MANUAL AND GUIDANCE DOCUMENTS

Manual on Chemical Pollution to address legal and administrative aspects of HNS incidents

Note by the Secretariat

SUMMARY

Executive summary: This document provides information to invite the Technical Group to consider a proposal for the elaboration of a “Manual on Chemical Pollution to address legal and administrative aspects of HNS incidents”

Action to be taken: Paragraph 4

Related documents: MEPC 54/WP.1; LEG 89/10; MEPC/OPRC-HNS/TG 5/3/2 and A.932(22)

1 At its fourth session, the OPRC-HNS Technical Group, agreed to the inclusion of an agenda item on a Manual on Chemical Pollution to address legal and administrative aspects of HNS incidents, as set out in the work programme of the Technical Group (MEPC 54/WP.1, annex 2).

2 A proposal to develop this manual was put forward based on the need to develop materials to assist countries in the implementation of the Protocol on Preparedness Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances (OPRC-HNS Protocol 2000), which will enter into force in 2007.

3 The work programme suggests the development of a manual based on the existence of a similar manual for oil, i.e. the Manual on Oil Pollution – Section V: Administrative aspects of Oil Pollution Response. However, given the current state of information and practical experience available for the response to HNS incidents, the development of a full manual may still be premature. It may, therefore, be more appropriate to consider another format as a first step, such as a guidance document, with a view to considering the development of a full manual at a later time. The table of contents of the aforementioned Manual on Oil Pollution, Section V, is attached at annex 1. The Group should also note that the full text of the Section V of the Manual is available for consultation in document MEPC/OPRC-HNS/TG 5/3/2, annex 1.
4 When considering this issue, the Group should take into account the work that had been carried by the Correspondence Group for the Implementation of the HNS Convention\(^1\), established by the Legal Committee at its eightieth session. The Group established a website containing a wide variety of materials on HNS, some of which may be useful in developing a manual or other form of document. The content of the website, as well as the URL address, has been reproduced in annex 2 and the final report of the Correspondence Group (LEG 89/10) is included as annex 3.

5 To further assist the Group in its deliberations, the IMO Assembly resolution A.932(22), “Implementation of the HNS Convention”, which invites Member States to take a co-ordinated approach to the implementation of the HNS Convention, is set out in annex 4.

**Action requested of the Technical Group**

6 Taking into consideration the information provided, the Technical Group is invited to:

.1 determine the format of the guidance materials to be produced (manual or other);

.2 identify the path forward for the development of these guidance materials; and

.3 suggest a timetable and projected deadline for completion of the work.

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\(^1\) International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.
ANNEX I

Contents

Abbreviations ........................................................................................................ vii
Introduction ........................................................................................................... 1

Part I  Roles and functions of entities which could be involved in an oil pollution emergency and its aftermath

Chapter 1  The shipowner
1.1  General rights and obligations ................................................................. 3
1.2  Shipboard Oil Pollution Emergency Plan .................................................. 4
1.3  Notification ................................................................................................... 5
1.4  Pollution response and clean-up ................................................................. 5

Chapter 2  The ship operator .................................................................................. 6

Chapter 3  The master ............................................................................................ 7

Chapter 4  The cargo owner ................................................................................... 9

Chapter 5  The flag State ....................................................................................... 11

Chapter 6  The coastal State .................................................................................. 12

Chapter 7  The salvors
7.1  Professional salvors ...................................................................................... 16
7.2  The International Convention on Salvage, 1989 ........................................... 18

Chapter 8  The liability underwriter .................................................................... 20

Part II  Compensation for oil pollution damage

Chapter 9  Outline .................................................................................................. 25

Chapter 10  The 1969 Civil Liability Convention and the 1971 Fund Convention ...... 26


Chapter 12  Recovery of compensation ................................................................. 29

Chapter 13  Guidelines for facilitation of response to an oil pollution incident ...... 32

References .............................................................................................................. 35

Appendices

Appendix 1  Chapter IX of SOLAS 1974 and Assembly resolution A.741(18) .................. 39

Appendix 2  Protocol I of MARPOL 73/78 and Assembly resolution A.851(20) ......... 50

Appendix 3  Lloyd's Standard Form of Salvage Agreement, 1998 ......................... 65
Appendix 4  International Group of P&I Clubs  71
Appendix 5  Extracts from IOPC Funds Claims Manual (5th edition)  74
Appendix 6  Resolution A.869(20): Guidelines for facilitation of response to an oil pollution incident pursuant to article 7 and annex of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990  79

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ANNEX 2

COPY OF WEB PAGE OF THE IMO CORRESPONDENCE GROUP ON IMPLEMENTATION OF THE HNS CONVENTION

Please note that this has been reproduced based on the following web site:
• http://folk.uio.no/erikro/WWW/HNS/hns.html#conv

This is an index of some information and URLs relevant to the IMO Correspondence Group on Implementation of the HNS Convention. Documents are added as time permits. The most recent amendments are marked with (click on the icon for one of the most recent amendments).

Some files are in the .pdf format. You can be notified by email when this page is changed by clicking here.

The page has been established by a co-operative effort between The UK Department for Transport and the Scandinavian Institute of Maritime Law. Leader of the Correspondence Group is Mr. David Bolomini (David.Bolomini@dft.gsi.gov.uk). Contact person for the webpage is Professor Erik Røsæg.

Shortcuts to the topics of this page:
• The HNS Convention
• Explanatory notes
• Implementation State by State
• IMO Legal Committe and other meetings
  • Ottawa 3-6 June, 2003 (final implementation go-ahead)
  • Reports to the Legal Committee
  • Other
• Group correspondence
• From the press
• Organizational matters (including one common address for entire correspondence group)
• Other materials
  • Uninsured vessels
  • SDRs
  • Academic papers
  • IOPC Fund (the HNS Fund administrator)
  • Industry Contracts
  • P&I Clubs and other insurance
  • Example information systems
  • Issues in relation to the European Union
  • CRTD Convention
  • Other conventions, etc
  • Accidents

The HNS Convention
• Text of Convention
• DipCon documents
Implementation State by State

The following states have now ratified:

<table>
<thead>
<tr>
<th>Ratifications</th>
<th>States with fleet ≥2 mill GT</th>
<th>Tons of general account cargo received annually (ca.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Angola</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cyprus</td>
<td>X</td>
<td></td>
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<tr>
<td>Morocco</td>
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<tr>
<td>Russian Federation</td>
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<tr>
<td>Saint Kitts and Nevis</td>
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<tr>
<td>Samoa</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td>120,000</td>
<td></td>
</tr>
<tr>
<td>Tonga</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

8 2 120,000

Required: 
≥12 states 
≥4 states 
≥40 mill tonnes in total

• Canadian implementation proposal
• Irish implementation legislation
• UK implementation legislation
• UK consultation paper
• Russian implementation legislation: Word format - pdf format
• Proposal for implementation legislation drafted and commented by The Norwegian Maritime Law Committee (in Norwegian, translation of the draft legislation will follow)
• Proposal for implementation legislation drafted and commented by The Danish Maritime Law Committee (in Danish)
• Authorization of EU Member States to ratify the HNS Convention
• Erika III package - liability part

IMO Legal Committee and other meetings
Meeting in Ottawa 3-6 June, 2003 (final implementation go ahead)
• Report of Ottawa meeting: Word format - pdf format
• Overview of working papers from Ottawa meeting
• Working papers from Ottawa meeting
• PowerPoint presentation: The Interrelationship between the Maritime Liability Conventions (IOPC Fund)
• PowerPoint presentation: The first tier (Norway)
• PowerPoint presentation: Insurance Aspects of the HNS Convention (CEFIC)
• PowerPoint presentation: National Regulations on Reporting Requirements and Industry Concerns – the UK experience to date (UK)
• PowerPoint presentation: Preparations for Implementation of the HNS Convention in the Republic of Korea (Republic of Korea)

Reports to the Legal Committee
• Report from the Correspondence Group to the 80th session of the IMO Legal Committee
• Report from the Correspondence Group to the 81st session of the IMO Legal Committee
• Report from the Correspondence Group to the 82nd session of the IMO Legal Committee
• Report from the Correspondence Group to the 83rd session of the IMO Legal Committee
• Report from the Correspondence Group to the 84th session of the IMO Legal Committee
• Report from the Correspondence Group to the 85th session of the IMO Legal Committee
• Report from the Correspondence Group to the 86th session of the IMO Legal Committee
• Report from the Correspondence Group to the 87th session of the IMO Legal Committee
• Papers forwarded from the Correspondence Group to the 87th session of the IMO Legal Committee
• Report from the Correspondence Group to the 88th session of the IMO Legal Committee
• Report from the Correspondence Group to the 89th session of the IMO Legal Committee

Other
• IMO Assembly resolution on HNSC implementation
• Documents from EMSA workshop

Group correspondence
• UK 15 Apr 05
• UK 23 Sept 04: Word format - pdf format
• UK 8 Sept 04: Word format - pdf format
• Spain 13 Feb 04
• UK 11 Feb 04
• UK 12 Dec 03
• UK 17 Sept 03: Word format - pdf format
• UK 27 June 03
• UK 14 March 03: Word format - pdf format
• UK 4 March 03: Word format - pdf format
• UK 7 October 02
• UK 21 August 02: Word format - pdf format
• UK 29 July 02: Word format - pdf format
• UK 11 June 02: Word format - pdf format

To the top

From the press
• Lloyd’s revises terrorism clauses
• An historic day dawns on a dramatic rise in limits of liability
• HNS Convention gains UK support
• Maritime Emergencies
• Closing in on chemical spill compensation
• Growing momentum for HNS clamp
• Tangible damage clouds concern over HNS threat
• MCA pelted in pollution report
• Casualty payouts give pact new life

Organizational matters
• One address for mailing to all correspondents: nifs-hns@jus.uio.no or fax +47 9738 4998.
• General guidelines for correspondence groups
• List of correspondents - webpage

Other materials

Uninsured vessels
• OECD Report on the Removal of Insurance from Substandard Shipping
• Note on uninsured vessels: Word format - pdf format
• The Norström Report

SDRs
• SDR valuation
• What is an SDR?

Academic papers
Further suggestions for entries are most welcome
• Philip R. Weems and Kevin D. Keenan: Is the LNG Industry Ready for Strict Liability? (from the LNG Journal)
• Prof. Erik Røsæg on compulsory HNS insurance
• Prof. Erik Røsæg on compulsory insurance
• Prof. Erik Røsæg on the influence of insurance practices on legislation

IOPC Fund (the HNS Fund administrator)
• IOPC fund's HNS web page
• HNS Reporting Software - making the reporting of HNS easy
Industry Contacts

- CEFIC - European Chemical Industry Council
- FECC - The European Association of Chemical Distributors
- ICS - International Chamber of Shipping
- FETSA - Federation of European Tank Storage Associations
- INTERCARGO - International Association of Dry Cargo Shipowners
- INTERTANKO - The International Association of Independent Tanker Owners
- ITOPF - International Tanker Owners Pollution Federation
- OCIMF - Oil Companies International Marine Forum
- OGP - International Association of Oil & Gas Producers
- SIGTTO - Society of International Gas Tanker & Terminal Operators Ltd
- WLPFGA - World LP Gas Association

P&I Clubs and other insurance

- International Group of P&I Clubs
- Blue Card form
- Chart of the 2002 P&I pooling agreement
- P&I cover 2005
- Rules of Assuranceforeningen Gard
- Lloyd's of London home page - with explanations
- Alternative Risk Transfer
- Materials on insurance problems in relation to passengers

Example information systems

- US COFRs
- Equasis
- Chemical Distribution Institute
- SIRE
- Classification society
- P&I club

Issues relation to the European Union

- EU directive on environmental liability
- EU competence in relation to Member States
- EU single market - the common good (large file!)
- EU competition decision on P&I clubs

CRTD Convention

- Text of CRTD Convention
- Working Group - background
- Working Group - documents
Other conventions, etc.

- Basel Liability Protocol
- LLMC 1996
- Bunkers Liability Convention
- CLC/FUND Conventions
- 2003 amendments to the FUND Convention (third tier)
- Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment
- International Convention on Civil Liability for Oil Pollution Damage resulting from the Exploration for, or Exploitation of, Submarine Mineral Resources
- Nuclear liability - IAEA
- Nuclear liability - NEA
- International Law Commission's work on International Liability for Injurious Consequences arising out of Acts not Prohibited by International Law
- New Liability Protocol to the Antarctic Treaty System
- IMO Guidelines on Shipowners' Responsibilities in Respect of Maritime Claims
- On the "HNS Protocol" (which is not a Protocol to the HNS Convention)
- Small Tanker Owner Indemnification Agreement (STOPIA) and TOPIA
- EU directive on environmental liability

Accidents

- Texas City incident
- List of HNS incidents
- Chemical accidents (Cabinet d'Avocats, Jean-François Carlot)

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MONITORING THE IMPLEMENTATION OF THE HNS CONVENTION

Progress to date by members of the HNS Correspondence Group

Submitted by the United Kingdom

SUMMARY

Executive summary: This document provides a report of the work undertaken so far by the States in the Correspondence Group since the eighty-eighth session of the Legal Committee in April 2004

Action to be taken: Paragraph 18

Related documents: LEG 85/5; LEG 86/7 and LEG 88/8

Introduction

1. This document provides information on the progress of members of the HNS Correspondence Group towards ratification of the HNS Convention.

2. The eighty-seventh session of the Legal Committee agreed that the Correspondence Group had completed its core work according to the terms of reference agreed at the Committee’s eightieth session. However, the Group should continue to report progress on implementation, update the HNS incident list on the Group website and continue to respond to any issues raised by Member States.

Progress on implementation

3. We are pleased to report the following progress:

4. Japan is now preparing for a national survey in order to weigh up the advantages and the disadvantages of implementing the HNS Convention in Japan. Japan will determine its position in respect of this Convention, based upon the result of the survey.
5 The Netherlands: As reported at the eighty-eighth session of the Legal Committee, the Netherlands has established a working party of relevant Governmental and harbour authorities with a specific focus on reporting and identification of HNS. The working party has also organised consultation with interested industry groups and associations. A meeting of the working party was held in June 2004 and the Netherlands specifically agreed to provide for more transparency as regards HNS receipts for which also information by the custom authorities could possibly be used. The Netherlands will now get in touch with terminal operators on the issue of identification of HNS contributors.

6 Legislation is already in force as regards the substantial content of the first two chapters of the Convention, further legislation is progressing steadily for the implementation of the next chapter (the HNS Fund) as well as ratification and an explanatory note of the Convention.

7 Denmark: The Danish Maritime Law Committee is about to finalize the draft proposal for the necessary amendments in the Danish Maritime Code that will implement the Convention. The Danish Minister intends to present the proposal to Parliament in January 2005. If the Danish Parliament adopts the draft, Denmark should be able to ratify sometime later in 2005.

8 New Zealand is in discussion with its Ministry of Transport about amending their legislation to give effect to the Convention. Amending legislation will not be introduced prior to the year ending June 2006.

9 Italy is currently in the process of preparing the relevant legislation on the basis of the assessments and comments collected by the interested Ministries, which will be included in a report accompanying the legislative act to be submitted to Parliament. The timing of ratification will depend on Parliamentary Scrutiny.

10 Singapore continues the process of consulting with other Governmental agencies and the shipping and chemical industries regarding the ratification of the Convention.

11 Germany will be consulting its Länder (federal states) in the following months about questions of practical implementation of the convention, with the intention to ratify in summer 2006 - subject to Parliamentary approval.

12 Sweden is in the process of drawing up the terms of reference for appointing a committee to look at the issue of implementing the Convention. The committee should be appointed, and the terms of reference adopted, in early November. The committee will then submit its report to the Minister for Justice within 18 months of appointment. The report will then be circulated to stakeholders for comments and subsequently, a Government Bill will be drawn up for submission to Parliament. Sweden expects to be able to proceed with ratification in early 2007 at the latest.

13 Canada is preparing a discussion paper for public consultation on the ratification of the Convention. The paper is scheduled to be released in 2004.

14 Finland is in the process of preparing legislation. An update of a Study from 1998 on potential contributors to the HNS Fund will be made during 2004. A working party for the implementation process, consisting of representatives from the Government and relative industries, will start its work in Autumn 2004.
15 **Norway**: The Maritime Law Committee is in its final stage of preparation of the report on HNS implementation legislation, which will be presented to The Ministry of Justice by 1 November 2004. In the report, the Maritime Law Committee will recommend that Norway ratifies the HNS convention, and propose draft implementation legislation. The report will then be sent to a public hearing. After the hearing, the ratification process, which includes bringing the matter before the Parliament, will probably take at least one year.

16 **The United Kingdom** has drafted its implementing legislation and is about to begin a final public consultation on the implementation and ratification of the HNS Convention. The implementing legislation must then be passed by Parliament before the UK can ratify the HNS Convention. Ratification is expected to take place in 2005.

17 **Greece** intends to ratify the HNS Convention. The Convention shall be submitted to the Greek Parliament once certain specific functional procedures have been determined and when the ratifying law, imperative for the smooth implementation of the HNS Convention when it enters into force, has been drafted.

**Action requested of the Legal Committee**

18 The Legal Committee is invited to take note of the information contained in this document and to comment as appropriate.

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ANNEX 4

Resolution A.932(22)

Adopted on 29 November 2001
(Agenda item 10)

IMPLEMENTATION OF THE HNS CONVENTION

THE ASSEMBLY,

RECALLING the adoption of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (hereinafter referred to as the “HNS Convention”),

RECOGNIZING the dangers posed by the worldwide carriage by sea of hazardous and noxious substances,

BEING AWARE of the need to ensure that adequate, prompt and effective compensation is available to persons who suffer damage caused by incidents in connection with the carriage by sea of such substances,

HAVING AGREED to adopt uniform international rules and procedures for determining questions of liability and compensation in respect of such damage,

NOTING that only eight States are signatories to the HNS Convention and that at 29 November 2001 only two States have become Party to it,

NOTING FURTHER that the Legal Committee established a Correspondence Group in October 1999 to monitor the efforts of interested parties to become Party to the HNS Convention and their achievements in implementing it, thus encouraging other States to follow this path,

RECALLING the importance of Governments being mindful of the time needed for effectively implementing the HNS Convention, and thus of the need for well-planned time schedules for the implementation process,

BELIEVING that it is desirable for Member States to take a co-ordinated approach towards the implementation of the HNS Convention,

1. CONSCIOUS that the ultimate effectiveness of any instrument depends, *inter alia*, upon all States:

   (a) becoming Party to the instrument;

   (b) implementing it fully and effectively; and

   (c) enforcing it rigorously;
2. URGES all Member States to place a high priority on working towards the implementation of the HNS Convention and on resolving any practical difficulties in setting up the new regime, with the aim of ratification of, acceptance, approval or accession to, the HNS Convention;

3. ENCOURAGES all Member States to participate in the ongoing work of the HNS Correspondence Group and to work together with industry to assist in the implementation process by sharing details of available information on identifying receivers, contributing cargo and other relevant information; and

4. REQUESTS the Legal Committee, when reporting to the Assembly, specifically to address the progress made and practical issues encountered in accepting and implementing the HNS Convention.

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