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**REPORT OF THE LEGAL COMMITTEE ON THE WORK OF ITS
NINETY-THIRD SESSION**

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The Committee requested the IMO and ILO Secretariats to consult with a view to determining an appropriate time and place for the next meeting of the Joint IMO/ILO Working Group.

5.10 The Committee decided to retain this matter on its work programme.

6 MONITORING THE IMPLEMENTATION OF THE HNS CONVENTION

6.1 The Secretariat introduced document LEG 93/6, which reports on the status of the HNS Convention and the initiatives taken by the Secretary-General to encourage Contracting States to comply with the obligation, pursuant to article 43 of the Convention, to submit information on contributing cargo received, or in the case of LNG, discharged, in those States, when depositing their instruments of ratification or acceptance with the Secretary-General and annually thereafter.

6.2 The representative of the observer delegation of the International Oil Pollution Compensation Funds (IOPC Funds) introduced document LEG 93/6/1, which reports on the action taken by the IOPC Funds in connection with the implementation of the HNS Convention, in compliance with a resolution of the Conference which adopted the HNS Convention. The IOPC Funds representative provided an additional, oral report on the conclusions reached by the 1992 Fund Assembly, at its twelfth session (15 to 19 October 2007).

6.3 In this connection, she noted that three key issues had been identified as inhibiting the entry into force of the HNS Convention, namely, contributions to the LNG account; the concept of receiver; and the non-submission of reports on contributing cargo.

6.4 She noted further that a majority of States had expressed the view that at least one of these issues could not be satisfactorily resolved within the current text of the Convention and that, as a result, the Convention would never be ratified by a sufficient number of States for it to enter into force. Accordingly, the Funds Assembly had decided to establish an HNS Focus Group to develop a draft protocol which would provide legally binding solutions to these three issues.

6.5 The draft protocol would be submitted for the consideration and approval by the Legal Committee at its ninety-fourth session, with a view to holding, as soon as possible thereafter, a diplomatic conference to consider and adopt it.

6.6 The representative of the IOPC Funds reiterated the commitment of the Focus Group to maintain the principle of shared responsibility of shipping and cargo interests and to restrict the scope of the draft protocol to provisions aimed at resolving the three key issues.

6.7 The Committee stressed the need for the earliest possible entry into force of the HNS Convention in order to prevent the development of regional or national alternatives. While there was a general willingness to participate in the work of the IOPC Focus Group, some differing views were expressed regarding the mandate of the IOPC Funds Assembly to develop a protocol, instead of implementing the present text of the Convention.

6.8 Most delegations that spoke commended the initiative taken by the IOPC Funds Assembly as the way forward, which would speed up the entry into force of the HNS Convention. In their view, the three issues that had been identified could not be resolved within the framework of the existing HNS Convention, but required a legally binding solution. The expertise available within the IOPC Funds Assembly and its past experience in the elaboration of protocols to the IOPC Funds Convention made it uniquely qualified to undertake

this task. Moreover, the work of the Focus Group would not preclude the Legal Committee's final consideration of the text of the draft protocol, as well as any recommendation the Committee might make as to the timing of any diplomatic conference that might be convened to adopt it.

6.9 Many delegations stressed that any future considerations of the HNS Convention should be based on the principle of shared liability of shipowners and cargo interests.

6.10 During the debate, the following reservations were also expressed:

- in dispensing with the present text of the HNS Convention, and pursuing a protocol, the IOPC Funds Assembly was exceeding the mandate bestowed upon it by the Diplomatic Conference which adopted the HNS Convention, which was restricted to administrative and organizational activities;
- the decision taken by the IOPC Funds Assembly to propose the development of an amending protocol compromised the position of existing Contracting States, as well as that of future EU Contracting States. It also impeded the progress towards ratification of the Convention by several States with large volumes of contributing cargo, whose preparations to implement the treaty in its present form were in an advanced stage; and
- impediments to the implementation of the present treaty could be resolved through administrative decisions to be taken by the HNS Funds Assembly once the treaty came into force.

6.11 The view was expressed that, if amendments to the present text were to be considered, the scope of such amendments should include provisions to facilitate the updating and management of the list of substances included in the treaty.

6.12 The observer delegation of the International Chamber of Shipping (ICS) expressed the view that the industry would have preferred that a solution could have been found within the current framework of the Convention and referred to the need to ensure that any proposal to introduce amendments to the HNS Convention should take account of two main principles, namely the internationality of any solution and the commitment not to weaken the principle of shared liability by way of extending the burden of the shipping interests in the first tier.

6.13 The observer delegation of the Iberoamerican Institute of Maritime Law (IIDM) highlighted the importance of ensuring that an international liability regime to compensate for HNS damage enter into force as soon as possible.

6.14 The Committee expressed its readiness to consider any proposals based on the outcome of the deliberations of the Focus Group.

7 REPORT ON THE INTERNATIONAL CONFERENCE ON THE REMOVAL OF WRECKS, 2007

7.1 The Secretariat introduced document LEG 93/7, reporting on the outcome of the International Conference on the Removal of Wrecks, 2007, and on the action resulting from the adoption of the Nairobi International Convention on the Removal of Wrecks, 2007