry into force of the Protocol as well as the work carried out by the 1992 Fund Secretariat since the last session of the 1992 Fund Assembly.

2 Progress towards entry into force of the 2010 HNS Convention

- 2.1 Since March 2022, there has been no further ratification of or accession to the 2010 HNS Protocol. Therefore, the number of contracting States to the Protocol remains at six: Canada, Denmark, Estonia, Norway, South Africa and Türkiye.

- 2.2 As previously reported, a number of States have been preparing their legislation and have contacted their relevant industry. Some of them have also developed tools to facilitate the submission of HNS reporting documentation. Those States have indicated their intention to become members of the 2010 HNS Convention within the next one to two years.
- 2.3 As detailed in section 3, the Secretariat has recently made a number of efforts to provide further support to interested States with regards to the preparation of their HNS Contributing Cargo Reports, which can often be a deterrent to States' ratification.

3 Outreach activities and technical assistance

- 3.1 The IOPC Funds has continued to take opportunities to promote the entry into force of the 2010 HNS Convention, to engage with interested States and other key stakeholders, and to share information with industry representatives through the delivery of various workshops or other training and outreach activities, often in close cooperation with the IMO Secretariat.
- 3.2 In early October 2022, the IOPC Funds took part in a two-day sub-regional seminar on liability and compensation for both oil pollution damage, and damage caused by hazardous and noxious substances, in Tunis, Tunisia. The seminar was organised by the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) for representatives of government authorities from Tunisia, Algeria and Morocco.
- 3.3 In early October 2022, the IOPC Funds was invited to participate in the RAMOGEPol 'U Portu' 2022 exercise that was held in Imperia, Italy. The exercise focused on building preparedness and capability to lead the response to a major maritime incident and on strengthening cooperation between France, Italy and Monaco. The exercise scenario involved a product tanker which suffered an accidental spill of oil and HNS near Imperia, causing oil and chemical pollution and damaging the environment and its ecosystem.

4 Workshop on the 2010 HNS Convention, organised by Canada in cooperation with IMO and the IOPC Funds

- 4.1 Since 2010, a number of international workshops have been organised to facilitate the implementation and entry into force of the 2010 HNS Protocol, notably in 2011 in Rotterdam, in 2014 in Rome, and in 2016 in Montreal. At its 30th session in 2017, the IMO Assembly adopted resolution A.1123(30), urging all States to work together towards the implementation and entry into force of the 2010 HNS Protocol and encouraging States to work with industry to assist in the implementation process. A two-day workshop held on 26 and 27 April 2018, organised by IMO in cooperation with the IOPC Funds, concluded that the entry into force of the 2010 HNS Protocol depended on the proactive approach regarding the implementation process by IMO Member States.
- 4.2 As proposed by Canada at the March 2022 session of the 1992 Fund Assembly, a workshop aimed at assisting States in their work towards ratification of the 2010 HNS Protocol took place at the IMO headquarters in London on 3 and 4 April 2023.
- 4.3 To facilitate participation, the workshop, which was organised by Canada in cooperation with the Secretariats of IMO and the IOPC Funds, was held during the week directly following the 110th session of the IMO Legal Committee.
- 4.4 A summary of the workshop report and its presentations is available in document IOPC/MAY23/5/2.

5 Secretariat matters – action plan

In order to fulfil the tasks given to the 1992 Fund Secretariat under Resolution 1 (see paragraph 1.2), the IOPC Funds needed to be able to refer to and work with a complete list of actions to be discussed and agreed upon, before, during and after the entry into force of the 2010 HNS Convention. After confirmation from the 1992 Fund Assembly in October 2022, an action plan has been prepared and is being implemented by the Secretariat.

6 HNS reporting and contributions

6.1 Updating of the HNS Finder

6.1.1 The HNS Finder is an online database that allows users to search the list of all HNS as defined by the 2010 HNS Convention. It provides information on HNS classification criteria and verifies whether a substance qualifies as contributing cargo. Users can also obtain information on which accounts the contributing substances belong to. It has been in operation since 2011 and has been updated annually by the Secretariat.

6.1.2 The most recent update of the list (version 13) is being completed for the standard deadline of publication on 31 May. This is the annual deadline date for States to submit their reports to IMO, as indicated in Article 45.6 of the 2010 HNS Convention.

6.1.3 A review exercise was also conducted to ensure the completeness of the information provided, as well as further improving the search methodology.

6.2 Reporting of HNS contributing cargo guidelines

6.2.1 Ensuring correct and manageable HNS reporting is a major issue for existing and future contracting States and as such, a key to ensuring the success of the 2010 HNS Convention. The Secretariat continues to engage with a number of States currently in the process of implementing or preparing for ratification, to develop a set of guidelines and support for HNS reporting and contributions as a priority.

6.2.2 In January 2023, the Secretariat finalised a note summarising the main HNS reporting issues to be resolved as well as two questionnaires to encourage contracting States, and those expected to soon ratify, to provide information on their domestic legislation regarding HNS reporting. The responses to the questionnaires gave the States the opportunity to inform the Secretariat of any issues they have faced and to raise any questions they might have regarding some of the more advanced issues related to HNS reporting.

6.2.3 Eleven completed questionnaires were submitted to the Secretariat by the end of March 2023. They contained interesting information which helped the Secretariat to continue its work to develop documentation aimed at clarifying certain aspects of HNS reporting, in particular terms such as 'Receiver', 'Principal' and 'Agent'. This documentation should also assist all parties to better manage their reporting process going forward. States can also request assistance from the Secretariat with the identification of individual contributors and any other issues.

6.2.4 More information relating to the questionnaires and the discussions which took place during the HNS Workshop on 3 and 4 April 2023 are available in document IOPC/MAY23/5/2.

6.2.5 Regarding the HNS reporting requirement, it is important to remind contracting States that prior to the entry into force of the Convention, they need only to report the total quantities of contributing cargo received in their country, without specific details. However, once the Convention is in force, more detailed HNS reports and a list of companies will be required. It is therefore of utmost importance to ensure that the applicable rules are clear for all parties and integrated in their domestic law before the HNS Convention enters into force.

6.3 Online HNS reporting and financial management system

6.3.1 The setting up of the online HNS reporting and financial management system is complicated. This is partly due to the need to oversee four different accounts (General, Oil, LNG and LPG) but also the management of a very large number of receivers of HNS cargo and the current complexity of the reporting structure with the various receivers such as Agents and Principals.

6.3.2 The obvious option that is being explored is the development of an in-house reporting and financial structure, similar to that developed recently for the oil reporting system (ORS) under the IOPC Funds. The work to be done will have the value of developing and improving the ORS at the same time.

6.3.3 This is one of the key tasks for the Secretariat as once the Convention enters into force, States Parties are going to request that this reporting and payment structure be put in place.

7 Development of a draft 2010 HNS Convention Claims Manual

7.1 As reported in document IOPC/NOV21/8/2, the Secretariat has been working with a number of relevant organisations, namely IMO, Cedre, the International Chamber of Shipping (ICS), the International Group of P&I Associations (International Group) and ITOPF, to develop a draft HNS Convention Claims Manual.

7.2 Although no target date for completion of the work has been agreed at this point, the intention is to have a draft HNS Claims Manual ready for consideration and adoption by the States Parties during the first meeting of the HNS Fund Assembly

7.3 Regarding the management of incidents and their resulting claims, a draft Memorandum of Understanding (MoU) between the HNS Fund and the International Group of P&I Associations also need to be prepared ahead of the first HNS Fund Assembly, as would an agreement on the funding system of interim payments.

8 HNS Convention website

8.1 The IOPC Funds Secretariat continues to update and maintain the website www.hnsconvention.org which is an important tool for accessing information related to the 2010 HNS Convention and its progress towards entry into force. The Secretariat has maintained the current version of the site since 2011, ensuring that its infrastructure and content remain fit for purpose.

8.2 Given the increased interest in the 2010 HNS Convention and the need for additional tools and information, the intention is to introduce as quickly as possible new features to correspond to some of the important developments ahead, in particular for:

- (i) a Q&A system to record and share the questions and answers provided to interested parties such as States and industry;
- (ii) access to the websites and data of other organisations that have useful information on the subject (IMO, International Group of P&I Associations, Cedre, ITOPF, CEFIC, among others); and

- (iii) information related to the types of HNS transported in large quantities, those that are lost the most, etc.

9 Financing of work to be undertaken in 2023

- 9.1 Given the extensive list of activities to be conducted under the action plan described above, costs are being incurred in 2023 relating to the work of the Secretariat. An appropriation of an extra £100 000 was included in addition to the original £35 000 budget to cover these costs and other administrative tasks in respect of these activities.
- 9.2 As reported at the October 2022 session of the 1992 Fund Assembly, a proposal for a flat management fee to be paid by the HNS Fund to the 1992 Fund is under consideration (document IOPC/OCT22/8/2). The management fee will cover the costs in respect of the preparation for the entry into force of the 2010 HNS Convention and will be generally based on the model used to calculate the fee paid by the Supplementary Fund to the 1992 Fund. All costs incurred by the 1992 Fund for the setting up of the HNS Fund will be reimbursed by the HNS Fund with interest.

10 Preparation of documentation for the first meeting of the HNS Fund Assembly

The Rules of Procedure for the HNS Fund Assembly and the Internal and Financial Regulations of the HNS Fund will have to be ready for consideration by the first meeting of the HNS Fund Assembly. Given the current membership of the Convention, the first meeting of the HNS Assembly is likely to be no earlier than 2027, leaving some time for progress on other more urgent matters.

11 Action to be taken

1992 Fund Assembly

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