



transport

Department:
Transport
REPUBLIC OF SOUTH AFRICA

**RATIFICATION TO THE INTERNATIONAL CONVENTION ON
LIABILITY AND COMPENSATION FOR DAMAGE IN
CONNECTION WITH CARRIAGE OF HAZARDOUS AND
NOXIOUS SUBSTANCES BY SEA (HNS) 2010,
PRESENTATION TO PORTFOLIO COMMITTEE ON
TRANSPORT
26 JANUARY 2016**





PRESENTATION OVERVIEW

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PURPOSE

- To present to the Portfolio Committee on Transport the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 2010, (HNS Convention)
- To request approval and support for tabling of the HNS Convention to Parliament

BACKGROUND OF THE HNS CONVENTION

- The HNS Convention was adopted by the IMO in 1996 and subsequently amended by 2010 Protocol
- Its aim is to ensure adequate, prompt and effective compensation for damage to persons and property, costs of clean-up and rehabilitation measures and, economic losses caused by the maritime transport of hazardous and noxious substances (HNS)
- HNS includes bulk cargo and packaged goods e.g. gas, acid, industrial alcohol, oil, active carbon, activated charcoal etc.
- HNS Convention establishes a two-tier regime to provide compensation for loss or damage to persons, property and the environment arising from the carriage of HNS by sea

BACKGROUND OF THE HNS CONVENTION

- HNS Convention is modelled against International Liability Conventions of IMO, such as Civil Liability Convention and International Convention on Oil Pollution Convention of which SA is a party to;
- HNS Convention establishes a two tier regime;

First Tier : Ship Owner Liability

- The Ship-owner is required to maintain insurance of financial security on board for HNS incidents.
- In case of damage caused by HNS spillage ship-owner is liable to \$ 15 Million for a ship of 200 GT and \$ 150 Million for ships of 100 000 GT.

Second Tier : Receiver of HNS

- Importers of HNS pays a levy to HNS Fund calculated per quantity of HNS received per annum.
- In case HNS damage exceeds provisions of Tier 1 the HNS Fund will be liable for damages to an amount of \$ 250 Million

SCOPE OF APPLICATION AND EXCLUSIONS

Scope of application

- Applies to any damage caused by HNS in the territory (including the territorial sea) of a State Party
- Applies to environmental damage in the EEZ of a State Party
- Applies to damage (other than contamination) caused outside the territory and the territorial sea of any State – if caused by HNS carried on board a ship registered in a State Party
- Applies to preventive measures taken anywhere to prevent or minimize damage as referred above

Exclusions

- Oil pollution damage from tankers
- Damage from bunker fuel oil
- Damage caused by radioactive materials
- Optional – ships up to 200GT doing cabotage and carrying HNS in packaged form only

STRATEGIC FOCUS OF THE CAB MEMO

Operation Phakisa (Oil and Gas Lab):

- One of the initiatives emanated from Oil and Gas Lab was the drilling of wells to extract oil and gas offshore then transport same by sea
- Such exercise comes with associated risks to the marine environment
- HNS Convention will be one of the tools to ensure that the South Africa's marine environment is protected against any damage caused by oil and gas transported at sea from offshore platforms and oil rigs
- HNS Convention will require the importers of certain gases from offshore platforms and oil rigs to have insurance onboard, and receiving companies contribute to HNS Fund

ADMINISTRATION OF THE FUND

- HNS Fund is governed by the Assembly and is composed by all State Parties
- HNS Fund is administered by the Secretariat and headed by the Director

Functions of HNS Fund includes:

- Assessing and paying valid claims
- Receive reports and levies of contributing cargo from HNS cargo owner

IMPLEMENTATION PLAN

Once the Convention is ratified:

- Dep of Transport will enact legislation (HNS Act) to implement the Convention
- Treasury will have to enact HNS Contribution Act and HNS Administration Act
- SARS will:
 - collect levies from HNS receivers on behalf of the Government and pay to HNS Fund
 - Collect data of quantities of HNS received per annum
- SAMSA through Port State Control Regime will ensure that ships carrying HNS on SA waters have financial securities on board

CONSULTATIONS

- State Law Advisors of the DIRCO and Department of Justice – both Departments confirms that the provisions of the Convention are not in conflict with International and domestic laws
- Other Departments and stakeholders which were consulted are the following:
 - ❑ National Treasury (since it is a Money Bill i.t.o. the Constitution)
 - ❑ Department of Mineral Resources
 - ❑ Department of Environmental Affairs
 - ❑ Navy
 - ❑ South African Petroleum Industry Association
 - ❑ Maritime Law Association
 - ❑ Smit Amandla Marine
 - ❑ Chemical and Allied Industry Association
 - ❑ South African Maritime Safety Authority



REQUEST

- To request Portfolio Committee on Transport to support ratification of HNS Convention and to recommend it for tabling in Parliament

THANK YOU

