



International Oil Pollution
Compensation Funds

| | | |
|--------------------------------------|----------------|---|
| Agenda Item 8 | IOPC/NOV21/8/2 | |
| Date | 6 October 2021 | |
| Original | English | |
| 1992 Fund Assembly | 92A26 | ● |
| 1992 Fund Executive Committee | 92EC77 | |
| Supplementary Fund Assembly | SA18 | |

2010 HNS CONVENTION

Note by the Secretariat

| | |
|----------------------------|--|
| Summary: | This document provides an update on the status of the entry into force of the 2010 HNS Protocol, as well as 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 Fund 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 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 (for the latest update, see document IOPC/NOV20/8/2).
- 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 Assembly.

2 Progress towards entry into force of the 2010 HNS Protocol

- 2.1 Since the March 2021 session of the 1992 Fund Assembly, no State has deposited an instrument of ratification or accession to the 2010 HNS Protocol with the Secretary-General of IMO. Therefore, as of 6 October 2021, there are five Contracting States to the Protocol, namely, Canada, Denmark, Norway, South Africa and Turkey.
- 2.2 However, a number of States have continued their efforts to implement the HNS Convention into their domestic legislation, and it is hoped that more States will be able to ratify or accede to the Protocol in the next few years.

3 Recent developments

3.1 HNS Finder

- 3.1.1 The HNS Finder is an online database that lists all substances which fall within the definition of HNS in the Convention, including those listed as 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.
- 3.1.2 Having finalised the full review of the database in 2020 and having included some improvements to the HNS Finder interface to make its use more intuitive, it was decided that an archive system should be created to facilitate access to previous years' lists of substances. By default, the HNS Finder presents a searchable list of HNS identified in all the codes and listings in force during the current calendar year.
- 3.1.3 However, should a receiver or a government authority need to access previous years' data for verification or reporting purposes, it is now possible to do so using the Access Archived Data function. Selecting a specific year under that function will open the list which was valid during that calendar year, and the first list available under the archive is from 2020. The archive will be updated annually from now on.
- 3.1.4 As reported in document IOPC/MAR21/5/1, the most recent update of the list was completed in March 2021. However, to facilitate the reporting of contributing cargo and avoid the risk of confusion as to which version of the list to use, the updated database will from now on be made available at the end of May every year, which corresponds to the submission deadline under the 2010 HNS Protocol.

3.2 Other administrative tasks — development of a draft HNS Fund Claims Manual

- 3.2.1 For the administrative tasks related to the handling of claims for compensation, the Secretariat approached a number of organisations with the relevant expertise in that field, namely Cedre, the International Chamber of Shipping (ICS), the International Group of P&I Associations (International Group), ITOPF and IMO to set up an informal group and discuss the way forward on this important and complex matter, in particular the preparation of a draft HNS Fund Claims Manual.
- 3.2.2 The group has so far met on three occasions, in November 2020, February and May 2021. The group has agreed to split its work into thematic sub-groups to examine the technical and legal aspects specific to the HNS Convention and develop suggestions for possible draft texts. The sub-groups are due to meet in October to commence their initial work, with the full group of experts due to meet soon thereafter to share progress.
- 3.2.3 Although no target date for completion of the work has been agreed at this point, the intention is to have a draft HNS Fund Claims Manual ready for consideration by the first HNS Fund Assembly to be convened after the entry into force of the 2010 HNS Protocol. However, it is the intention of the Secretariat that once the group of experts has prepared a draft of the technical manual, it should be used as a basis for discussion and be made available for comment, further development and improvement from any interested delegations before its consideration by the first HNS Fund Assembly.

3.3 Assistance to States and promotion of the HNS Convention

- 3.3.1 The Secretariat is always willing to use the opportunity of national and regional workshops and other overseas trips to give presentations on the HNS Convention. While those activities have been put on hold until further notice as a consequence of the COVID-19 pandemic, fortunately, the demand for online seminars and workshops has increased, and the Secretariat has been able to take part in a

number of remote activities to talk about the liability and compensation regime, including the HNS Convention whenever possible. For example, the Secretariat spent some time discussing the framework of the Convention, the importance of its entry into force in general, and the benefits to those States that ratify it at a national training course organised by the GI WACAF project for the Gambia in July 2021 and at a regional workshop organised by the Regional organization for the conservation of the environment in the Red Sea and Gulf of Aden (PERSGA) in September 2021. The HNS Convention also forms an important element of the programme for the IOPC Funds Short Course participants, which was held in June 2021.

- 3.3.2 Government authorities and other interested stakeholders have continued to contact the Secretariat from time to time to obtain clarification on certain aspects of the Convention, for assistance, or to seek further information on HNS matters in general. In particular, the Secretariat recently held a meeting with South Africa, a Contracting State of the 2010 HNS Convention, to provide assistance with its reporting of HNS cargo and has also had a number of exchanges with Estonia to provide guidance on several areas as it prepares to ratify the Convention in the near future.
- 3.3.3 Where questions have arisen from government contacts or organisations on matters which are likely to be relevant and of interest to others considering ratification or dealing with HNS matters, with the permission of the parties involved, both the questions and answers have been published on the HNS Convention website.
- 3.3.4 The 1992 Fund Secretariat will continue to regularly provide details to the Assembly on the progress towards the entry into force of the 2010 HNS Protocol.

4 Action to be taken

1992 Fund Assembly

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