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Agenda item 5

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**MONITORING IMPLEMENTATION OF THE HAZARDOUS AND NOXIOUS
SUBSTANCES CONVENTION**

Report of the work of the HNS Correspondence Group

Submitted by the United Kingdom

SUMMARY

Executive summary: This paper introduces a report of the work of the HNS Correspondence Group in the intersessional period since the eighty-fourth session of the Legal Committee in April 2002.

Action to be taken: The Committee is invited to take note of this report and consider the action to take in paragraph 13.

Related documents: LEG 84/9; LEG 84/14 (paragraph 118); LEG 85/INF.2

Introduction

1 At its eighty-fourth session (LEG 84) the Legal Committee noted the United Kingdom's proposal that the HNS Correspondence Group should continue to develop comprehensive guidance on the implementation of the Convention (paragraph 118 of the report of the eighty-fourth session, contained in document LEG 84/14). The United Kingdom suggested that it would be useful to post the continuing work of the Group on a website, and that among the issues still to be addressed were those of the contributing cargo, insurance, policing of the system and model legislation. The Committee also noted the suggestion by some delegations that the Group should document the reasons why Governments should join the HNS regime as well as the nature of the problems encountered by States in ratifying the Convention.

2 The latter point has generally been covered by the HNS overview adopted at LEG 84 and now posted on the IMO's website (www.imo.org > Legal > HNS Convention Overview), the work undertaken by the IOPC Funds on the development of an electronic database to identify and report the contributing cargoes, and further, work of the of the Group as posted on the HNS Correspondence Group's own website (see paragraph 3 below). This has also been covered in the information paper submitted by the UK to this session of the Legal Committee on HNS incidents. This paper was originally circulated to the Correspondence Group during the intersessional period in order to highlight the nature, and frequency, of incidents involving the carriage of HNS by sea occurring on an annual basis across the globe, as well as the potential of a serious, catastrophic HNS incident occurring.

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IMO HNS Correspondence Group Website

3 At LEG 84, the Committee noted that it would be useful to post the continuing work of the Correspondence Group on a website, following the example of the Correspondence Group on the revision of the Athens Convention. The web page has been established by a co-operative effort between the Scandinavian Institute of Maritime Law and the United Kingdom. Professor Erik Rosæg (Norway) is the contact point for the webpage. The address of the site is: <http://folk.uio.no/erikro/WWW/HNS/hns.html>

4 The site contains a significant amount of useful and relevant information on implementation, and the Convention itself, including:

- the HNS overview as agreed at LEG 84;
- reports of various informal consultative meetings on the HNS Convention;
- HNS implementing legislation of Ireland, Russian Federation and the UK;
- Explanatory papers on the identification of “receiver”, HNS insurers and insurance certificates and the responsibility of States Parties in respect of compliance and verification; and
- Various academic papers, industry contacts and information on other related Conventions.

5 The web-page is a very useful source of information for Member States and interested industry parties in providing information on various aspects of the Convention, as well as a helpful resource base for responding to any enquiries. The website will continue to be regularly updated with any work or correspondence undertaken by members of the Group. The United Kingdom urges all interested parties to refer to the site, and encourages interested Member States to circulate the web-page address to their relevant national industry organisations and other interested NGO's.

HNS Convention Implementing Legislation

6 At LEG 84 the Russian Federation and Ireland offered to make available in electronic format their national implementing legislation of the HNS Convention. As noted this has, along with the UK's implementing legislation, been posted on the HNS Correspondence Group website. During the intersessional period after LEG 84 the United Kingdom also circulated a paper to the Correspondence Group on a comparison of various parts of the United Kingdom and Irish implementing legislation for the HNS Convention (at present the Russian Shipping Code contains a chapter only on the first tier of the HNS Convention).

7 The paper contains a broad analysis of the HNS implementing provisions in Ireland and the United Kingdom for those seeking guidance in respect of implementing legislation. The paper makes specific reference to the provisions which give the force of law in the two States and the statutory provisions relating to the reporting requirements for contributing cargo to fulfil the obligations under the Convention.

8 The paper is also posted on the HNS Correspondence Group website. The United Kingdom decided, after seeking advice from the Correspondence Group, not to submit the paper for discussion at the eighty-fifth session of the Legal Committee (LEG 85). However, the United Kingdom is content to receive any queries from other interested States in this respect.

Future work of the HNS Correspondence Group

9 Notwithstanding the completion of the work of the IOPC Fund on the electronic database identifying HNS contributing cargo, issues still to be addressed by the Group are those on insurance matters and a possible policing system for contributions to the HNS Fund. It is the UK's intention that these will be covered during the intersessional period between LEG 85 and LEG 86, along with work on the issue of 'receiver'. Following initial consultations with national industry organisations the UK has received a number of requests to provide a detailed account of the entities liable to contribute to the HNS Fund, when in force, in any likely scenario that may arise in respect of the receipt of HNS materials. A comprehensive understanding of the definition of 'receiver', and therefore liability for contributions to the HNS Fund when established, prior to entry into force is essential to facilitate the workings of the reporting and contributing regime.

10 The Correspondence Group recognises the valuable work undertaken by the IOPC Fund on the electronic database to facilitate the reporting requirements of contributing cargo under the Convention. The electronic database will, of course, facilitate the reporting obligations for State Parties under the Convention in this respect (Article 43 of the HNS Convention). Article 43 of the Convention requires State Parties, when depositing an instrument of ratification or accession to the Convention, to submit information to the IMO Secretary General on the relevant quantities of contributing cargo received, or in the case of LNG discharged, in that State during the preceding calendar year until the Convention enters into force in that State.

11 Subsequently, with a view to determining the likely entry into force according to the contributing cargo conditions as required under the Convention, the UK requests the Committee to agree that the Secretariat monitor the cargo contributions from States party to the Convention, and report on the monitoring of such information to each session of the Legal Committee. This will enable the Committee itself to monitor the efforts of Member States to implement the Convention and, ultimately, to determine the point when 40 million tonnes of contributing cargo has been reached among the State Parties to trigger entry into force of the Convention.

Proposed meeting of the Group

12 The guidance provided by the Correspondence Group since it was established in October 1999 has covered a wide range of issues related to the implementation of the Convention. The Group has held progress or consultative meetings, usually in connection with sessions of the Legal Committee, and submitted information to the Committee with the intent of giving assistance to States interested in ratifying or acceding to the HNS Convention. Further, the Committee has also approved a Resolution, as adopted by the IMO Assembly (document A 22/Res.932), urging 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

13 The Group is now in a position to conclude the core work assigned to it when the Group was established. It is proposed therefore that the Group meet for that purpose in the course of 2003 and we are pleased to advise that the Canadian delegation has kindly agreed to arrange for the next meeting of the group in Ottawa, after the eighty-sixth session of the Legal Committee, probably in June 2003

14 This will enable the group to agree on the results of its core work that would then be submitted by the Group to the Legal Committee for approval at its eighty-seventh session in the Autumn of 2003. In the course of the current session, the Canadian delegation would appreciate

receiving provisional indications from delegations that would be interested in attending the meeting of the Group in Ottawa.

Action requested of the Legal Committee

15 To note the further progress achieved by the Group and the proposal for the next meeting of the Group to facilitate conclusion of its core work in 2003, and to request the Committee to agree that the Secretariat monitor the cargo contributions from States Parties to the Convention, and to report to each session of the Legal Committee.
