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Agenda item 7

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

Draft 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 the eightieth session of the Legal Committee.

Action to be taken: The United Kingdom invites the Committee to take note of the information provided in this document and to comment as appropriate.

Related documents: LEG 80/10/2, LEG 80/10/3

At its eightieth session, the Legal Committee agreed that a Correspondence Group would prepare the ground for discussions within the Committee regarding monitoring the implementation of the HNS Convention. At its seventy-ninth session the Legal Committee agreed that progress towards the implementation of the HNS Convention should be a topic on its work programme on the understanding that it would not lead to a renegotiation on the provisions of the treaty or to the elaboration of authentic or binding interpretation rules.

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.

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

With the terms of reference and contributions to past HNS consultative meetings as guidance, specific States agreed to initiate work in the Correspondence Group on different topics relating to the monitoring and implementation procedure of the HNS Convention. The Correspondence Group also agreed to include the International Group of P&I Clubs (IG P&I), the International Chamber of Shipping (ICS), the European Chemical Industry (CEFIC) the LPG Association and

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the Federation of European Tank Storage Associations (FETSA) in the Correspondence Group in order to provide a focal point for their respective industries.

The following delegations have participated in the Correspondence Group: Australia, Brazil, Canada, Denmark, Finland, Germany, Mexico, Norway, Netherlands, Singapore, Spain, Sweden, Switzerland, UK, USA, Vanuatu, European Community, IMO Legal Committee Chairman and Secretariat, IMO Sub-Division for Pollution Response and Technical Co-operation Co-ordination, IOPC Funds' Secretariat, ICS, CEFIC, IG P&I Clubs, LPG Association and FETSA.

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

Accordingly, this report was prepared after the circulation of a draft to the members of the Group.

Method of work

Each initiating State will write separately to all members of the Correspondence Group outlining its proposals and ideas on its respective issues. States wishing to reply would copy their views to the Group as a whole. 'Initiating' States would then report back to the co-ordinator of the Correspondence Group in order to facilitate a co-ordinated report on the progress of the Group, to be presented to the Legal Committee at each regular session.

Implementation of the HNS Convention involves a number of relatively complex issues. The Correspondence Group concluded that to ensure that all the key issues would be considered simultaneously within the Group, the following delegations should, with their agreement, initiate work on the key issues identified:

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

One of the entry into force criteria for the HNS Convention relates to contributing cargo.

States have previously expressed difficulty in obtaining figures from national industries relating to contributing cargo. With the aim of ensuring that the collection of information does not become a serious burden for either States Parties, or receivers of contributing cargo, draft standard reporting forms have been developed through consultative meetings between the countries of the European Union. These forms provide a useful basis, but need further work to become more user-friendly.

Netherlands – the identification of “receiver”

The interpretation of the term “receiver” remains a subject of debate. Under the HNS Convention, the “receiver” is an individual or company in a State Party to the Convention that receives more than a specified amount of hazardous and noxious substances in a given calendar year.

However, the Convention also allows someone who receives hazardous and noxious substances on behalf of a third party in a member State to designate that third party as the receiver for the purposes of the Convention. Work on the collection of information on

contributing cargo, particularly in the case of nominated receivers abroad, will complement work on this issue.

Norway – HNS Insurers and Insurance Certificates

The HNS Convention requires shipowners to provide evidence of insurance cover upon entry into port. Whilst shipowners have to demonstrate evidence of insurance cover with a certificate, Governments have an obligation under the Convention to ensure that ships have effective insurance cover. This raises a number of issues for States to ensure that insurance is effective i.e. such as requiring insurers to have assets in a State Party, and sharing information. Further, the IG P&I Clubs have not yet formally agreed whether to provide shipowners with the guarantees required under the HNS Convention.

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

One of the aims of the Correspondence Group is to monitor various implementation efforts and to provide a basis for an exchange of views and possible solutions to the identified topics of this implementation process. To this end the United Kingdom will 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. As work proceeds consideration will be given as to whether separate guides are needed for each interest group.

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

During intersessional discussions Canada has offered to initiate work on the issue of compliance and verification, focusing specifically on:

- (1) those provisions in the HNS Convention which deal with the responsibility of each State in respect of the reporting system for contributing cargo; and
- (2) the measures that should be implemented by each State to ensure that this responsibility is discharged in a uniform manner and to ensure equity and integrity of the reporting system.

This would complement the work to be undertaken by Denmark and Australia on the collection of information on contributing cargo.

Action requested of the Legal Committee

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