

Submission of Reports on Contributing Cargo

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International Oil Pollution Compensation Funds

Reporting contributing cargo

Correct reporting of contributing cargo is essential to the successful implementation of the HNS Convention



What is the reporting requirement?

Before the Convention enters into force

- States must report to the Secretary-General of IMO the total quantities of contributing cargo for each account and sector

After the Convention has entered into force

- States must report to the Director of the HNS Fund the names and addresses of each individual contributor in that State and the quantities received by each contributor in respect of each account and sector



Which years does a State have to report for?

Before the Convention enters into force

- on ratification of the Convention and annually thereafter until the Convention enters into force, for the preceding calendar year

After the Convention has entered into force

- the year preceding that in which the Convention entered into force for that State and annually thereafter, for the preceding calendar year



Points to note

- A State is responsible for reporting persons liable to pay contributions, not persons who have received contributing cargo in that State
- The basic information a State must possess in order to submit reports before and after the Convention enters into force is essentially the same - the only difference is in the level of detail of the reports



What do you need to know in order to report contributing cargo correctly?

- Does a substance qualify as HNS?
in bulk?
in packaged form?
- Which account or sector does a substance belong to?
- Does a receipt of HNS qualify as contributing cargo?
- Who is the person liable for contributions?
- Do the quantities received exceed the relevant thresholds?



Does a substance qualify as HNS?

Bulk

- i. Oils Annex I Appendix I of MARPOL 73/78
- ii. Liquids Annex II Appendix II of MARPOL 73/78
- iii. Liquids Chapter 17 of IBC Code
- v. Gases Chapter 19 of IGC Code
- vi. Liquids flashpoint not exceeding 60°C
- vii. Solids Appendix B of BC of BC Code, if also
covered by IMDG Code in packaged form

Packaged

- iv. IMDG Code



Examples of HNS

Bulk

Liquids

MARPOL Category A, eg tetra-ethyl lead, coal tar

Category B, eg styrene monomer, chloroform

Category C, eg sulphuric acid, coconut oil

Category D, sodium hydroxide solution, fish oil

IBC Code

eg molten sulphur, sodium chlorate solution

Flashpoint $\leq 60^{\circ}\text{C}$

eg acetone, ethyl alcohol



Examples of HNS (cont.)

Bulk - cont.

Oils

persistent oils, eg crude oil, heavy fuel oil
non-persistent oils, eg gasoline, jet fuel

Gases

eg LPG, LNG, ammonia, chlorine

Solids

eg potassium nitrate, sulphur

Packaged

eg acids, cyanides, pesticides, ammunition



Radioactive substances

Convention does not apply to damage caused by radioactive materials of class 7 in:

- IMDG Code (packaged)
- BC Code (bulk solids)

Convention does not deal with whether these radioactive substances qualify as contributing cargo

- HNS Fund Assembly will have to decide



Which account or sector does a substance belong to?

- Significant overlap between parts of definition
- Whether substance qualifies as HNS depends on whether in bulk/packaged form
- No link between definition and which account or sector substance belongs to



General account

At least two sectors:

- Bulk solids
- Other HNS

Up to five sectors: if one or more of the separate accounts has been postponed or suspended, it will form a separate sector in the general account

- Oil
- LNG
- LPG



Separate accounts

Initial operation postponed until contributing cargo exceeds:

- Oil account 350 million tonnes
- LNG account 20 million tonnes
- LPG account 15 million tonnes

Assembly may suspend a separate account if:

- Contributing cargo in preceding calendar year falls below these levels, or
- Significant unpaid contributions



Does a receipt of HNS qualify as contributing cargo?

Contributing cargo means any HNS which are carried by sea to a port or terminal in the territory of a State Party and discharged in that State

but

Cargo in transit which is transferred directly, or through a port or terminal, from one ship to another, either wholly or in part, in the course of carriage from the port or terminal of original loading to the port or terminal of final destination shall be considered as contributing cargo **only in respect of receipt at the final destination**



Points to note

- Basic concept is of physical receipt of HNS by sea, so builds on the experience of the IOPC Funds
- Except for persistent oil, the HNS must be received directly by sea in a Member State, so the reporting process needs to concentrate on the ports and not on HNS received by land
- For persistent oil, the reports will be the same as under the 1992 Fund Convention, so may include persistent oil received by sea in a non-Member State and transported by land to a Member State



Who is liable to pay contributions?

Persistent oil

- Any persons liable to contribute to the 1992 Fund

LNG

- Any persons who held title to an LNG cargo immediately prior to discharge

All other types of HNS

- The receiver as defined in Article 1.4



Definition of receiver in Article 1.4(a)

the physical receiver

or

if the physical receiver is acting as an agent for another who is subject to the jurisdiction of any State Party, the principal, if the agent discloses the principal to the HNS Fund



Points to note

- The principal must be subject to the jurisdiction of a Member State, otherwise the agent cannot pass on the liability
- The agent/principal relationship must be contractual and will have to be notified/proved to the HNS Fund
- The HNS Fund will notify the States concerned
- The liability can only be passed on once - the liability cannot be passed on further up the supply chain



Do the quantities received exceed the relevant thresholds?

General Account

Bulk solids	20 000 tonnes
Other HNS	20 000 tonnes

Separate Accounts

(or Sectors within General Account)

Oil	persistent oil	150 000 tonnes
	non-persistent oil	20 000 tonnes
LNG		no minimum quantity
LPG		20 000 tonnes



Points to note

- A principal may receive HNS from several agents where the individual quantities are below the threshold but the total is above
- Similar to concept of "associated persons", where quantities received by commonly controlled companies are aggregated to determine whether the thresholds are reached



Reporting process

- Contributors report to States
- States report to IMO/HNS Fund
- IMO can determine whether the entry into force conditions have been fulfilled
- After entry into force, HNS Fund can issue invoices to contributors



HNS Convention Contributing Cargo Calculator (HNS CCCC)

Development of the system

- Original idea suggested in HNS Correspondence Group - 2001
- Proposal approved by 1992 Fund's Assembly - 2001
- Non-working prototype - 2002
- Working prototype with database of 100 chemicals - 2002
- Final system including full database of ~6000 chemicals – 2004/2005



HNS CCCC

Final system on CD-ROM and website

- CD-ROM
 - fast
 - secure data storage
- Website
 - no software installation
 - easy to update database of chemicals
 - accessible



HNS Database

Database contains ~

Packaged	2251 substances/1001 synonyms
Bulk	3110 substances/1880 synonyms

Data from Conventions/Codes (nb overlap)

MARPOL/IOPC Fund oils	87
MARPOL liquids	2711
IBC Code	426
IMDG Code	2251
GC Code	31
Flashpoint	318
BC Code	49



HNS CCCC Convention Section Information - Microsoft Internet Explorer - [Working Offline]

Crude Oil

Qualifies as HNS under the following sections of the definition in the Convention:

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)
✓	x	x	x	x	x	x

Account/sector:

Bulk	Packaged
Oil (non-persistent)	Not HNS



Contributors

- Does a contributor receive amounts over the thresholds?
- Are contributors "Associated persons"?
- Agent/Principal relationships?



Associated persons

Contributing cargo for associated persons added to determine whether thresholds are reached for each account/sector

eg Contributor 1 - 120 000 tonnes persistent oil
Contributor 2 - 50 000 tonnes persistent oil

Associated persons - both qualify for contributions
Not associated persons - neither qualify



Agent/Principal relationships

Treated in same way as associated persons in order to ensure that thresholds are correctly applied

eg Agent 1 c/o Principal 1
 Agent 2 c/o Principal 1

 Agent 1 c/o Principal 2
 Agent 2 c/o Principal 2



Reporting process

- Contributors report to States
States process data and report to IMO/HNS Fund
IMO/HNS Fund process data
- Data can be submitted via website, floppy disk, email or hard copy
- Minimum dataset transferred at each stage
- States/HNS Fund cannot edit submitted data, only ask for it to be resubmitted



HNS Fund Listing

[User Management](#) [Help](#) [Logout](#)

Fund Listing - 2001 By State:

- 1998
- 1999
- 2000
- 2001**

Total (tonnes)

State	Persistent oil	Non-persistent oil	LNG	LPG	Bulk Solids	Other HNS	Not HNS
State A	440 000	0	50 000	20 000	22 000	34 005	131 500
State B	0	0	0	0	0	0	0
State C	10 000	20 000	30 000	40 000	50 000	60 000	70 000
TOTAL	450 000	20 000	80 000	60 000	72 000	94 005	201 500

2 new State Summaries have been posted.

[New Summaries](#) [Create State Summary](#) [Print](#)



Reporting contributing cargo

- Correct reporting of contributing cargo is essential to the successful implementation of the HNS Convention
- Requires effort by potential contributors and States
- Some challenges but not impossible!

