

LEGAL COMMITTEE  
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Agenda item 3

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

**Report of a Workshop on the 2010 HNS Convention in Rome on 10 October 2014**

**Submitted by Italy**

**SUMMARY**

*Executive summary:* This document provides a report of a workshop on the 2010 HNS Convention organized by the Italian Government in Rome on 10 October 2014

*Strategic direction:* 2

*High-level action:* 2.0.1

*Planned output:* 2.0.1.4

*Action to be taken:* Paragraph 19

*Related documents:* LEG 101/3, LEG 101/12 and LEG 102/3

**Introduction**

1 The workshop on the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (the 2010 HNS Convention) was organized by the Italian Government in cooperation with the International Oil Pollution Compensation Funds (IOPC Funds). It was hosted by Consap (the Italian Public Insurance Services Agency) in Rome on Friday 10 October 2014. The workshop's programme is attached in annex 1.

2 The purpose of the workshop was to review progress on the 2010 HNS Convention, debate on some of the issues relating to its future ratification and facilitate preparations by States for its implementation.

3 The workshop was chaired by Ambassador Antonio Bandini, National Coordinator of the Italian Interdepartmental Committee on IOPC Funds at the Prime Minister's Office and opened by Elisabetta Rosi, Head of Cabinet of the Minister of Environment. It was attended by 70 delegates, the majority made of participants from the Italian Government and the Italian shipping and energy chemical industry as well as delegates from 10 other States (Belgium, Canada, Finland, Marshall Islands, Norway, Poland, Spain, Sweden, Turkey and United Kingdom), three intergovernmental organizations (IMO, IOPC Funds, the European Commission) and four non-governmental organizations (ITOPF, CEFIC, the International Group of P&I Clubs, WLPGA).

4 The workshop was part of a series of activities during Italy's presidency of the Council of the European Union during the second half of 2014 and it was also organized under the IMO's World Maritime Day theme for 2014: "Effective implementation of IMO Conventions", with the 2010 HNS Convention being one of the IMO conventions specifically targeted under this theme.

### **Workshop content**

5 The first part of the workshop was aimed at providing the audience with elements of context regarding the compensation regime for HNS incidents. An overview of the risks caused by the transportation of HNS and a series of case studies were presented by ITOFF.

6 The Director of the IOPC Funds presented the HNS compensation regime framework and indicated that the workshop was a "step in the right direction" as there was a gap in the regime of liability and compensation that needed to be plugged with the 2010 HNS Convention.

7 The International Group of P&I Associations explained its role and the Clubs' in the context of HNS. Clarifications were also provided with regard to the way HNS incidents were dealt with by the P&I Clubs in the absence of the HNS Convention.

8 IMO provided details about the International Legal and Operational Framework regarding the 2010 HNS Convention in which response issues in relation to the HNS Convention were also addressed.

9 The second part of the workshop was delivered in the form of roundtable discussions on the specific issues that require the most attention to facilitate the early entry into force. The Chairman of the HNS Correspondence Group discussed some of the implementation issues of the 2010 HNS Convention, in particular the need to adopt national legislations to facilitate the implementation of the Convention prior to its entry into force, as well as the need for a coordinated ratification by a number of key States that will meet among them the criteria for the entry into force of the Convention. A number of States represented in the workshop provided updates on their efforts towards implementation while the practice of implementation in Canada, where a large commodity trade exists and which is already in an advanced stage, was welcomed as a good national example.

10 A number of representatives from the Italian Government provided an update on Italy's efforts towards implementation. It was indicated that the Ministry of Environment was the coordinating agency and had set up a working group with the relevant government stakeholders and the industry. It was reported that good progress had been made in the identification of HNS receivers through good cooperation with the industry but that there was still some work to do to finish this task. The presence of a high number of receiving ports and of small-size importing companies, typical of the Mediterranean context, was mentioned as a specific issue to tackle.

11 As part of the discussion, the WLPGA indicated that it was committed to communicating on the 2010 HNS Convention to its members and suggested it might be useful to have some case studies that would describe the consequences of an incident at sea involving HNS cargoes, with and without the Convention in force. This idea had support from the participants and it was decided to develop it further.

12 The IOPC Funds facilitated another roundtable focused on the issue of HNS receipts by the industry and the reporting obligations to the HNS Fund by national authorities. As part of this roundtable on reporting, the CEFIC delegate stated that in general the chemical industry was supportive of the 2010 HNS Convention and that reporting HNS contributing cargo was

not a difficult task in itself. However, he emphasized that the coordinated approach among States, in particular European Union's States, as far as CEFIC was concerned, was critical to ensure a fair treatment of receivers in case of levies.

13 The European Commission facilitated the last roundtable and provided details about the general framework for liability in the European Union. Reference was made to the European Council Decision of 2002 regarding the ratification of the 1996 HNS Convention and the urgent need for coordination among the European Member States on HNS compensation. The possibility of a new Decision by the European Council regarding the 2010 HNS Convention was also mentioned.

14 Overall, the workshop was well attended and there was a good exchange with the States that were present to build consensus and commitment to speed up the ratification and accession process.

### **Conclusions**

15 This Regional Workshop provided a good opportunity for discussions among States and other interested stakeholders and clearly demonstrated that the momentum exists towards entry into force of the 2010 HNS Convention.

16 The Chairman of the HNS Correspondence Group provided a series of conclusions for the workshop that were endorsed by the participants. These are attached in annex 2.

17 In summary, he said that the international community has developed a framework with the HNS Convention to fill the last gap in the international compensation regime, that many States are working towards ratification and that there is support from the industry. He added that a coordinated effort is needed, with better tools, to ensure the HNS Convention gets ratified soon in order to provide a global regime which benefits all parties, not least the victims of incidents involving HNS cargoes.

18 Ambassador Bandini stated in his closing remarks that the presentations and roundtable discussions during the workshop have shown that the political will exists for the HNS regime to come into force and that Italy remained committed to the 2010 HNS Convention. Also a new phenomenon to take into account was that the attitude of society was changing and that the risk of chemical pollution was now a concern for the public opinion in Italy. He recognized that there may be some issues along the way to bring this convention into force, but nothing that would be insurmountable.

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

19 The Legal Committee is invited to take note of the information contained in this document.

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ANNEX 1

Regional Workshop on the 2010 HNS Convention – Programme

Time	Topics	Speaker
9:30 – 9:45	<b>Workshop opening</b>	Italy Antonio Bandini
9:45 – 10:15	<b>Session 1: Overview of HNS</b> <ul style="list-style-type: none"> <li>• What are HNS?</li> <li>• Risks and Incidents</li> </ul>	ITOPF Dr Ann Zhang
10:15 – 10:45	<b>Session 2: International Legal and Operational Framework</b> <ul style="list-style-type: none"> <li>• History and background</li> <li>• The role of IMO</li> <li>• HNS Preparedness and response, including OPRC-HNS Protocol</li> </ul>	IMO Jan de Boer
	Coffee Break	
11:00 – 11:30	<b>Session 3: The HNS compensation regime</b> <ul style="list-style-type: none"> <li>• The HNS Convention and the 2010 Protocol</li> <li>• The role of the IOPC Funds</li> </ul>	IOPC Funds Jose Maura
11:30 – 12:00	<b>Session 4: the HNS Compensation regime – The insurer's perspective</b> <ul style="list-style-type: none"> <li>• Certification issues</li> <li>• Perspectives on claims payment</li> </ul>	IG P&I David Baker
12:00 – 13:00	<b>Session 5: Implementation – <i>roundtable discussion</i></b> <ul style="list-style-type: none"> <li>• Requirements for ratification</li> <li>• Implementation issues prior to entry into force</li> <li>• Examples of national perspectives and practices</li> </ul>	Canada Francois Marier
13:00 – 14:15	Lunch	
14:15 – 15:15	<b>Session 6: Reporting of HNS cargo – <i>roundtable discussion</i></b> <ul style="list-style-type: none"> <li>• The HNS Fund</li> <li>• Reporting mechanism (HNS Finder, reporting guidelines)</li> <li>• Contributions</li> </ul>	IOPC Funds Thomas Liebert
15:15 – 15:45	<b>Session 7: Open session – <i>roundtable discussion</i></b> <ul style="list-style-type: none"> <li>• HNS and the general regulatory framework for liability (the case of Europe)</li> <li>• Other issues</li> </ul>	European Commission Lemonia Tsaroucha
	Coffee Break	
16:00 – 16:30	<b>Session 8: Plenary session</b> <ul style="list-style-type: none"> <li>• Way forward</li> </ul>	Canada Francois Marier
16:30 – 17:00	<b>Workshop closing</b>	Italy Antonio Bandini

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## ANNEX 2

### HNS WORKSHOP CONCLUSIONS

- The international community has adopted a global legal framework to address a gap in liability and compensation regimes by striking a balance between the protection of victims of HNS incidents and national economic interests.
- Many states are advancing their eventual ratification of the HNS Convention and are at various stages in their implementation. Both the shipping industry and the cargo interest role are critical in advancing the state's implementation efforts.
- States and the industry need practical means to effectively have the necessary dialogue. Regional considerations can be paramount to ensure a level playing field but this can be mitigated by ensuring there is a coordinated implementation and ratification effort.
- Better tools are needed to engage stakeholders. There already exist the reporting guidelines, the HNS Finder and the various brochures to support states and engaging stakeholders. Further tools can be developed but the main task of moving forward with the HNS Convention rests with states and their willingness to bring it into force.
- Bringing the HNS Convention into force is not impossible and that was clear in the presentations and discussions at the workshop. It is possible and there are many platforms for continuing the dialogue.
- A global regime for HNS incidents is to the benefit of all. It is to the benefit of the shipping industry with ships that move from one jurisdiction to another and need global rules. It is to the benefit of cargo interests who benefit from a pooled fund which minimizes an uneven financial burden. Most of all, it is to the benefit of victims who will have an effective regime with high limits of liability and comprehensive coverage.
- We are confident that the HNS Convention will come into force. Working with industry and cooperating internationally are paramount to ensuring its success. Much work has already been done and new products can help. Any issues or problems are not insurmountable and can be dealt with incrementally. Finally, public opinion is important in order to mitigate the risk of shipping HNS and doing nothing is not an option.

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