



LEGAL COMMITTEE  
82nd session  
Agenda item 8

LEG 82/8  
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## MONITORING IMPLEMENTATION OF THE HAZARDOUS AND NOXIOUS SUBSTANCES CONVENTION

### Report on the progress of the Correspondence Group

Submitted by the United Kingdom

#### SUMMARY

**Executive summary:** This document contains a draft report on the progress made by the HNS Correspondence Group since LEG 81.

**Action to be taken:** The United Kingdom invites the Committee to take note of the information provided in this document and the proposed informal consultation meeting in London on 16 March 2001.

**Related documents:** LEG 80/10/2, LEG 80/10/3, LEG 81/7

1 At its eightieth session the Legal Committee agreed that a Correspondence Group would prepare the ground for discussions within the Committee of monitoring the implementation of the HNS Convention. The Legal Committee adopted terms of reference for a Correspondence Group on monitoring the implementation of the HNS Convention (LEG 80/10/3) and elected the United Kingdom as the co-ordinator of the Group. The Committee also agreed that the Correspondence Group would report to the Legal Committee at its regular sessions.

2 The purpose of the Correspondence Group is to monitor the efforts and achievements in and of interested parties to implement the HNS Convention and, by doing so, to encourage other States to follow this path. The work of the Group will have the effect of assisting potential States and in resolving any practical difficulties in setting up the new regime.

3 Due to the complexity of the HNS Convention, and the necessity to ensure that all the key issues would be considered simultaneously within the Group, it was agreed at the eighty-first session of the Legal Committee that the following States would undertake to initiate work in the Correspondence Group on different topics relating to the monitoring and implementation procedure of the HNS Convention:

Denmark & Australia – the collection of information on contributing cargo and the continuing work on the reporting form

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Netherlands – the identification of "receiver"

Norway – HNS Insurers and Insurance Certificates

United Kingdom – the production of an initial guide to the HNS Convention

Canada – compliance and verification of States responsibilities in respect of the reporting system for contributing cargo

4 The Committee agreed that each initiating State would write separately to all members of the Correspondence Group outlining their proposals/ideas on their respective issues. The initiating States would then write back to the co-ordinator of the Correspondence Group in order to facilitate a co-ordinated report to be presented to the Legal Committee.

5 At its eighty-first session the Committee also recognised the difficulties associated with bringing the HNS Convention into force, and subsequently urged **all** delegations to participate in the Correspondence Group and to provide input into the work of the initiating States.

6 The United Kingdom delegation wishes to express sincere thanks to all delegations of the Correspondence Group that have provided comments during the intersessional period.

7 Accordingly, this report was prepared after the circulation of initial ideas from each initiating State on the different topics being considered and the report of each initiating State to the co-ordinator of the Correspondence Group. The preliminary ideas of each initiating State on these different topics are outlined as follows:

**Denmark & Australia – the collection of information on contributing cargo and the continuing work on the reporting form**

8 In LEG 81/7 it was stated that the developed standard report forms could become more user friendly. On the basis of the experiences with contributing cargo, the draft forms have been sent to the IOPC fund Secretariat and the Russian Federation for comments.

9 Work is being undertaken in relation to how information on imports of HNS goods can be obtained. It is however too early to report on this matter. The annex to this document contains an up to date summary of information from ten States on contributing cargo and the number of receivers.

**Netherlands – the identification of “receiver”**

10 The Netherlands has previously agreed to analyse and further develop the concept of “receiver” under the HNS Convention. This concept is crucial when it comes to the need to implement and apply the HNS Convention in a uniform and effective manner. At a previous informal meeting of European states, the Netherlands, in close co-operation with Germany, held a presentation containing an analysis of article 1, paragraph 4 of the HNS Convention and, in particular, dealt with the issue of nominated receivers abroad. This presentation, and the exchange of views following it, led to a fair deal of agreement on the interpretation of the relevant provision. Now that the work on the implementation of the HNS Convention is on the work programme of the IMO Legal Committee, it is necessary once again, to explore the possibilities of finding agreement, this time on a global scale.

11 To expedite this issue the Netherlands intends to present a paper, shortly after the eighty-second session of the Legal Committee, to all members of the Correspondence Group. This paper will be based on the ideas developed informally so far, with a view to reaching consensus on the concept of “receiver” and the consequences of this for the proper implementation of the HNS Convention. On the basis of the comments received, an interim report on the progress reached can be produced for possible discussion at the eighty-third session of the Legal Committee.

### **Norway – HNS Insurers and Insurance Certificates**

12 As initiating State on the work undertaken within the Correspondence Group on HNS Insurers and Insurance Certificates, Norway is in the process of completing a paper outlining the issues with regards to HNS insurance cover. Norway will provide more detailed proposals in the paper to be circulated to the Correspondence Group in the near future. This summary outlines Norway's initial views on this work.

13 It is likely that the P&I Clubs will continue to provide HNS insurance cover. There are also several fixed premium facilities in the market, which offer liability coverage up to \$US 500 million per ship; well above the maximum of 100 million SDR required by article 12 of the HNS Convention. Such facilities can form an alternative to club coverage. They may also provide cover with wholly or partial recourse to the clubs, as is common in respect of Certificates of Financial Responsibility under the U.S. Oil Pollution Act.

14 Under article 12 (7) of the HNS Convention, each State that issues an HNS certificate should first ensure that the insurer is financially viable and has funds available from the jurisdictions of the HNS Convention. The applicant should perhaps have the burden of proof in this respect. States implementing legislation should address these issues. An international reporting system of which issuers of blue cards have been accepted, or not accepted, by governments should also be established.

15 HNSC article 12 (2) requires a paper certificate in the form set out in the model in Annex 1. However, it is not required that the control must be based on this actual paper. The port state control may, if it so wishes, take advantage of alternative forms of documentation, such as computerised records of certificates. An international database is presently being established which could include such information.

### **United Kingdom - the production of an initial guide to the HNS Convention**

16 The United Kingdom has agreed to develop a guide to enactment of the HNS Convention and, by doing so, give assistance to States interested in ratifying or acceding to the Convention, to potential claimants and to contributors to the HNS Fund, whilst providing outline guidance to relevant industries on how the regime is expected to function.

17 During the intersessional period the United Kingdom circulated an introductory section to the guide, with a proposed framework for the document outlining the sections and headings for the information to be included for each interest group i.e. potential claimants, contributors and States. The introductory section to the guide details the following information on the HNS Convention:

- (a) the Purpose of the HNS Convention;

- (b) the Status of the HNS Convention; and
- (c) an Overview of Chapters I-VI.

At present the United Kingdom believes that it is appropriate that the guide is developed as a single document containing all the necessary information for all the interested parties concerned. Taking into consideration the complexity of the Convention, the development of a single guide will ensure that all the issues of concern for all parties in States interested in ratifying or acceding to the Convention are condensed together. As work proceeds consideration will be given as to whether separate guides are needed for each interested group.

18 The United Kingdom also suggests that the guide should be made available at the IMO, and when it is considered appropriate, by the IOPC Fund, and on their Internet sites to allow for easy access.

#### **Canada - compliance and verification of States responsibilities in respect of the reporting system for contributing cargo**

19 Canada is currently reviewing existing legislation and regulations regarding the monitoring and reporting mechanisms in use for similar Conventions. It is envisaged that an initial draft of reporting and monitoring procedures for the HNS Convention will be circulated to the Correspondence group for comments in early 2001.

#### **Proposed Intersessional Consultation Meeting**

20 Following consultation with members of the Correspondence Group the United Kingdom has offered to host another informal consultative meeting in London. This will be similar to the meetings held in April 1998 and April 1999. All member States are invited to attend. The United Kingdom will issue further details in due course. The meeting will take place at the IMO commencing at 10 a.m. on Friday 16 March 2001. All member States and HNSC related industries are invited to attend.

#### **Action requested of the Legal Committee**

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

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## ANNEX

## Provisional list of imported amounts of HNS-goods

- According to figures provided by the named States

State	General Account		Special account					
	mil tonnes	No. of receivers	Oil		LNG		LPG	
			mil tonnes	No. Of receivers	Mil Tonnes	No. of receivers	Mil Tonnes	No. of receivers
The Netherlands <sup>1</sup>	10,75		95		0		0,95	
Denmark	4,75 <sup>2</sup>	5	6,3	4	0	0	0,008	?
France	7		21 <sup>3</sup>		6		2	
Italy	6	n.a.	3	14-15	1,9 <sup>4</sup>	1	1,7	15
UK	4,9 <sup>5</sup>	17	85,1 <sup>6</sup>	29	0	0	0,266	5
Finland	1,5	14	10,4	9	0	0	0,062	1
Ireland	0,133 <sup>7</sup>	10	1,3	17	0	0	0,05	4
Greece	0,3	3	23,2	4				
Sweden			51	29	0	0	1,5	7
Spain			75,1		4,5		1,16 <sup>8</sup>	
Total	38,583 <sup>9</sup>	49	371,4	106-107	6,4	1	7,696	32

For updating please forward any relevant information to Kaare Christoffersen, Danish Maritime Authority, by e-mail: [kc@dma.dk](mailto:kc@dma.dk) or by fax: +45 39 17 44 19.

<sup>1</sup> Figures are from the port of Rotterdam estimated receiving over 90% of the import to the Netherlands. The amounts listed are estimated 50% import and 50% for further transshipment.

<sup>2</sup> Number revised by the Danish Shippers' Council 13/3-2000.

<sup>3</sup> The amount only represents non-persistent oil

<sup>4</sup> Cubic metres

<sup>5</sup> May be as high as 5.5 mill. tonnes

<sup>6</sup> May be as high as 105 mill. tonnes

<sup>7</sup> Would probably not be contributing to the fund entirely since some receivers must import less than 20.000 tonnes

<sup>8</sup> The figures does not yet distinguish if the goods have been received by sea or by land although the estimates by land.

<sup>9</sup> Note: The threshold for establishing the fund is 40 mill. tonnes.