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COMPENSATION
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FIFTH INTERSESSIONAL
WORKING GROUP
Agenda item 2

92FUND/WGR.5/2/1
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FACILITATING THE ENTRY INTO FORCE OF THE HNS CONVENTION: CONSIDERATION OF A DRAFT TEXT OF A PROTOCOL TO THE HNS CONVENTION

CONTRIBUTIONS TO THE LNG ACCOUNT

Submitted by France

Summary:	The Government of France has submitted a letter to the Chairman of the HNS Focus Group confirming its support for proposals made in documents 92FUND/WGR.5/3 and 92FUND/WGR.5/4 and expressing its concern for those made in document 92FUND/WGR.5/2 regarding contributions to the LNG Account.
Action to be taken:	Information to be noted.

1 Background

- 1.1 At its 12th session held in October 2007 the Assembly decided to establish a Working Group ('the HNS Focus Group') with the aim of facilitating the entry into force of the HNS Convention and with the mandate set out in the annex to document 92FUND/A.12/28, paragraph 27.16.
- 1.2 As set out in paragraph 1.4 of the Terms of Reference, interested delegations were invited to submit concrete policy proposals accompanied by draft treaty text to the Secretariat by 18 January 2008, at the latest. Several proposals were received and have been issued for consideration by the HNS Focus Group at its first meeting.
- 1.3 The Government of France has submitted a letter to the Chairman of the HNS Focus Group confirming its support for proposals made in documents 92FUND/WGR.5/3 and 92FUND/WGR.5/4 and expressing its concern for those made in document 92FUND/WGR.5/2 regarding contributions to the LNG Account.. The letter is contained at the annex.

2 Action to be taken by the HNS Focus Group

The Focus Group is invited to take note of the information contained in this document.

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ANNEX

Ministry of Finance

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Dear Chairman

At the IOPC Funds' October 2007 sessions, the 1992 Fund Assembly decided to establish a Focus Group on the HNS Convention charged with developing a draft protocol to that Convention. France supported this initiative and indicated its intention to participate in the work of the Group.

Since October 2007, France has taken an active role in the work which has brought together a number of States with the aim of developing joint proposals for consideration by the Focus Group. This work has led to the production of three documents, each relating to a point in the Focus Group's mandate. These are:

- A document submitted by the United Kingdom and a number of other States relating to the problem of the non-submission of reports on receipts of contributing cargo.
- A document submitted by the United Kingdom and a number of other States relating to the concept of 'receiver' and its application to packaged goods.
- A document submitted by Canada and a number of other States relating to contributions to the LNG account.

The purpose of this letter is to state France's position in relation to these three documents.

1. France has decided to give its support to the document submitted by the United Kingdom *et al.* relating to the problem of the non-submission of reports on receipts of contributing cargo, which proposes measures needed to restore States' confidence in the ability of the HNS Convention to function.
2. France has also decided to support the document submitted by the United Kingdom *et al.* relating to the definition of 'receiver' and its application to packaged goods. The proposals contained in that document in fact represent a genuine compromise between the opposing interests without infringing the rights of the victims which was the case in the original Convention. This compromise is based on the preservation of the second tier of compensation for victims of incidents involving packaged goods accompanied by an increase in the shipowner's limit for this type of incident. France considers, nevertheless, that this increase will have to be significant.

3. Finally, France wishes to reserve its position on the document submitted by Canada *et al.* relating to contributions to the LNG account, which proposes placing the burden of contributions on the receiver of the cargo, and to limit itself at this stage to the following observations:

The question of contributions to the LNG account was included in the mandate of the Focus Group in order to deal with the risk of non-payment of contributions to the HNS Fund when the contributor is not subject to the jurisdiction of a State Party to the Convention. The size of this risk seems limited since there are currently very few producers/exporters of LNG, all of whom are well known and consist, for the most part, of trusted business partners in the LNG market^{<1>}.

The solution which is currently being proposed would thus disrupt the existing balance of the Convention whereby the burden of contributions is shared amongst importers and exporters of LNG, by imposing this burden on the importers, of whom there are very few and whose contribution risks being doubled, taking into account the current proportion of 'ex-ship' contracts^{<2>}.

The potential financial consequences therefore raise the question as to whether the solution proposed in the document is in proportion to what is at stake in respect of the problem.

Yours faithfully

Catherine Bergeal

Director of Legal Affairs

<1> Some of them also have capital links with importing companies.

<2> Ex-ship contracts represent around 60% of medium and long-term sale contracts worldwide (figures provided by GIIGNL).