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Agenda item 3

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**FACILITATION OF THE ENTRY INTO FORCE AND HARMONIZED
INTERPRETATION OF THE 2010 HNS PROTOCOL**

Note by the IMO and IOPC Funds Secretariats

SUMMARY

Executive summary: This document reports on the status of work carried out on the 2010 HNS Protocol and the efforts of both the IMO and IOPC Funds Secretariats to promote further ratifications and entry into force of the 2010 HNS Protocol since LEG 111. In particular, the document refers to the outcome of the HNS Convention Workshop jointly hosted by the IOPC Funds and IMO in May 2024, the assistance provided by the Secretariats to States considering ratification of or accession to the 2010 HNS Protocol, and also provides information on the planned future work to be carried out by the Secretariats with regard to the setting up of the HNS Fund and the first session of the HNS Fund Assembly.

*Strategic direction,
if applicable:* 7

Output: 7.12

Action to be taken: Paragraph 20

Related documents: LEG 106/3, LEG 106/3/2, LEG 106/16; LEG 107/3; resolution A.1123(30); LEG 109/3; LEG 110/3; LEG 111/3; LEG 111/INF.4 and HNS.2/Circ.14

Introduction

1 At its 106th session, the Legal Committee recalled that, with the entry into force of the Nairobi International Convention on the Removal of Wrecks on 14 April 2015, the 2010 HNS Convention was the remaining gap in the global framework of liability and compensation conventions.

2 The 2010 HNS Convention will enter into force 18 months after the date on which it is ratified by at least twelve States, including four States each with not less than 2 million units of gross tonnage, and having received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo that would be contributing to the general account.

3 There are currently eight Contracting States to the Protocol, namely Canada, Denmark, Estonia, France, Norway, Slovakia, South Africa and Türkiye. With the present eight Contracting States, five of which have each more than two million units of gross tonnage the 2010 HNS Protocol needs only four more States to ratify or accede to it plus the required contributing cargo, thus the Convention is significantly closer to entering into force.

4 The eight Contracting States received, in 2023, a total quantity of 19,243,371 tonnes of cargo contributing to the general account. In the first half of 2024, all eight Contracting States submitted data on contributing cargo received in 2023 in accordance with article 20(5) of the HNS Protocol (HNS.2/Circ.14).

5 Once the conditions for entry into force of the 2010 HNS Protocol are fulfilled, the Secretary-General of IMO will, in accordance with article 43 of the 2010 HNS Convention, convene the first Assembly meeting of the HNS Fund. Meanwhile, the IMO and the IOPC Funds Secretariats will be working in close cooperation to assist Member States to become parties to the 2010 HNS Convention and continue to develop any preparatory items required for the first Assembly of the HNS Fund.

Promotion and developments regarding the entry into force of the Protocol

6 Promotion and developments regarding the entry into force of the Protocol since 2010 are described in document LEG 111/3, paragraphs 5-12.

7 At its 111th session in April 2024, the Committee, noted the importance of the HNS Convention for the protection that it provided to victims, which was particularly important not only now but in light of a greener future where there would be an increase in the transportation of alternative fuels and therefore potential risks to coastal States. Several States indicated that they were in the process of ratifying the Convention in 2024 or 2025 so that it would enter into force in 2027.

8 Moreover, in May 2024, directly following the 111th session of the Committee and the 24th session of the 1992 Fund Administrative Council, acting on behalf of the 1992 Fund Assembly, a further HNS Workshop was jointly hosted by the IOPC Funds and IMO Secretariat, which was attended by 57 Member States and a wide range of participants from industry and interested organizations. The workshop focused on the practical elements of implementation, specifically on HNS cargo reporting and its related practical aspects. The aim of the workshop, which was moderated by Canada, was to promote the development of an efficient reporting system for HNS cargo. Presenters from the IOPC Funds drew on the organization's almost 50 years of experience managing reports for oil, and several contracting parties to the Convention shared their experience and best practices relating to establishing a system for the reporting of HNS cargo. The main message from the workshop was that, while the reporting of HNS would be more complex, it was manageable with the right systems and processes in place from the start. States were encouraged to use options in the Convention to keep reporting as simple as possible when developing their domestic implementing legislation.

9 Government authorities and other interested stakeholders have continued to contact both the IMO and IOPC Funds Secretariats to obtain clarification on certain aspects of the Convention, for assistance or to seek further information on HNS matters in general. Observing that requests from Member States and industry for assistance and information have become more regular and complex than in previous years, it was important that a specific programme of assistance on HNS matters be organized. With the existing HNS training content that the IMO and IOPC Funds Secretariats have available, it is possible to offer workshops in Member States that are key to promoting the Convention. There are also several tools available to assist States with implementation. This support will help to ensure that all Member States apply identical processes when obtaining the HNS reports from their industry and that they submit them correctly to the future HNS Fund Secretariat.

10 As an example, for the benefit of countries in the Asia Region, the Government of Brunei Darussalam offered to host an IMO Regional Workshop on the IMO Civil Liability and Compensation Regime from 20 to 24 January 2025 in Bandar Seri Begawan, Brunei Darussalam, under the IMO's ITCP. The regional workshop will cover the CLC/Fund regime, the 2010 HNS Convention, the 2001 Bunkers Convention, the 1976/1996 LLMC, the 2007 Nairobi Wreck Removal Convention, the 1989 Salvage Convention and the 1974/2002 Athens Convention. The emphasis is put on the implementation and enforcement of the full liability and compensation regime, including the reporting requirements under the 2010 HNS Convention. The Regional Workshop will be delivered by a team composed of officers from the IMO and IOPC Funds Secretariats and the P & I Clubs. Fourteen Member States from the region are expected to attend.

11 Likewise, the Maritime Industry Authority of the Philippines requested a technical cooperation activity workshop to assist the Philippines in acceding to the 2010 HNS Convention. While a national workshop on the liability and compensation conventions was already programmed under the IMO ITCP to support the accession and implementation in the Philippines of the full IMO liability and compensation regime, the workshop will be conducted by representatives from IMO, IOPC Funds and the P & I Clubs. The workshop will also have a special focus on the ratification and implementation of the 2010 HNS Convention in the Philippines.

12 The IMO and IOPC Funds Secretariats have also been working with ITOPF, ICS and the P & I Clubs to update the 2016 Brochure "The 2010 HNS Convention: Why it needed" which explains the benefits of the 2010 HNS Convention with the latest figures and information. The work is well advanced, and a new brochure is expected to be published in the first half of 2025.

13 In respect of the application of the 2010 HNS Convention to substances that are hazardous when carried in bulk (MHB substances), the IMO Secretariat continues to carry out further work to update the list of substances, as referred to in Circular Letter No.3144, to take into account a number of amendments relating to the International Maritime Solid Bulk Cargoes Code (IMSBC Code).

Developments from the IOPC Funds Secretariat since LEG 111

14 In accordance with Resolution 1 of the International Conference on the revision of the HNS Convention, which adopted the 2010 HNS Protocol, and based on its Action Plan, the IOPC Funds Secretariat has continued to carry out the tasks necessary to set up the HNS Fund and to make preparations for the first session of the HNS Fund Assembly. During 2024, the IOPC Funds Secretariat 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 training and outreach activities. These included webinars and other activities organized in close cooperation with the Legal Affairs and External Relations Division and Technical Cooperation and Implementation Division of IMO.

15 An important task, which started at the end of 2023, is the development and implementation of an online HNS reporting and financial management system. This project is complex and requires detailed discussion before significant progress can be made. So far, the decision has been taken to develop an in-house tool, based on the one developed for the Oil Reporting System (ORS) under the IOPC Funds. As a consequence, the work to be undertaken for HNS will facilitate a merging with the current ORS, facilitating the work of States and contributors, which will be States Parties to both the IOPC Funds and the HNS Fund.

16 A further important function of the IOPC Funds' Secretariat is to develop and maintain the website www.hnsconvention.org, which, among other useful information, includes the HNS Finder tool, an online database that allows users to search the list of all HNS as defined by the 2010 HNS Convention. The most recent update of the list was completed in 2024, including a number of additional research improvements to facilitate its use.

17 The IOPC Funds have been coordinating the development of an HNS Convention Claims Manual with participation from the IMO Secretariat, the Centre of Documentation, Research and Experimentation on Accidental Water Pollution (CEDRE), the International Chamber of Shipping (ICS), the P & I Clubs and ITOPF Limited (ITOPF). The text of a draft manual is close to being finalized and will be presented for adoption to the HNS Fund Assembly.

18 In November 2024, the 1992 Fund Assembly decided to allocate additional financial resources to support the preparations for the entry into force of the HNS Convention. Furthermore, in December 2024, the IOPC Funds welcomed the arrival of a new HNS Project Manager who will lead and direct HNS activities at the IOPC Funds and work with IMO, Member States, and industry and interested organizations to facilitate the successful entry into force of the Convention.

19 As part of the IOPC Funds' series of webinars on the various aspects of the international liability and compensation regime, two webinars dedicated to the subject of the 2010 HNS Convention are scheduled for March and May 2025. Following the format of the entire series, the webinars will consist of a short 15-minute presentation, followed by 15 minutes of questions and will be conducted at two separate times to accommodate participants from different time zones.

Action requested of the Committee

20 The Legal Committee is invited to take note of the information contained in this document and comment, as it may deem appropriate.
