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| <b>Agenda item 8</b>                 | IOPC/MAY26/8/2 |   |
| <b>Date</b>                          | 17 April 2026  |   |
| <b>Original</b>                      | English        |   |
| <b>1992 Fund Assembly</b>            | 92AES30        | ● |
| <b>1992 Fund Executive Committee</b> | 92EC86         |   |
| <b>Supplementary Fund Assembly</b>   | SAES14         |   |

## PREPARING FOR THE ENTRY INTO FORCE OF THE 2010 HNS CONVENTION

### HEADQUARTERS AND SECRETARIAT MATTERS

#### Note by the Secretariat

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|----------------------------|---|
| <b>Summary:</b>            | This document addresses issues relating to the entry into force of the 2010 HNS Convention <sup>&lt;1&gt;</sup> , in particular, the location of the HNS Fund Headquarters and Secretariat, which require decisions by the 1992 Fund Assembly. These matters should be agreed in advance of the entry into force of the 2010 HNS Convention to allow for the orderly and timely setting up of the HNS Fund and its Secretariat.   |
| <b>Action to be taken:</b> | 1992 Fund Assembly is invited to: <ul style="list-style-type: none"><li>(a) Take note of the information contained within this document;</li><li>(b) Confirm whether the location of the HNS Fund Headquarters should be co-located with the IOPC Funds Secretariat in London, United Kingdom;</li><li>(c) Confirm whether the Director of the HNS Fund should <i>ex officio</i> be the person holding the post of Director of the 1992 Fund;</li><li>(d) Confirm whether the HNS Fund should, on an interim basis following its entry into force, be operated by the 1992 Fund through an administrative services agreement; and</li><li>(e) Request the Director of the 1992 Fund to take action as appropriate to implement the above arrangements to support the smooth and timely entry into force of the 2010 HNS Convention.</li></ul> |

### 1 **Introduction**

- 1.1 Articles 24 – 31 of the 2010 HNS Convention set out the composition, functions and governance of the HNS Fund Assembly, and the HNS Fund Secretariat which will administer the HNS Fund.
- 1.2 The first meeting of the Assembly of the HNS Fund will be called by the Secretary-General of the International Maritime Organization (IMO) no more than 30 days after the Convention enters into

<1> Once the 2010 HNS Protocol enters into force, the 1996 Convention, as amended by the 2010 Protocol, will be called: 'the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (2010 HNS Convention)'.

force. At its first session, the HNS Fund Assembly must, *inter alia*, appoint a Director and decide where the HNS Fund's headquarters and Secretariat should be located.

- 1.3 To appropriately plan for the entry into force of the 2010 HNS Convention and to ensure that the HNS Fund can operate properly from the outset, contracting States to the 2010 HNS Protocol have agreed that the headquarters location of the HNS Fund should be agreed in principle in advance of the first meeting of the HNS Fund Assembly, and have advised that their preference is for the HNS Fund to be co-located with the IOPC Funds in London, United Kingdom. Provisionally agreeing on the location of the HNS Fund Headquarters and Secretariat in advance of the entry into force of the HNS Convention will allow the HNS Fund to begin operations with appropriate office space, qualified staff and the necessary diplomatic privileges and immunities to protect its assets.
- 1.4 The contracting Parties to the 2010 HNS Protocol have requested the Director to submit this document to the 1992 Fund Assembly to seek its support for this proposal in order to promote the orderly setting up of the HNS Fund.

## **2 Headquarters Location, Secretariat and Director**

- 2.1 In supporting the entry into force of the 2010 HNS Convention, the IOPC Funds Secretariat has worked on the longstanding understanding that the HNS Fund should be co-located with the 1992 Fund and Supplementary Fund in London, co-managed by the same Secretariat and headed by the same Director.
- 2.2 This understanding is rooted in Resolutions agreed by the diplomatic conferences adopting the 1996 HNS Convention and its 2010 Protocol, which requested that the 1992 Fund Assembly instruct its Director to assist with the setting up of the HNS Fund, due to the experience of the IOPC Funds in administering conventions with a structure similar to the 2010 HNS Convention. It was also the model used for the 2003 Supplementary Fund Protocol and for the transition from the 1971 Fund Convention to the 1992 Fund Convention.
- 2.3 Since the diplomatic conferences, States and non-governmental organisations with an interest in the HNS Convention have repeatedly affirmed their desire for the HNS Fund to be co-located with the IOPC Funds in London, including at meetings to discuss HNS Convention implementation matters in Ottawa, Canada, in 2003 (see IMO documents LEG 87/11, paragraphs 4-6 and LEG 87/17, paragraphs 171-172) and in Rotterdam, the Netherlands, in 2011 (see IMO documents LEG 99/3, paragraph 7 and LEG 99/14, paragraph 3.8). These recommendations were also affirmed by the 1992 Fund Administrative Council in 2010 (see document IOPC/OCT10/11/1, paragraph 8.4.13).
- 2.4 More recently, following the accessions/ratifications of the 2010 HNS Protocol by the governments of Belgium, Germany, the Netherlands and Sweden in April 2026, the twelve contracting Parties to the Protocol, plus Finland which has committed to becoming a Party to the Protocol in the near future, have advised the Director that their preference is for the HNS Fund Secretariat to be co-located with the IOPC Funds in London. They have requested that the Director seek the concurrence of the Parties to the 1992 Fund Convention so that arrangements can be made to implement this decision once the 2010 HNS Convention enters into force.

## **3 Considerations**

- 3.1 An arrangement where the HNS Fund, 1992 Fund and Supplementary Fund share a Secretariat headed by the same Director has many practical and financial advantages, as demonstrated by joint

Secretariats which have, over the years, managed the 1971 Fund, 1992 Fund and Supplementary Fund. The advantages include:

- Lower costs for contributors due to economies of scale (e.g. no need to procure additional office space or equipment, hire additional staff to support the HNS Fund or duplicate IT systems or infrastructure);
- Ability to leverage significant specialised expertise on claims and financial management within the IOPC Funds Secretariat;
- Existing claims and financial management expertise within the IOPC Funds Secretariat will ensure that the HNS Fund is able to respond to an incident from the outset of the HNS Fund's existence.
- Claims management practices can be harmonised across the IOPC and HNS Funds, ensuring consistent treatment for claimants and predictable outcomes for contributors.
- Integration of IOPC and HNS contributions management systems generates less red tape for contributors required to report to both the IOPC and HNS Funds;
- The HNS Fund can leverage existing oversight infrastructure for the IOPC Funds, including the Audit Body and external auditors
- Location of the HNS Fund's headquarters in London permits easy access to a leading global maritime centre and facilitates relationships with key partners in the marine insurance and response industries that are critical for the HNS Fund to be able to carry out its mandate.
- Location of the HNS Fund's headquarters within the IMO building offers easy access to the Secretariat for delegates and facilitates HNS Fund Assembly meetings and decision making;
- Meetings of the HNS Fund Assembly can be held during the same meeting week as the meetings of the IOPC Funds' governing bodies, saving on meeting expenses, including interpreters, and at greater convenience for delegates

- 3.2 When the 2010 HNS Convention enters into force, it will create a new international intergovernmental organisation. The relationship between an international organisation and its Host State is generally governed by a Headquarters Agreement, which, *inter alia*, sets out the privileges and immunities designed to protect the organisation's assets and to allow it to discharge its responsibilities and functions fully and efficiently. The HNS Convention will require a Headquarters Agreement once the Convention enters into force. The Director of the IOPC Funds will therefore require instructions from contracting States to make the necessary arrangements.
- 3.3 The 1992 Fund has a Headquarters Agreement that was concluded with the Government of the United Kingdom in 1996. This document was revised in 2022 along with a new Headquarters Agreement for the Supplementary Fund.
- 3.4 The United Kingdom is not expected to become a Party to the 2010 HNS Convention before it enters into force; therefore, an interim arrangement is recommended to protect the assets of the HNS Fund.
- 3.5 In this regard, the Director has sought legal advice and recommends that the HNS Fund explore concluding an administrative services agreement with the 1992 Fund whereby the HNS Fund would be operated by the 1992 Fund on a provisional basis in order to protect its assets as required by the 2010 HNS Convention.
- 3.6 The arrangements above are supported by the contracting Parties to the 2010 HNS Protocol. However, given the impact of these proceedings on the 1992 Fund, they must also be agreed to by the 1992 Fund Assembly. Therefore, the Director seeks a decision from the 1992 Fund Assembly

supporting the co-location of the HNS Fund and IOPC Funds Secretariats in London and giving him a mandate to explore the development of an administrative service agreement between the 1992 Fund and the HNS Fund.

- 3.7 Many details of this proposal will require further discussion as we get closer to the Convention's entry into force. For the moment, the Director is seeking guidance on whether Member States support the concept in principle. The Director feels it is important to have guidance at this stage, as it will help direct the work assigned to the IOPC Funds' Secretariat by the 1996 and 2010 Diplomatic Conferences to support the entry into force of the Convention.

**4 Action to be taken**

1992 Fund Assembly

The 1992 Fund Assembly is invited to:

- (a) Take note of the information contained in this document;
  - (b) Confirm whether the HNS Fund headquarters should be co-located with the IOPC Funds Secretariat in London, United Kingdom;
  - (c) Confirm whether the Director of the HNS Fund should *ex officio* be the person holding the post of Director of the 1992 Fund;
  - (d) Confirm whether the HNS Fund should, on an interim basis, be operated by the 1992 Fund through an administrative services agreement; and
  - (e) Request the Director of the 1992 Fund to take actions as appropriate to implement the above arrangements in time for the entry into force of the 2010 HNS Convention.
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