



International Oil Pollution  
Compensation Funds

<b>Agenda Item 8</b>	IOPC/NOV20/8/2	
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<b>1992 Fund Assembly</b>	92A25	●
<b>1992 Fund Executive Committee</b>	92EC74	
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## 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 Assembly.

**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 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 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/OCT19/8/2).
- 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 October 2019 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 22 July 2020, 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.
- 2.3 Belgium, France, Germany and the Netherlands have all reported positive progress towards an accession or ratification of the 2010 HNS Protocol during 2020. The Secretariat has been informed that in particular, the

governments of Belgium, Germany and the Netherlands have exchanged letters with the purpose of providing a commitment from all three governments to move forward with the procedures necessary for the implementation of the 2010 HNS Convention. Simultaneous ratification after the necessary decisions by the Parliaments of those countries would give the assurance that they will be able to join this important Convention, while ensuring a level playing field among potential large contributing States. The letter also calls for a mutual update on the progress made by the neighbouring countries towards implementation.

- 2.4 In addition, Belgium has confirmed it is in the process of drafting its national implementing legislation, which includes the development of reporting regulations, in preparation for its ratification of the HNS Convention.
- 2.5 The Secretariat has also been informed that in Germany, the Ministry of Justice and Consumer Protection has circulated the necessary Draft Bills (one Bill for the implementation of the HNS Convention 2010; the other Bill to allow the Government to ratify the 2010 HNS Protocol) to the German States (Bundesländer) and to interested parties in July 2020 for comments. It is understood that the intended plan is for the Bundesrat ('Second Chamber' — representation of the Bundesländer) to take a decision on these Bills in the last quarter of 2020. The Bundesrat will then submit the Draft Bills to Parliament (Bundestag) for consideration.
- 2.6 In the Netherlands, an exploratory study on how to organise the HNS reporting system was conducted in 2020, which provided insight in terms of recent HNS data recorded in the Netherlands and how such information can reliably be obtained in the future. It is understood that this study will help the authorities to report on HNS contributing cargo until the Convention enters into force. Due to the COVID-19 pandemic, the letter exchange with Belgium and Germany mentioned in paragraph 2.3 was originally planned to take place in April 2020 but was delayed to July 2020. Similarly, the draft implementing legislation in the Netherlands was due to be updated in May 2020 but should now happen during the period August–September 2020.
- 2.7 France reported further progress towards ratification of the 2010 HNS Protocol in May 2020, as it published two pieces of legislation setting out the reporting obligations of those entities receiving HNS in France, as well as the methods by which they should submit those reports. In particular, the Ministry in charge (Ministère de la Transition écologique et solidaire) has developed an online reporting system, which is operational and will enable HNS receivers to declare from January 2021, the quantities of HNS contributing cargo they have received during 2020. Sanctions are also included for any receivers who do not submit such reports within the required timeframe.
- 2.8 The Republic of Korea also reported progress towards ratification of the HNS Convention, as detailed in a document submitted to the 107th session of the IMO's Legal Committee. It refers to the work conducted by the authorities to obtain information on HNS contributing cargo received in ports and terminals in the Republic of Korea during the calendar year 2017, estimated to be approximately 20 million tonnes for the General Account. It also indicates that domestic legislation was drafted in 2019 for the implementation of the HNS Protocol, together with separate legislation covering all marine transport-related liability and compensation matters. A review of the draft legislation and the adoption of sub-regulations for the implementation of the 2010 HNS Protocol were expected to be carried out in 2020.
- 2.9 All these developments are encouraging and demonstrate that despite the delays caused by the COVID-19 pandemic, work continues at State level to bring this important Convention into force

### **3 Recent developments**

#### **3.1 HNS Finder**

- 3.1.1 The HNS Finder is an online database of substances that fall within the definition of HNS, including 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 At the last session of the 1992 Fund Assembly, information was provided regarding the full review of the list that was carried out during the course of 2019. After that session, it was established that additional verification work was necessary. That work took until the end of the first quarter of 2020 to be completed, thus delaying the release of the updated HNS Finder on the HNS Convention website. In addition, the Secretariat undertook to make a number of improvements to the HNS Finder interface, in order to make its use more intuitive and to allow for improved search functionalities. As of 13 July 2020, the web agency was finalising its work, with an expected launch over the coming weeks.

3.1.3 Delegations and other interested stakeholders will be informed via the HNS website and other news channels, as soon as the updated database and the updated version of the HNS Finder are available on the HNS Convention website.

### 3.2 Other administrative tasks

3.2.1 For the administrative tasks related to the handling of claims for compensation, the Secretariat has 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), ITOPI and IMO. The intention was to organise a meeting of those organisations and other potential interested parties as soon as possible to discuss the way forward on this important and complex matter. The Secretariat had organised such meeting in March 2020; however, it had to be subsequently cancelled due to the COVID-19 pandemic. This task will be resumed as soon as practically possible.

3.2.2 Although there has been limited progress since the last session of the Assembly, the Secretariat is also continuing to work on an action plan, setting out the priorities and a timetable for undertaking the administrative tasks required to prepare for the first Assembly of the HNS Fund. This will be conducted in consultation with other stakeholders, such as the Contracting Parties to the HNS Protocol, IMO and the International Group.

### 3.3 Assistance to States and promotion of the HNS Convention

3.3.1 The Secretariat has continued to use the opportunity of national and regional workshops and other overseas trips to give presentations on the HNS Convention. In December 2019, the Director participated in a regional workshop on IMO's liability conventions for the Arab states in Dubai, United Arab Emirates, where in addition to presentations on the compensation regime for tanker spills, he also presented on the HNS Convention. The Director also took part in an event dedicated to the HNS Convention and organised by the European Community Shipowners' Associations (ECSA) on 19 February 2020, during the European Shipping Week in Brussels, Belgium.

3.3.2 Other activities were planned in 2020, such as the initiative of the IMO Secretariat, in cooperation with European Union Member States and the European Commission, to organise a conference in Europe focusing on the entry into force of the 2010 HNS Protocol. Malaysia had also approached the 1992 Fund Secretariat to discuss the possibility of a national workshop on the implementation of the HNS Convention. However, those activities have had to be put on hold until further notice as a consequence of the COVID-19 pandemic.

3.3.3 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 or to seek further information on HNS matters in general. Whenever possible, answers have been provided, or contact with other organisations have been made and relevant information re-used for publication 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.

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