



International Oil Pollution
Compensation Funds

Agenda Item 3	IOPC/MAR22/5/1/3/Rev.1 ^{<1>}	
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1992 Fund Assembly	92AES26	●
1992 Fund Executive Committee	92EC78	
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IMPLEMENTATION OF THE HNS CONVENTION

Document submitted by France

Summary: This document informs the 1992 Fund Assembly about the work undertaken towards ratification and implementation of the International Convention of 2010 on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (2010 HNS Convention) in France.

Action to be taken: 1992 Fund Assembly
Information to be noted.

1 Introduction

This document informs the 1992 Fund Assembly of recent developments in France concerning the implementation of the HNS Convention.

2 Update on the implementation of the HNS Convention in France

- 2.1 In its document IOPC/NOV20/8/2/1, France indicated that it was preparing for ratification of the HNS Convention, by introducing a reporting obligation on receivers of harmful and potentially hazardous substances. A website for submitting these reports was set up at the same time^{<2>}.
- 2.2 Discussions have since been held with the principal companies concerned in France, with special recognition given to the trade organisations, France Chimie, Union of Independent Oil Importers (UIP) and the French Oil Industry Association (UFIP), which have demonstrated a high level of collaboration in that regard. Several seminars were held in 2021 with these organisations to explain the principle of the Convention and the reporting system. The French authorities endeavoured to answer their questions, with the invaluable support of the IOPC Funds Secretariat. The answers were consolidated in a regularly updated Frequently Asked Questions page^{<3>}.
- 2.3 These discussions were held as a preamble to the first deadline for the reporting by companies of contributing cargo received in a French port in 2020. A first assessment was conducted concerning the efficiency of the reporting system that had been put in place, and the level of understanding and mobilisation of the parties concerned.

^{<1>} This document has been reissued due to some text being omitted in error at the Annex.

^{<2>} This website is only available in French.

^{<3>} This page is only available in French and for registered users of the website.

3 Questions raised by the companies affected by reporting in France

- 3.1 Some of the questions raised by the companies did not cause any particular difficulty, as the answers to these questions could be found in a careful reading of the Convention. Among these questions were, for example: i) explain the link between the HNS Convention and the International Convention on Civil Liability for Oil Pollution Damage 1992; ii) clarify how to calculate the thresholds for reporting (not by product but by categories in Articles 18 and 19 of the HNS Convention); iii) determine the status of floating storage; iv) clarify whether the amounts reported should correspond to the bills of lading or to those measured on unloading (question of wastage).
- 3.2 Other questions raised more difficulties. These questions echoed the points of interpretation long identified and discussed, in particular, in the Guidelines on reporting of HNS contributing cargo, endorsed by the Legal Committee of the International Maritime Organization. It would be useful if these questions were formally discussed by the governing bodies of the HNS Fund after entry into force of the Convention, to confirm the answers and elaborate on them if necessary.
- 3.3 Certain questions were related to the conditions required for the transfer of a substance unloaded and then reloaded to be considered as being direct, and thus make it possible to dispense with the necessity for a report in the State of the port where the transfer took place. The concept of maritime within the scope of the Convention was discussed for fluvo-maritime transport, since certain voyages may not qualify as 'maritime' especially with regard to the geography of some French ports.
- 3.4 The interpretation of the concept of receiver and the possibility of designating the person responsible for the declaration (principal/agent) are the main points on which the companies focused their attention. Physical receivers were concerned whether they should be considered to be receivers, and thus responsible for consolidating the reports for each of their clients. Agent companies were concerned about the obligation to consolidate their report (parent company/associated company), notably to reach the declaration and contribution thresholds, as the corporate structure of their group was generally rather complex. The possibility for the receiver to declare a principal was examined for different scenarios: i) principal in the same State; ii) principal in another State Party; or iii) non-Party. The main difficulty lay in the impossibility of knowing precisely the list of States Party or non-Party to the Convention at this early time. The obligation or absence of an obligation of a principal to contribute for goods received in a foreign port was also discussed.
- 3.5 Additionally, certain contractual arrangements complicate the final designation of the receiver and the contributor. These envisage, in certain cases, that the cargo is sold to the physical receiver, at the time of the ship's unloading, by the cargo owner who has it delivered by sea transport. Then it may be repurchased from the receiver by the original cargo owner, upon leaving the depot. In such case the physical receiver then provides the customs declaration, on behalf of the cargo interests, totalling up the different sources for a product of the same type.
- 3.6 Lastly, the companies underlined that they had experienced difficulties in identifying the substances in contributing cargo using the HNS Finder in its present form; they would like it to be possible to identify these substances from the CAS (Chemical Abstracts Service) number.

4 Lessons learned from the first reporting exercise

- 4.1 The analysis of the results of the first exercise in reporting HNS substances in France showed that the reports were not really exhaustive in comparison with the available statistical data, although gaps in these statistics make any firm conclusion difficult. Duplicate reports were also found, in the

same group or between principal and agent. The explanatory work and clarification efforts by the French authorities must therefore continue.

- 4.2 This first exercise led to optimisation of the on-line reporting website. It is now possible to declare HNS both as a principal or an agent. The separation of reports thus facilitates cross-checking, reduces the risk of certain cargoes not being reported, and allows the French administration to enhance its knowledge of the stakeholders concerned and their relationships.

5 Action to be taken

The 1992 Fund Assembly is invited to take note of the information provided in this document.

* * *

ANNEX

The fields followed by an asterisk (*) are compulsory.

Your progress is saved automatically after each amendment. You can close the window at any time and continue later where you left off.

User Guide

Learn more about the obligation to report

<https://www.ecologique-solidaire.gouv.fr/indemnisation-des-dommages-lies-au-transport-maritime-substances-nocives-et-potentiellement>

Link to the law (available in French only)

https://www.legifrance.gouv.fr/affichTexte.do;jsessionid=2D5F74E980C9C1DD5B5EC5579CC43065.tplgfr34s_2?cidfexte=JORFTEXT000039666574&categorieLien=id

Link to the implementing decree (available in French only)

<https://www.legifrance.gouv.fr/affichTexte.do?cidfexte=JORFTEXT000041893841&dateTexte=&categorieLien=id>

Link to the order (available in French only)

<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041893866>

Check if my cargo is subject to reporting and contributions

<https://www.hnsconvention.org/hns-finder/>

GENERAL INFORMATION

Status of the reporter*

During the transfer of cargo, a principal located abroad and receiving goods in France is considered a 'receiver' by the administration, in a State not Party to the Convention and the agent is then responsible for reporting.

In addition, it is recommended that a single report is produced in the name of associated entities. The extent of joint reporting (subsidiary or parent company) to be adopted is that at which the thresholds for reporting each substance are reached. Companies must take care to ensure that the same cargoes received are not reported twice.

Principal (I am declaring in my own name)

Agent (I am declaring on behalf of a client)

Other

1. Information on the reporter

Identification N° of the reporting company*

For French companies, state the SIRET number

For foreign companies, state the international identification number and state the latter (EORI, DUNS, etc.)

Identification N° of the reporting company

Name of the reporting company*

State in brackets the name of the group if the reporting company is a subsidiary

Main activity of the reporting company*

Briefly describe the main activity of the company

Main activity of the reporting company

Channel N° *

Channel N°



Extension

Extension

Type of channel *

Type of channel

Name of channel***Place or P.O. Box****Post Code*****Location****Country*****Telephone N° ***

Contact number of person responsible for reporting on behalf of the company

Email address*

If different from log-in email

2. Information on the principal (if the reporter is the agent)

Identification N° of the principal company*

For French companies, state the SIRET number

For foreign companies, state the international identification number and state the latter (EORI, DUNS, etc.)

Name of the principal company*

State in brackets the name of the group if the reporting company is a subsidiary

Name of the principal company

Relationship between the principal company – reporting company

Briefly describe the nature of the links between the principal company and the reporting company (e.g. responsible for storage for Company X)

Relationship between the principal company and reporting company

Channel N°

Extension

Extension

Type of channel

Type of channel

Name of channel

Name of channel

Place or P.O. Box

Place or P.O. Box

Post Code

Post Code

Location**Country****Telephone N° of principal company**

Telephone number of the company on behalf of which the declaration is made

Email address of the principal company

Email address of the company on behalf of which the declaration is made

2. CONTRIBUTING CARGOES RECEIVED

Year***Before starting the declaration**

1° Before the entry into force of the Convention, the report does not necessitate any financial contribution.

2° There is no reporting of cargo by cargo but an annual report per declarer, consolidated by each HNS Classification Group as soon as the minimum thresholds are reached.

3° The conditions of sale have no direct influence on reporting obligations.

4° Amounts are reported in tonnes. To the extent that the amounts to be reported are those actually unloaded, the outturn volumes are preferable to BL volumes.

Reminder of reporting thresholds

- Other HNS: 15 000 tonnes
- Persistent Oil: 150 000 tonnes
- Non-persistent oil: 15 000 tonnes
- Liquefied Natural Gas: any amount
- Liquefied Petroleum Gas: 15 000 tonnes

Agents responsible for the declaration on behalf of a client located aboard and receiving HNS in a French port, report amounts received on behalf of the principal irrespective of the threshold.

General Account

Solid materials in bulk

Amount (in metric tonnes}

Solid materials in bulk	A V
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Other HNS

Amount (in metric tonnes}

HNS under Article 1 of the 2010 Convention

Other HNS	A V
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Total general account

Amount (in metric tonnes}

Sum of volumes declared for "solid materials in bulk" and "other HNS".

Total general account	A V
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Oil account

Persistent oil

Amount (in metric tonnes}

Persistent oil	A V
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Non-persistent oil

Amount (in metric tonnes}

Non-persistent oil	A V
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Total oil account

Amount (in metric tonnes }

Sum of volumes declared for "Persistent oil" and "Non-persistent oil".

Total oil account	A V
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LNG account

Liquefied Natural Gas (LNG)

Amount (in metric tonnes)

Light liquefied natural gas mainly consisting of methane (LNG)

Liquefied Natural Gas (LNG)

LPG account

Liquefied Petroleum Gas (LPG)

Amount (in metric tonnes)

Light liquefied petroleum gas mainly consisting of propane and butane (LPG)

Liquefied Petroleum Gas (LPG)

Comment(s)

Matters that you wish to draw to the attention of the administration

Comments