

Date: Wed, 11 Feb 2004
From: "Victoria Coward" <Victoria.Coward@dft.gsi.gov.uk>
To: <nifs-hns@jus.uio.no>
Subject: HNS Correspondence Group (IMO Legal Committee):Implementation of HNS Convention

Dear Colleagues,

Please see the attached correspondence from John Wren.

The letter seeks an update of Member States' efforts towards implementation for inclusion in a report to LEG 88.

Kind regards,

Victoria

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IMO HNS Correspondence Group

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11 February 2004

Dear Colleagues

Countries Position towards implementing the HNS Convention

You will remember that last December I wrote informing you, that the UK had published a consultation paper on our national implementation of the HNS Convention. In the letter I also asked states would send me details of any progress made towards implementation of the Convention. This is so that an up-date report can be put together for the Legal Committee in the 88th session of the progress being made to implement the HNS Convention.

Many thanks to those colleagues that have already responded. For those states that have previously been mentioned in progress reports to the Legal Committee, could I please ask that colleagues either confirm that what was written in the previous report (attached) is still correct or if they could send us the updated text if further progress has been made. I would appreciate it if you could send me your comments by **Wednesday 10 March 2004**, so that I can submit the report to Legal Committee by the deadline, which is on Thursday 19 March 2004.

Yours sincerely,

John Wren



LEGAL COMMITTEE
86th session
Agenda item 7

LEG 86/7
2 April 2003
Original: ENGLISH

MONITORING THE IMPLEMENTATION OF THE HNS 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-fifth session of the Legal Committee in October 2002.

Action to be taken: Paragraph 15

Related documents: LEG 85/5

Introduction

1 Since the eighty-fifth session of the Legal Committee, much of the intersessional work has focused, amongst a small number of delegations, on preparations for the meeting to take place in Ottawa, 3-5 June 2003, as discussed at the eighty-fifth session. The meeting marks a crucial step in the work of the Legal Committee finally to implement the HNS Convention. It will provide the opportunity to finalize the core work on the arrangements and options for implementation of this key IMO Convention prior to the report of the Correspondence Group on our work at the eighty-seventh session of the Legal Committee in October 2003.

2 All Government delegations, intergovernmental organizations and industry associations who have an interest in the implementation of this Convention are, therefore, encouraged to take part in this important initiative. Members of the HNS Correspondence Group have already received the invitation and registration details for the meeting. Legal Committee members who are not represented on the Correspondence Group are requested to make representation to the Canadian and UK delegations if they have an interest in attending as well (contact by e-mail: Ms. Hassiba Benamara: benamah@tc.gc.ca or by fax: (613) 998-1845, or Mr. John Wren by e-mail: John.wren@dft.gsi.gov.uk or by fax: +44 20 7 944 2186). Those interested in attending are asked to submit the registration form by 16 May 2003.

Progress on Implementing Legislation

3 Since the eighty-fifth session of the Legal Committee, several States have made progress with their implementing legislation. The Correspondence Group has received the following reports:

For reasons of economy, this document is printed in a limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

4 Sweden is in the process of establishing a committee to evaluate and analyse the implementation of the HNS Convention and it is hoped that the conclusions of the committee will be circulated to relevant public authorities and other referral bodies during the spring of 2005, after which a bill can be drafted and submitted to Parliament. Sweden hopes to be able to ratify the Convention in 2005. Finland will be preparing its legislation later on this year and will soon establish a working party for the implementation process, consisting of representatives from the Government and relative industries, with the aim of presenting the draft legislation for Parliament during 2004.

5 Denmark is currently working on the national legislation necessary in order to implement the Convention with the intention that this is completed in early 2004. Its implementation legislation is preliminarily scheduled to be presented to Parliament in late 2004, or early 2005. In Norway, the Norwegian Maritime Law Committee is currently considering ratification of the Convention and plans to write a proposal for the enactment of the Convention into the Norwegian Maritime Code by the end of 2003. Norway is also looking at the HNS contribution system and intends to use the HNS software to obtain records in relevant format as soon as it becomes available.

6 Singapore has commenced preliminary consultations with other Government agencies and the shipping and chemical industries regarding ratification of the Convention. Poland is also currently engaged in consultations with interested industry associations and is in the process of checking and preparing the necessary legislation in order to implement the Convention.

7 In Ireland, the Irish Government passed the second stage of the Sea Pollution (Hazardous and Noxious Substances) (Civil Liability and Compensation) Bill 2000 in November 2002, containing the implementing legislation for the HNS Convention; they are now awaiting a date for the next (Committee) stage of the Bill. Canada is currently working on a public consultation document to seek views on ratification of the HNS Convention. It is intended that this will be released before the end of 2003.

8 The United Kingdom already has the necessary primary legislation in place; enabling powers were agreed under the Merchant Shipping and Maritime Security Act 1997 with ratification of the Convention subject to further approval in Parliament. This is expected to take place following the consultation process. The United Kingdom has undertaken substantive consultations with interested industry associations, with specific focus on the reporting and identification of HNS. This consultation process is on-going and it is envisaged that a formal, public consultation document focusing on all aspects of the regime will be published and circulated to interested United Kingdom parties in the next month.

9 As noted at previous sessions of the Legal Committee, copies of the implementing legislation in the United Kingdom, Ireland and the Russian Federation are available on the HNS Correspondence Group website (<http://folk.uio.no/erikro/WWW/HNS/hns.html>).

Work with the IMO Technical Co-operation Committee

10 As co-ordinator of the Correspondence Group, the United Kingdom has also undertaken initial consultation with the IMO Technical Co-operation Committee as to how the work of the Group can facilitate the work of that Committee in terms of overcoming obstacles to implementation, particularly implementing legislation, experienced by Member States, particularly in the ASEAN region. In particular, this approach was undertaken following a reference during the discussions at the eighty-fifth session of the Legal Committee to the IMO HNS Correspondence Group website and the importance of promoting the acceptance of the

Convention and the exchange of information in respect of the implementing legislation (paragraph 134 of the report of the eighty-fifth session of the Legal Committee). During the discussions on the work of the Correspondence Group, a delegation referred to the help that might be provided by the Correspondence Group to the IMO Secretariat's technical assistance. An update on the progress of this issue will be made at the eighty-seventh session of the Legal Committee.

Definition of "receiver"

11 Work on providing guidance on the issue of "receiver" will be continued at the Ottawa meeting. A comprehensive understanding of the definition of "receiver", and therefore liability for contributions to the HNS Fund, is essential to help the workings of the reporting and contributing regime. Interested Members may wish to refer to the paper previously developed by the Netherlands which can also be found on the Group website.

Other issues

12 The issues of insurance matters and a possible compliance and verification system will be discussed further, with a view to being finalised, at the Ottawa meeting. Interested members may wish to note the papers already drafted on these subjects by Norway and Canada which can also be found on the Correspondence Group website. Further work to complete the list of HNS incidents presented to the eighty-fifth session of the Legal Committee is also in progress. Delegations are reminded that the Group would appreciate information from delegations on notable HNS incidents around their coastlines in order to update this list.

Future work of group up to the eighty-seventh session of the Legal Committee

13 Upon completion of the issues above, we expect that the **core** work of the Correspondence Group will be completed by the eighty-seventh session of the Legal Committee, and that the Group will have fulfilled its role according to the terms of reference agreed at the Committee's eightieth session. In the work of the Group, we have sought to cover issues which States felt to be an obstacle towards implementation. It is now more than 6 years since the Convention was adopted and interested States should be looking towards implementation.

14 Although we consider that the core work of the Group will have been completed by the eighty-seventh session of the Legal Committee, we do not expect that the Group should shut down. It can continue to update the HNS incidents list on the Group website and continue to respond to any issues Member States request. The United Kingdom urges all delegations to participate in the work of the Correspondence Group in the next intersessional period, to ensure appropriate representation at the Ottawa meeting, and encourages any delegations with any queries or concerns in respect of implementation to approach the Correspondence Group. It is intended that a report on the outcome of the Ottawa meeting will be submitted to the eighty-seventh session of the Legal Committee.

Action requested of the Legal Committee

15 To take note, both of the issues raised in this paper, and the meeting in Ottawa in June 2003 to finalise the core work of the Correspondence Group.