



International Oil Pollution
Compensation Funds

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1992 Fund Assembly	92A27	●
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2010 HNS CONVENTION

Note by the Secretariat

Summary:

An initial draft list or action plan of tasks to be undertaken by the 1992 Fund Secretariat in relation to the preparations for the entry into force of the 2010 HNS Convention was presented to the 1992 Fund Assembly in document IOPC/OCT18/8/2. As explained in this document, that plan is now established and being worked towards by the relevant members of the Secretariat. Details of the progress made on specific tasks as well as a number of actions planned for 2023 are also set out.

This document also provides information about recent outreach and technical assistance activities, developments relating to HNS reporting and contributions, progress made on the drafting of a Claims Manual, as well as various other items related to the preparations for the entry into force of the 2010 HNS Convention.

Action to be taken: 1992 Fund Assembly

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 1992 Fund 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. 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 Turkey.

- 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 It is expected that the workshop on the 2010 HNS Convention, proposed by the delegation of Canada and organised in cooperation with the Secretariats of IMO and the IOPC Funds, will be an excellent opportunity for interested States to provide an update on their progress towards ratification of or accession to the Convention (see section 3.3 below).
- 2.4 As detailed in section 3, the 1992 Fund 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 Recent developments

- 3.1.1 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.
- 3.1.2 In June 2022, at Interspill 2022, the European spill conference and exhibition in Amsterdam, Netherlands, the Secretariat delivered two interactive sessions as part of a new Interspill training academy. The first session covered reporting and contributions under the 2010 HNS Convention and included a Q&A session with a representative from the Dutch chemical industry (VCNI). The second, which was delivered jointly with the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), introduced the tools and guidelines available relating to HNS incidents and the 2010 HNS Convention.
- 3.1.3 In July 2022, the Secretariat took part in an online workshop for the Government of Malaysia and the chemical industry. This event attracted the participation of over 100 individuals, providing an excellent opportunity for the Secretariat to deliver a clear message to a large group without incurring travel costs or requiring staff to spend significant time travelling. Other States are encouraged to consider holding such online workshops for the purpose of highlighting the value of having the 2010 HNS Convention in force, as well as explaining how to prepare the HNS Contributing Cargo Reports, to a wide audience.

3.2 Looking ahead

- 3.2.1 Now that requests for assistance and information are more regular and complex than in previous years, it is important that a specific programme of assistance on HNS matters is organised. With a structured programme and the existing HNS training content that the Secretariat has available, it will be possible to offer a 'roadshow' in key States to promote the Convention and the tools available to assist with implementation, to ensure that all States who are, or who become Parties to the 2010 HNS Convention apply identical processes to obtain the HNS reports from their industry and submit them correctly to the HNS Fund Secretariat.
- 3.2.2 There will also be opportunities for any States to request training sessions introducing the 2010 HNS Convention and explaining the value of its entry into force. However, that type of support is likely to be organised via the Technical Cooperation Division of IMO, with support from the IOPC Funds when required.

- 3.2.3 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 is set to take place at the IMO on 31 October and 1 November 2022 (document IOPC/MAR22/5/1/1).
- 3.2.4 To facilitate participation, the workshop, which is being organised by Canada in cooperation with the Secretariats of IMO and the IOPC Funds, will be held the week directly following the meetings of the IOPC Funds (25 to 28 October 2022), and before the 106th session of the Maritime Safety Committee (2 to 11 November 2022).
- 3.2.5 The draft programme, provisional timetable for the workshop and registration details can be found in IMO Circular Letter No.4620.

4 Secretariat matters – action plan

Recent developments – confirmed actions required to prepare for the entry into force of the 2010 HNS Convention

- 4.1 In order to fulfil the tasks given to the 1992 Fund Secretariat under Resolution 1 (see paragraph 1.2), the IOPC Funds needs to be able to refer to and work with a complete list of items to be discussed and agreed upon before, during and after the period of entry into force of the 2010 HNS Convention. This has been the intention for some time and an initial draft list or action plan was presented to the 1992 Fund Assembly in document IOPC/OCT18/8/2. That plan is now established and being worked towards by the relevant members of the Secretariat.
- 4.2 The Director has established an internal steering group, composed of members of staff across the Secretariat with a range of expertise, to oversee the implementation and undertake the various tasks within the plan.

5 HNS reporting and contributions

5.1 Recent developments – updating of the HNS Finder

- 5.1.1 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 1992 Fund Secretariat.
- 5.1.2 The most recent update of the list (version 12) was completed on 31 May 2022. 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.

5.2 Looking ahead – HNS reporting guidelines

- 5.2.1 Ensuring correct HNS reporting is a major issue for existing and future contracting States. The 1992 Fund Secretariat will continue to engage with contracting States to develop a set of guidelines and support for HNS reporting and contributions as a priority.
- 5.2.2 Having looked at the various options available to facilitate the development of the new reporting guidelines and to provide the necessary support from the Secretariat to interested States, it is proposed that outside expertise should be identified to help with this project, specifically in terms of imports; cargo ownership; logistics and operational functioning of key businesses, such as storage and industrial structures; and in other technical areas.

5.3 Looking ahead – online HNS reporting and financial management system

- 5.3.1 The task of developing and implementing an online HNS reporting and financial management system is obviously complex and requires considerable exploration and discussion internally and externally before significant progress can be made.
- 5.3.2 One obvious option to explore is the development of an in-house reporting and financial structure, similar to that developed recently for oil reporting under the IOPC Funds.
- 5.3.3 The Secretariat is not yet in a position to present a system at this time. However, it is one of its future key tasks as Member States are likely to request that this reporting and payment structure is in place once the Convention enters into force.

6 Development of a draft HNS Convention Claims Manual

- 6.1 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 ITOFF, to develop a draft HNS Convention Claims Manual.
- 6.2 The group has so far met on five occasions and is in the process of finalising the draft text of the Claims Manual. Once complete, it will be circulated for comments among contracting States to the 2010 HNS Convention and will become an additional HNS Convention tool to be presented for adoption by the Member States during the first meeting of the HNS Fund Assembly after entry into force. It is one of the first tools that is being developed as a joint and positive effort among several observer organisations.

7 HNS Convention website

7.1 Recent developments

- 7.1.1 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 been maintaining the current version of the site since 2011, ensuring that its infrastructure and content remain fit for purpose.
- 7.1.2 One of its functions, the HNS blog, has been used recently to allow for interesting technical information to be accessible from the home page. Answers to questions are prepared and published by the Secretariat. It is hoped that this feature will be further developed in order to be more effectively used as a forum to exchange experiences and provide clarifications regarding the functioning of the 2010 HNS Convention.

7.2 Looking ahead

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

- (i) an HNS reporting system to complete the existing HNS Finder;
- (ii) information in relation to the types of HNS transported in large quantities, those that are lost the most, etc.;
- (iii) a specific location where the status of HNS incidents can be recorded;

- (iv) a Q&A system to record and share the questions and answers provided to interested parties; and
- (v) access to the websites and data of other organisations that have useful information on the subject (IMO, Cedre, ITOPF, CEFIC among others).

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

8.1 Looking ahead – Rules of Procedure for the HNS Fund Assembly

On the assumption that the HNS Fund will have a joint Secretariat with the IOPC Funds, the Rules of Procedure of the HNS Fund Assembly and any subsidiary bodies should be similar to those of the IOPC Funds' governing bodies where possible. The IOPC Funds Secretariat will prepare draft Rules of Procedure for the consideration of the HNS Fund Assembly at its first session.

8.2 Internal and Financial Regulations of the HNS Fund

- 8.2.1 Under Article 26 (c) of the 2010 HNS Convention, the HNS Fund Assembly shall develop, apply and keep under review Internal and Financial Regulations related to the aim and related tasks of the HNS Fund.
- 8.2.2 The Internal Regulations will govern the internal operational rules of the HNS Fund mainly with respect to contributions; reports of contributing cargo; claims and claims settlement; intervention in legal proceedings and delegation of authority; and compensation for claims from incidents. The IOPC Funds Secretariat will prepare draft Internal and Financial Regulations for the consideration of the HNS Fund Assembly at its first session.

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 will be incurred in 2023 relating to the work of the IOPC Funds Secretariat. An appropriation of £135,000 has therefore been included in the 2023 budget to cover these costs and other administrative tasks in respect of these activities (document IOPC/OCT22/9/1/1, paragraph 8.3.4).
- 9.2 The Director will submit a document at the next meeting of the 1992 Fund Assembly in which he will propose that the HNS Fund should pay a flat management fee to the 1992 Fund, to cover the costs in respect of the preparation for the entry into force of the 2010 HNS Convention. The management fee will be based on the model used to calculate the fee paid by the Supplementary Fund to the 1992 Fund.
- 9.3 All costs incurred by the 1992 Fund for the setting up of the HNS Fund will be reimbursed by the HNS Fund with interest. Further information on the history of the monies incurred by the 1992 Fund related to the 2010 HNS Convention as at October 2022 is set out in document IOPC/OCT22/9/1/1, section 8.3.

10 Action to be taken

1992 Fund Assembly

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