

# 2010 HNS CONVENTION

International Convention on Liability and Compensation  
for Damage in Connection with the Carriage of  
Hazardous and Noxious Substances by Sea, 2010

**‘Who pays for an HNS spill?’**  
**Contact: [JDeBoer@imo.org](mailto:JDeBoer@imo.org)**



# INTRODUCTION

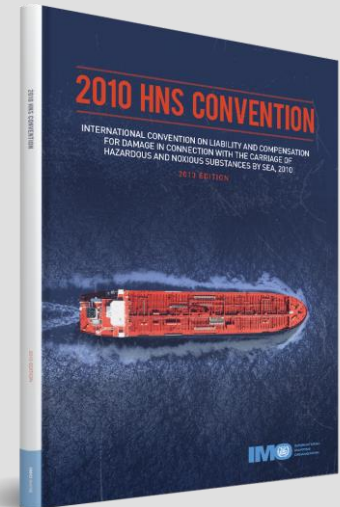
## HNS Convention fills a gap in the regime of maritime liability and compensation

### What it is:

- Liability and compensation regime for damage arising from the **international or domestic carriage** of bulk and packaged HNS by sea

### What it covers:

- Over **2,000 types** of chemicals, oils, acids, fertilizers, alcohols, LNG, and LPG carried by **sea-going ships to/ from / within** a State Party



# IMO CIVIL LIABILITY AND COMPENSATION CONVENTIONS

## HISTORY AND ORIGINS

- **1967 Torrey Canyon** at coastline **Great-Britain** and **France**
- **urgent international action required: Diplomatic Conference** under auspices of the **International Maritime Organization - IMO** in **Brussels in 1969** which adopted **two legal instruments**:
- **1969 Civil Liability Convention – CLC**
- **1969 Intervention Convention**
- **Develop liability regime for damage by Hazardous and Noxious Substances - HNS** at later stage



## HISTORY AND ORIGINS

- **International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC 1969):**
  - shipowner strictly liable for damage caused by spills of heavy crude oils transported as cargo
  - compulsory third-party liability insurance to cover compensation limits
- **Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, (Intervention Convention):**
  - legal powers of the coastal State to intervene in waters beyond the territorial sea in cases of oil pollution damage caused by ships.

# HNS CONVENTION

## HISTORY AND ORIGINS

- **1971** supplementary **Fund Convention**;
- **1973 Intervention Protocol** (substances other than oil: **HNS**)
- **1984 Diplomatic Conference**:
  - **Protocols to CLC and Fund Convention** (increased limits of liability)
  - **First attempt HNS Convention**
- **1996 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention)**;

# IMO CIVIL LIABILITY AND COMPENSATION CONVENTIONS



- The **2010 HNS Convention** enters into force after **12 States** (including 4 States with more than 2 million units of gross tonnage) with a **total of 40 million of contributing HNS cargo** have ratified the 2010 HNS Protocol
- **Robust solution** in the **2010 HNS Protocol** on three issues:
  1. **no contribution by containers**
  2. **reporting and**
  3. **contribution for LNG**
- **Canada, Denmark, France, Germany, Greece, the Netherlands, Norway and Turkey** have **signed** the **2010 HNS Protocol** subject to ratification
- **Norway** ratified on **21 April 2017**; **Canada and Turkey** on **23 April 2018**; **Denmark** on **28 June 2018**; **South Africa** acceded on **15 July 2019**; **Estonia** acceded on **11 January 2022**
- Need for **6 more countries** to ratify



# IMO CIVIL LIABILITY AND COMPENSATION CONVENTIONS



## 2010 HNS CONVENTION

### ELEMENTS OF LIABILITY

- **strict liability**
- **prompt and adequate compensation**
- **channelling of liability**
- **limitation of liability**
- **fund for supplementary compensation**

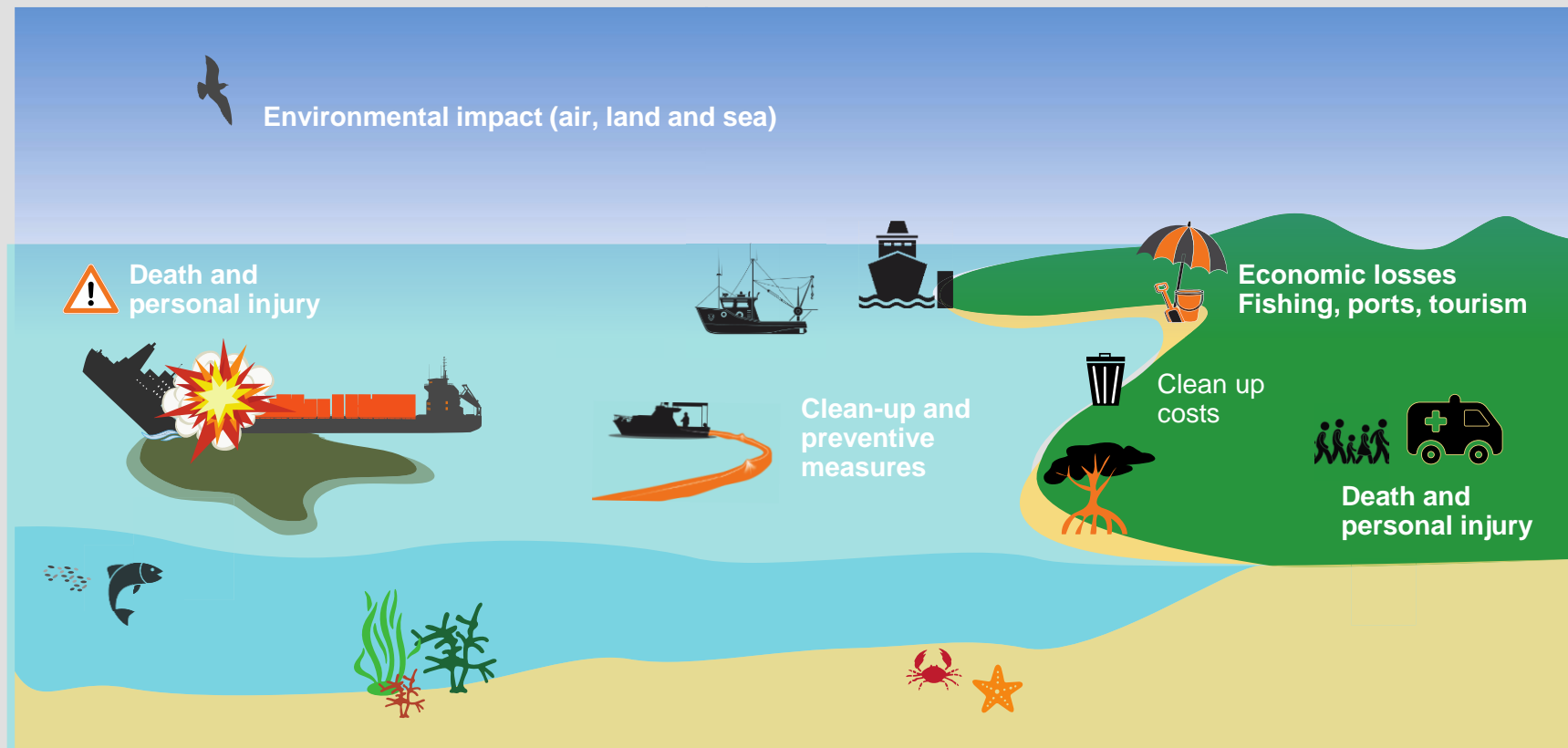
# WHAT IS COVERED BY THE HNS CONVENTION?

## “DAMAGE” MEANS:

Loss of life or personal injury	  
Loss of or damage to property; economic losses	  
Costs of clean-up and preventive measures	 
Reasonable measures of reinstatement of the environment	 



# IMPACTS ASSOCIATED WITH HNS INCIDENTS

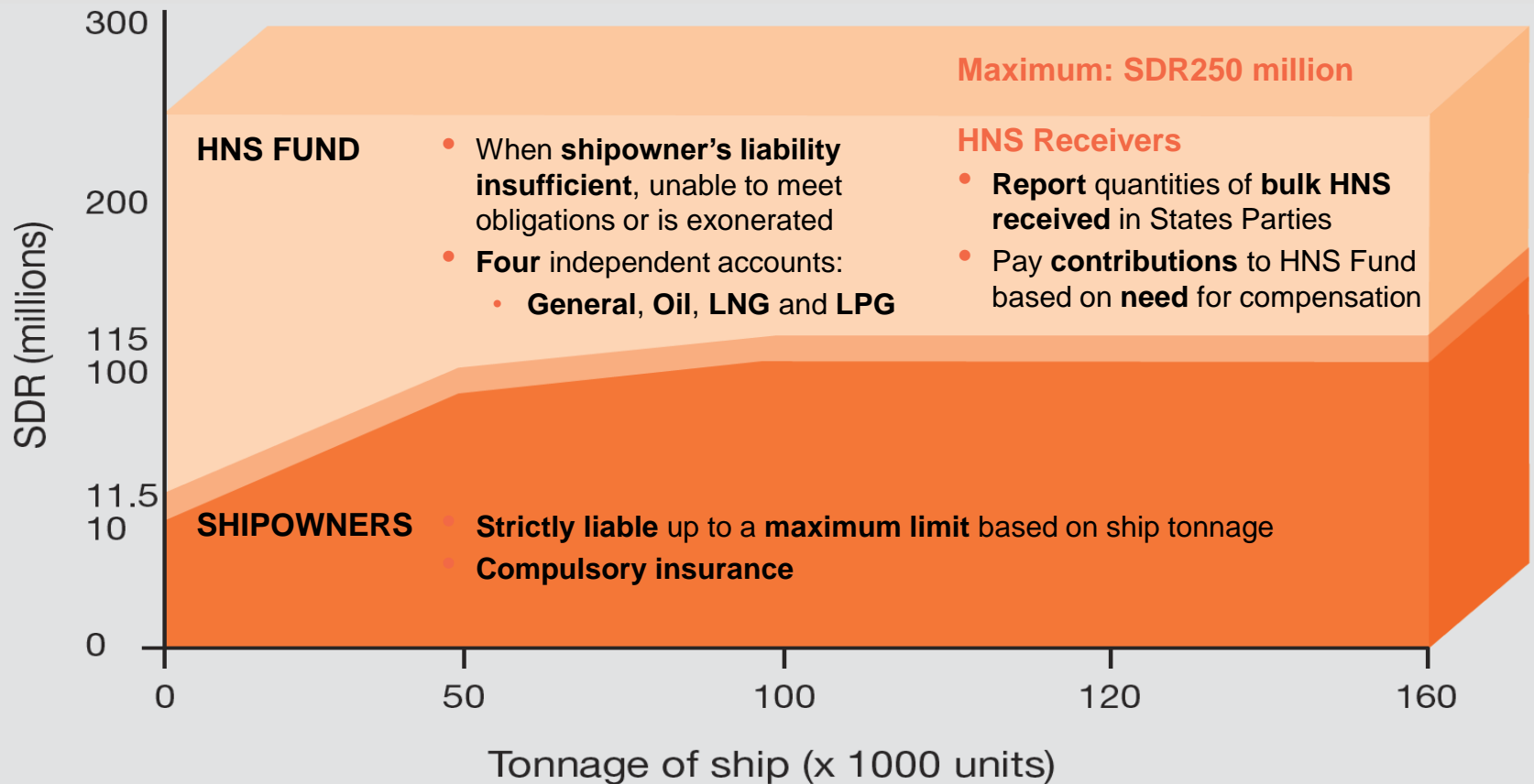


# HNS RISKS CAUSED BY CONTAINERS

## CONTAINERS: AN EVER PRESENT RISK (LOSS AND CONTAINER FIRES)

- At **any one time every day**, it is estimated that over **6,000 vessels** are **carrying containers** (most likely **also HNS**)
- On average, **1,382 containers** were **lost each year at sea** in the period from 2008 – 2019.
- Incident **MSC Zoe** in **January 2019** on the **Netherlands' north coast**
- More recently, in July 2021 the **X-PRESS Pearl** incident occurred in **Sri Lanka**
- **81 of ~1,400 containers** contained dangerous goods (nitric acid, caustic soda, methanol, and over 9,700 tonnes of potentially toxic resins)
- **+ 422 containers of plastic nurdles or pallats!!**

# COMPENSATION AVAILABLE



## BENEFITS OF THE HNS CONVENTION

- The HNS Convention establishes that the **polluter pays** by ensuring that the **shipping and HNS industries provide compensation** for those who have suffered loss or damage resulting from an HNS incident
- It is an international regime based on a **well tested system** of international conventions for compensation for oil spills from tankers
- It provides a **framework for States** adopting the HNS Convention and it is **directly administered** by those States that are members of the regime
- The HNS Convention **benefits all States Parties (producing, receiving and coastal States)** through a system of strict liability and clear claims criteria

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

- Need for **internationally coordinated approach** for ratification
- **HNS Correspondence Group** had focus on **three** specific items:
  - **Brochure: Why it is Needed**
  - **HNS scenarios**
  - **IMO Assembly resolution on implementation and entry into force of the 2010 HNS Convention**: main goal is encouraging states to implement the HNS Convention and bring it into force



# INTERNATIONAL EFFORTS TO BRING THE HNS CONVENTION INTO FORCE

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The HNS Convention is **the last piece in the puzzle** to ensure that those who have suffered damage caused by HNS cargoes carried on board ships have **access to a comprehensive and international liability and compensation regime.**

**I urge all States** to consider acceding to the HNS 2010 Convention as soon as possible, in order **to bring it into force.**

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**IMO Secretary-General Kitack Lim**





## NEXT STEPS FOR STATES: WHAT TO DO?

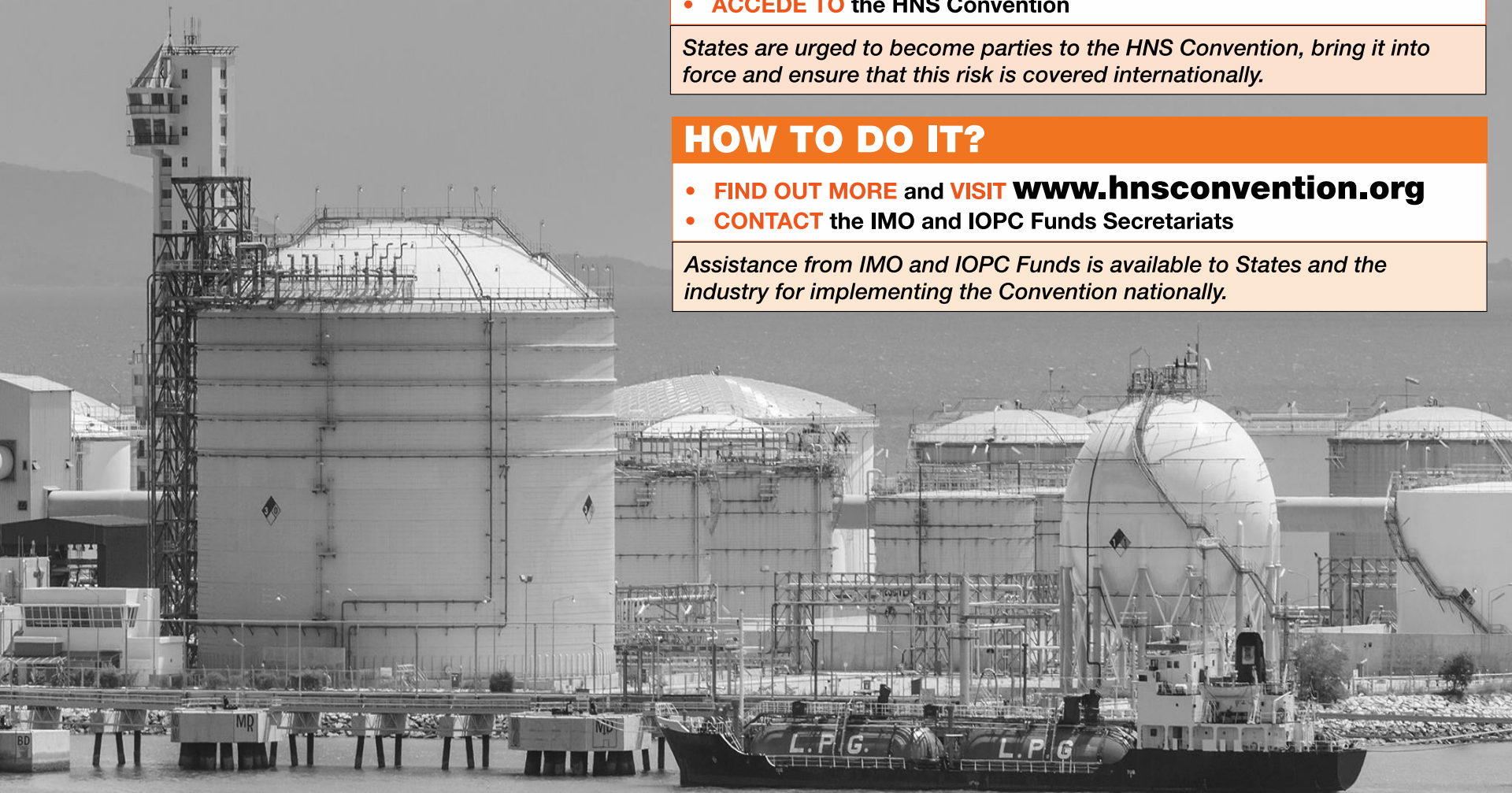
- **BE PROACTIVE** in ensuring adequate compensation is available in the event of an HNS incident
- **ACCEDE TO** the HNS Convention

*States are urged to become parties to the HNS Convention, bring it into force and ensure that this risk is covered internationally.*

## HOW TO DO IT?

- **FIND OUT MORE** and **VISIT** **[www.hnsconvention.org](http://www.hnsconvention.org)**
- **CONTACT** the IMO and IOPC Funds Secretariats

*Assistance from IMO and IOPC Funds is available to States and the industry for implementing the Convention nationally.*





# QUESTIONS AND ANSWERS



# International Maritime Organization

4 Albert Embankment  
London  
SE1 7SR  
United Kingdom

Tel: +44 (0)20 7735 7611

Fax: +44 (0)20 7587 3210

Email: [info@imo.org](mailto:info@imo.org)

[www.imo.org](http://www.imo.org)



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