

Date: Thu, 23 Sep 2004
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Subject: HNS Correspondence Group (IMO Legal Committee):HNS
Correspondence Group - Report on implementation

Dear Colleagues,

Many thanks to those of you who have provided an update of progress towards implementation of the HNS Convention. I attach a draft report incorporating all responses received.

Please let me know if you have any comments or would like anything to be amended.

There is still time to include reports from any States who have not yet responded but would like to.

We intend to submit the paper at 12 noon (UK time) tomorrow (Friday 24 September), so I would be grateful for any comments or further responses before then.

Many thanks and kind regards,

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DRAFT PAPER

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 provides a report of the work undertaken so far by the States in the Correspondence Group since the eighty-eighth session of the Legal Committee in April 2004.

Action to be taken: Paragraph 15

Related documents: LEG 85/5, LEG 86/7, LEG 88/8

Introduction

1. This paper provides information on members of the HNS Correspondence Groups' progress towards ratification of the HNS Convention.
2. The eighty-seventh session of the Legal Committee agreed that the Correspondence Group had completed its core work according to the terms of reference agreed at the Committee's eightieth session, the Group should however continue to report progress on implementation, update the HNS incident list on the Group website and continue to respond to any issues Member States requests.

Progress on Implementation

3. We are pleased to report the following progress:
4. Japan is now preparing for a national survey in order to weigh up the advantages and the disadvantages of implementing the HNS Convention in Japan. Japan will determine its position in respect of this Convention based upon the result of the survey.
5. The Netherlands As reported at the 88th session the Netherlands has established a working party of relevant governmental and harbour authorities with a specific focus on reporting and identification of HNS which has also organised consultation with interested industry groups and associations.

Since then a meeting of this working party has been held in which the Netherlands specifically agreed to provide for more transparency as regards HNS receipts for which also information by the custom authorities could possibly be used. Furthermore the Netherlands will now specifically get into touch with terminal operators on the issue of identification of HNS contributors.

In addition further legislation (as previously reported the necessary legislation is in force as regards the substantial content of the first two chapters of the Convention) is progressing steadily for the implementation of the next chapter (the HNS Fund) as well as ratification and an explanatory note of the Convention.

6. Denmark The Danish Maritime Law Committee is at this stage just about to finalize the draft proposal for the necessary amendments in the Danish Maritime Code that will implement the Convention. Their minister intends to present the proposal to Parliament in January 2005. If the Danish Parliament adopts the draft, Denmark should be able to ratify sometime later in 2005.

7. New Zealand is in discussion with its Ministry of Transport about amending their legislation to give effect to the Convention. Amending legislation will not be introduced prior to the year ending June 2006.

8. Italy is currently in the process of preparing the relevant legislation on the basis of the assessments and comments collected by the interested Ministries, which will be included in a report accompanying the legislative act to be submitted to Parliament. The timing of ratification will depend on Parliamentary Scrutiny.

9. Singapore continues the process of consulting with other Governmental agencies and the shipping and chemical industries regarding the ratification of the Convention.

10. Germany will be consulting its Länder (federal states) in the following months about questions of practical implementation of the convention, with the intention to ratify in summer 2006; subject to Parliamentary approval.

11. Sweden is in the process of drawing up the terms of reference for appointing a committee to look at the issue of implementing the Convention. The committee should be appointed and the terms of reference adopted in early November and the committee will submit its report to the Minister for Justice within 18 months of appointment. The report will then be circulated to stakeholders for comments and subsequently, a Government Bill will be drawn up for submission to Parliament. Sweden expects to be able to proceed with ratification in early 2007 at the latest.

5. Canada is preparing a discussion paper for public consultation on the ratification of the Convention. The paper is scheduled to be released in 2004.

7. Finland is in the process of preparing their legislation. An update of the Study from 1998 on potential Contributors to the HNS Fund will be made during 2004. A working party for the implementation process, consisting of representatives from the Government and relative industries, will start its work in the Autumn 2004.

12. Norway The Maritime Law Committee is in its final stage of preparation of the report on HNS implementation legislation, which will be presented to The Ministry of Justice by 1 November. In the report The Maritime Law Committee will recommend that Norway ratifies the HNS convention, and propose draft implementation legislation. The report will then be sent on a public hearing. The ratification process after the hearing, which includes bringing the matter before the Parliament, will probably take at least one year.

14. The United Kingdom has drafted its implementing legislation and is about to begin a final public consultation on the implementation and ratification of the HNS Convention. The implementing legislation must then be passed by Parliament before the UK can ratify the HNS Convention. Ratification is expected to take place in 2005.

Action requested of the Legal Committee

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