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FACILITATING THE ENTRY INTO FORCE OF THE HNS CONVENTION: CONSIDERATION OF A DRAFT TEXT OF A PROTOCOL TO THE HNS CONVENTION

DRAFT PROTOCOL - AMENDMENTS TO ARTICLE 16 OF THE PROTOCOL

Note by the International Maritime Organization

<i>Summary:</i>	This document contains proposed amendments to Article 16.
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<i>Action to be taken:</i>	Consider the proposed amendments to draft Article 16.
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1 **Introduction**

The IMO Secretariat wishes to propose for consideration the attached revisions to draft Article 16. Explanations for these proposals are set out in the footnotes thereto.

2 **Action to be taken by the HNS Focus Group**

The Focus Group is invited to consider the proposed amendments to draft Article 16.

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ANNEX

New proposal for Article 16

Submitted by the International Maritime Organization

FINAL CLAUSES

Signature, ratification, acceptance, approval and accession

Article 16

- 1 This Protocol shall be open for signature at the Headquarters of the Organization from [.....] to [.....] and shall thereafter remain open for accession.
- 2 Subject to the provisions in paragraphs 4 and 5, States may express their consent to be bound by this Protocol by:
- (a) signature without reservation as to ratification, acceptance or approval; or
 - (b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
 - (c) accession.
- 3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.
- 4 An expression of consent to be bound by this Protocol shall be accompanied by the submission to the Secretary-General of data on the total quantities of contributing cargo liable for contributions received in that State during the preceding calendar year in respect of the general account and each separate account.
- 5 An expression of consent which is not accompanied by ~~such data~~ the data referred to in paragraph 4¹ ~~shall not be valid and~~² shall not be accepted by the Secretary-General.
- 6 Each State which has expressed its consent to be bound by this Protocol shall annually thereafter on or before 31 May until this Protocol enters into force for that State submit to the Secretary-General³ data on the total quantities of contributing cargo liable for contributions received in that State during the preceding calendar year in respect of the general account and each separate account.
- 7 A State which has expressed its consent to be bound by ~~the this⁴~~ Protocol and which ~~is in breach of its obligation under paragraph 6 to submit data on contributing cargo~~ has not submitted the data on contributing cargo required under paragraph 6⁵ for any relevant years shall, before the entry into force of the Protocol for that State, be temporarily suspended from being a Contracting State until it ~~has complied with this obligation~~ has submitted the required data⁶.
- 8 A State which has expressed its consent to be bound by the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996⁷ shall be deemed to have withdrawn this consent on the date on which it has signed this

1 This is an editorial amendment. No change in meaning.

2 On further reflection, the IMO Secretariat decided it would be better to delete any reference to validity in order to avoid any conflicting interpretation as to the legal effect of the expression of consent and in order to avoid any embarrassment to States in the event they are compelled to return to their parliaments for a fresh instrument.

3 This is an editorial amendment. No change in meaning.

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5 The IMO Secretariat is of the view that the use of term "obligation" is not appropriate due to the fact that, at this point in time, the Convention is not in force. The obligations of States can be considered when the Convention is in force. However, the practical effect of the new wording is no different.

6 See footnote 5.

7 This is an editorial amendment to clarify the meaning of this paragraph in the consolidated text of the Convention.

Protocol or deposited an instrument of ratification, acceptance, approval of or accession in accordance with paragraph 2.
