



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 the International Group of Liquefied Natural Gas Importers (GIIGNL)

Summary:	This document proposes a number of solutions to the issue of contributions to the LNG account, as referred to in the mandate of the HNS Focus Group.
Action to be taken:	Information to be noted.

1 Introduction

- 1.1 Since the initial international discussions on the subject, GIIGNL has been developing within the International Maritime Organization (IMO) some perspectives reflecting the interest of LNG importers. More specifically, since March 2004, GIIGNL has been working internally on the new international regime through the creation of a dedicated working group on the HNS Convention. That working group published, for GIIGNL members, a document entitled 'GIIGNL HNS General Report' which proposes guidelines on the Convention, summarises the implementation status of States and also develops questions and answers on the issues raised by LNG importers.
- 1.2 In 2005, GIIGNL began to raise some concerns regarding the implementation into legislation of the HNS regime with the International Oil Pollution Compensation Funds (IOPC Funds, the organisation responsible for assisting States with their implementation of the HNS Convention) and through contacts between GIIGNL members and their respective governments. More recently, GIIGNL was granted observer status to the 1992 Fund as an international non-governmental organisation at the June 2007 meetings of the IOPC Funds in Montreal. Following the establishment of the IOPC Funds Correspondence Group on non-collectable levies to the LNG separate account of the HNS Fund, GIIGNL offered to join and, during the summer 2007, expressed its views on the issues raised by the Correspondence Group. The GIIGNL Commercial Study Group meeting held in Tokyo in September 2007 and the GIIGNL General Assembly meeting held in Rome in October 2007 resulted in GIIGNL formalising its position during the international debate generated by the Correspondence Group on LNG contributions to the HNS Fund.
- 1.3 Invited as a non-governmental organisation with observer status to participate in the IOPC Fund meetings in London on 16 and 17 of October 2007, GIIGNL expressed its position in the following statement.

'In our view, it is very important to return to the mechanisms that are being developed around the possible implementation of the HNS Convention, specifically LNG receipts:

- The definition of LNG according to the Convention is that the contributor to the HNS Fund is the titleholder of the cargo immediately prior to discharge: even though we highlighted from the very beginning the fact that such a definition would create some implementation issues, we would like to reaffirm that such a scheme is still viable.

- Indeed, we noted the concerns of some delegations and we would like to point out here that the rationale of the Convention is based on maritime transport safety of HNS cargoes. The shipper (transporter) and the cargo owner (titleholder) are the identified persons in charge of such safety constraints and in the best position to manage it. That is why, in our view, it is legitimate with regard to the transport of LNG, to focus on those two persons being responsible and liable for potential contributions in case of a major incident.

- This principle, named by some Correspondence Group members as the 'Spirit of the Convention', is important and we will continue to remind delegations of this point.

Some solutions have been explored in the scope of the Correspondence Group. It should be recalled that a number of contemplated solutions still have to be evaluated and further discussed – namely, paragraph 2.7 of document 92FUND/A.12/25/1 presented by Norway and Professor Rosaeg about the financial guarantees to be evaluated by the HNS Fund Secretariat.

Furthermore, we would like to point out that any solution that would be adopted in the scope of implementation of the HNS Convention, particularly in respect of LNG receipts, should not interfere with, or undermine, normal LNG operations and the security of supply. In particular, constraints of long term contracts must be considered before adopting any solution.

GIIGNL will continue to support the IOPC Fund delegations particularly through the means of dedicated working groups and we will keep on highlighting the importance of global and harmonised implementation/ratification of the HNS Convention within LNG countries. The best solution for the LNG industry will be a global regime and similar solutions in all relevant State Parties, taking into account always the practical application issues and the reality of the markets affected by such HNS regime.'

2 Possible solutions

2.1 It is our intention to contribute to the Focus Group and explore practical solutions notably in order to provide details of possible solutions in the form of financial guarantees

2.2 We have already raised the point that the IOPC Funds should work on the existing mechanisms, based on the financial obligations and guarantees which exist in the oil pollution compensation regime (CLC/Fund Convention) and that such discussion should also include the shipping insurance industry (notably the P&I Clubs): such points had been recommended during the summer 2007 discussion within the LNG Correspondence Group but have not been explored up to now.

2.3 Moreover, we would like to highlight the fact that other kinds of solutions could be considered, such as:

- an obligation for any LNG shipper transporting LNG (Ex-ship Seller or FOB Buyer) with the destination of a HNS Fund Member State to obtain a custom authorisation, based on an obligation to furnish a letter of credit – or financial guarantee – that could be based on the example of the AMS ('Automated Manifest System') US Custom regulation, issued from the US Maritime Transport Security Act 2002 and imposing the obligation on some shippers to put in place an 'International Carrier Bond' (through a bond provider established in the HNS Fund Member State) if they want to be authorised to import some products into US ports;

- dedicated shipping insurance could be imposed on the charterer of any LNG tanker with the destination of a HNS Fund port and could be checked by the relevant Port State authorities which could require the presentation of some form of insurance certificate.
- 2.4 These solutions attempt to retain the equilibrium given by the existing text of the Convention concerning the sharing of LNG contributions.

3 Action to be taken by the HNS Focus Group

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