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COMPENSATION
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INTERNATIONAL CONVENTION ON LIABILITY AND
COMPENSATION FOR DAMAGE IN CONNECTION WITH
THE CARRIAGE OF HAZARDOUS AND
NOXIOUS SUBSTANCES BY SEA

Note by the Director

Summary:	The Legal Committee of IMO has established a Correspondence Group charged with the monitoring of the implementation of the HNS Convention. The Correspondence Group has developed a draft Guide on the working of the HNS Convention.
Action to be taken:	<ol style="list-style-type: none">1. Consider whether to instruct the Director to develop a system to assist in identifying contributing cargo under the HNS Convention.2. Consider whether to grant an extra appropriation of £150 000 for developing such a system.

1 Introduction

- 1.1 The Assembly noted at its 1st session that, in a Resolution of the Conference which had adopted the International Convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea (HNS Convention), the Assembly of the 1992 Fund had been invited to assign to the Director of the 1992 Fund, in addition to his functions under the 1992 Fund Convention, the administrative tasks necessary for setting up the International Hazardous and Noxious Substances Fund (HNS Fund) in accordance with the HNS Convention. The Assembly instructed the Director to carry out the tasks requested by the HNS Conference (document 92FUND/A.1/34, paragraphs 33.1.1 - 33.1.3), on the basis that all expenses incurred would be repaid by the HNS Fund.
- 1.2 The Assembly may wish to note that two States, the Russian Federation and Angola, have acceded to the HNS Convention.

2 Correspondence Group

2.1 At the 80th session of the Legal Committee of the International Maritime Organization (IMO), held in October 1999, a Correspondence Group was established charged with monitoring the implementation of the HNS Convention, with the United Kingdom as co-ordinator of the Group. The Group's terms of reference were as follows:

- (1) to provide a forum for an exchange of views concerning HNS implementation issues and to follow the implementation process in States;
- (2) to provide, with a view to an early entry into force of the HNS Convention at a global level and for the benefit of both potential States Parties and affected industries, guidance on issues regarding the implementation and operation of that Convention, such as, but not limited to:
 - (a) the collection of information on contributing cargo;
 - (b) the development of appropriate reporting and verification systems and standard reporting forms;
 - (c) the contribution system;
 - (d) the acceptability of insurance or other financial security for the purpose of Article 12 of the HNS Convention; and
- (3) to report to the Legal Committee at its regular sessions.

2.2 Since implementation of the HNS Convention involved a number of relatively complex issues, the Correspondence Group decided that, in order to ensure that all the key issues were considered simultaneously within the Group, different States would initiate work on certain issues as follows:

- the collection of information on contributing cargo and the continuing work on the reporting form: Denmark and Australia
- the identification of 'receiver': Netherlands
- HNS insurers and insurance certificates: Norway
- the production of an initial guide to the HNS Convention: United Kingdom
- compliance and verification of States' responsibilities in respect of the reporting system for contributing cargo: Canada

2.3 The Correspondence Group has developed a draft IMO Guide for Interested Parties on the Workings of the HNS Convention, which is intended to provide a basis for the uniform implementation of the Convention. The 1992 Fund Secretariat has provided detailed comments on the contents of the draft Guide. The draft Guide was brought to the attention of the Legal Committee at its 83rd session in October 2001 (IMO document LEG 83/INF.3). The Legal Committee agreed that the Correspondence Group should continue its work.

2.4 The Correspondence Group is considering whether the Guide should be a relatively simple overview or be a definitive guide to implementation of the HNS Convention.

3 System to monitor contributing cargo

3.1 At a Special Consultative meeting held on 16 March 2001, representatives of a number of States discussed the progress towards ratification and implementation of the HNS Convention. At the meeting the Director was asked whether the 1992 Fund could develop a system in the form of a website and/or CD-ROM to assist States and potential contributors in the identification and reporting of contributing cargo under the HNS Convention.

3.2 The Secretariat has developed an outline of such a system. The proposed system is intended to be used by States, potential contributors, IMO and the HNS Fund. It is anticipated that the system would include a user interface, an HNS database, a user manual for the system and links to

background information on the HNS Convention. Potential contributors would be able to input data on receipts of individual substances, identify total receipts for each potential account or sector of the HNS Fund and report these receipts to the competent authority in their State. States would be able to collate data on receipts of contributing cargo and submit the data to IMO or the HNS Fund, which would then be able to monitor progress towards meeting the entry-into-force requirements of the HNS Convention. It is envisaged that the system would eventually form the basis for the invoicing system for the HNS Fund.

- 3.3 The system would be administered by IMO or by the HNS Fund. In order to save and submit data, users would have to register so that they could be issued with a username and password allowing them to access appropriate parts of the system.
- 3.4 Users would be able to submit data in electronic format, ie via the website, by encrypted email or by floppy disk. No users, whether contributors, States or IMO/the HNS Fund, would be able to access data belonging to another user unless it had been specifically transmitted to them. Initially, in addition to transmitting the data electronically, States may be required to submit a printed and signed copy of reports to IMO or the HNS Fund. Eventually, it should be possible to establish a system whereby reports could be submitted solely in electronic format, perhaps using electronic signatures.
- 3.5 It would also be possible to use the system as an educational tool. Any person would be able to use the system as if he were a potential contributor and would be able to enter example data and print reports without registering.
- 3.6 Initially, the system would be available in English only. Later, it may be necessary for it to be available in other languages.
- 3.7 It is anticipated that the development of the system would be carried out in two phases. Phase 1 would consist of the development and testing of a prototype, including the user interface, based on a trial HNS database. The testing process would be designed to ensure that the data structure of the prototype was correct. The trial HNS database would consist of approximately 100 substances and would include substances representing all six accounts/sectors and all seven sections of the definition of hazardous and noxious substances (HNS). The trial database would also include some substances which do not qualify as HNS. This phase of the development is expected to take three months to complete. Phase 2 would consist of the data input for the complete database. It is expected that this phase will be more time-consuming.
- 3.8 The Secretariat has identified a number of bodies in Canada, the Netherlands, Norway, the Republic of Korea, Singapore and the United Kingdom which might be interested in carrying out this work and has sent the outline of the system to them in order to obtain estimates of the cost involved.
- 3.9 Subject to any instructions by the Assembly, the Director considers that it would be appropriate for the 1992 Fund Secretariat to undertake this task.
- 3.10 If the Assembly were to agree with the approach set out above, the Assembly may wish to authorise the Director to develop such a system and to grant an extra appropriation of £150 000 for this purpose, provided that the costs incurred will be reimbursed by the HNS Fund once it has been established.

4 Action to be taken by the Assembly

The Assembly is invited:

- (a) to take note of the information contained in this document;

- (b) to consider whether to instruct the Director to develop a system to assist in identifying contributing cargo under the HNS Convention; and
 - (c) to consider whether to grant an extra appropriation of £150 000 for developing such a system.
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