



# Workshop on the 2010 HNS Convention

*IMO – April 2023*



## 2010 HNS Convention

*HNS Reporting Requirements*

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IOPC Funds

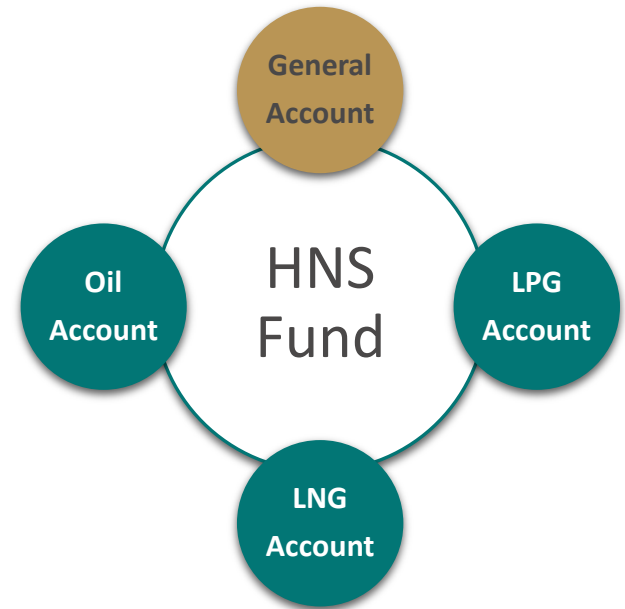
3 April 2023



# HNS Fund

*Four separate accounts to be managed*

- ✓ **One General Account with** two sectors
  - bulk solid sector
  - other HNS sector
  
- ✓ **Three separate Accounts**
  - Oil (Persistent or not)
  - Liquid Natural Gas
  - Liquid Petroleum Gas



## Each Account

- Will only cover its relevant compensation payments (no cross-subsidisation)
- Will be activated when the total quantity of contributing cargo reaches the required threshold for that account



# HNS Fund

## *Thresholds for Accounts and contributors*



Each account has a different threshold for its establishment:

	Threshold for Establishment of account	Threshold for contribution
<b>General Account</b> <ul style="list-style-type: none"><li>• Bulk solids</li><li>• Other HNS</li></ul>	40 million tonnes*	20 000 tonnes
<b>Oil Account</b> <ul style="list-style-type: none"><li>• Persistent oil</li><li>• Non-persistent oil</li></ul>	350 million tonnes	150 000 tonnes 20 000 tonnes
<b>LPG Account</b>	15 million tonnes	20 000 tonnes
<b>LNG Account</b>	20 million tonnes	No minimum

\*Condition for entry into force

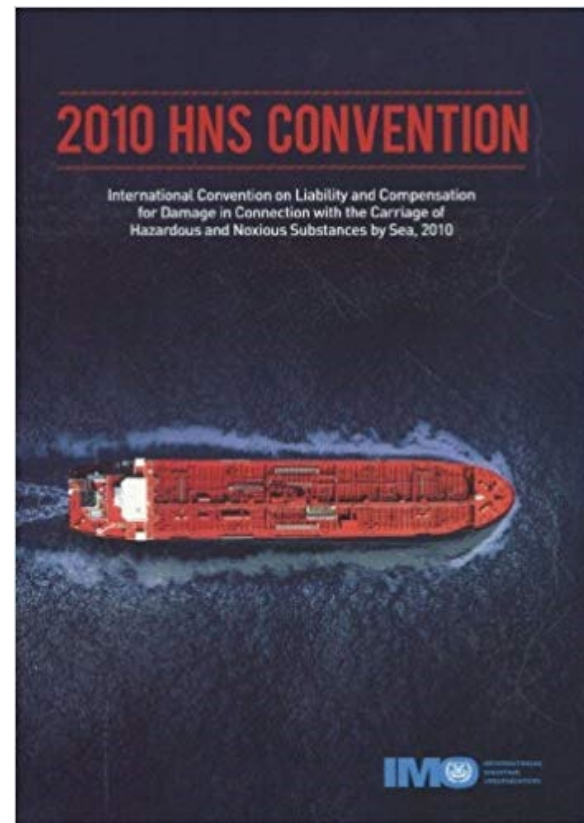


# Reporting obligations for States Parties

*Before entry into force*

## Obligations

- States need to submit a report on total contributing cargo received when depositing ratification or accession instrument to IMO
- Have to continue to report every year thereafter until entry into force
- Definition of contributing cargoes in Article 1.10: *“any bulk HNS which is carried by sea as cargo to a port or terminal in the territory of a State Party and discharged in that State”*






# Reporting obligations for States Parties

*When the Convention is entered into force*

## Obligations

- States need to report HNS contributing cargo totals for the 4 accounts and provide the identity of all Receivers that have submitted reports
- To be done every year to the HNS Fund Director

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**Receiver Model Reporting Form**  
To be submitted to the designated national authority

COMPANY \_\_\_\_\_ YEAR \_\_\_\_\_  
STATE \_\_\_\_\_

**RECEIPTS OF CONTRIBUTING CARGO**  
As defined on pages 3 and 4, or use the HNS Finder at [hnsconvention.org/Pages/FinderOverview.aspx](https://www.hnsconvention.org/Pages/FinderOverview.aspx)

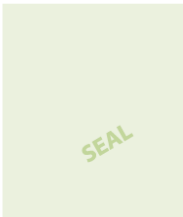
Account	Quantity (metric tonnes)
<b>General</b>	
Bulk solids	_____
Other HNS*	_____
Total	0
<b>Oil</b>	
Persistent oil	_____
Non-Persistent oil	_____
Total	0
<b>LNG**</b>	
Total	_____
<b>LPG***</b>	
Total	_____

\*Defined under Article 3 of the 2010 HNS Protocol (see page 4)  
\*\*Liquefied natural gases of light hydrocarbons with methane as the main constituent.  
\*\*\*Liquefied petroleum gases of light hydrocarbons with propane and butane as the main constituents

**NOTES**

- While there is no reporting requirement for HNS transported in packaged form, compensation for incidents involving them will be covered under the Convention.
- Contribution is levied only in case of an incident.

**SIGNATURE OF COMPANY OFFICIAL**

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_   
Phone \_\_\_\_\_ Fax \_\_\_\_\_  
E-Mail \_\_\_\_\_

-- Page 1 for Receiver Use --



# Reporting to HNS Fund

## *Who is the receiver?*



- Any person who has physically received HNS contributing cargo:
  - After sea transport in a State Party;
  - In a calendar year;
  - In quantities above the threshold specified in the Convention.
- A person who physically receives HNS on behalf of a third party may designate that third party as the Receiver
  - Concept of Agent/Principal
- States may establish their own definition of ‘receiver’, for as long as the quantity of contributing cargo remains the same as per the HNS Convention definition
- For LNG, annual contribution shall be made by the receiver or the titleholder, if it has agreed to it.



# What has been done so far

## Identifying and reporting HNS



Tools developed to assist:

- **HNS Finder** to identify contributing cargo
- **Reporting forms** for States and contributors
- **HNS contributing cargo reporting guidelines**

benzene  Contains  Begins with **SEARCH**

**Filter results**

Transport mode All contributions All accounts All classifications **UPDATE**

NAME	UN NO.	TRANSPORT MODE	CONTRIBUTIONS			HNS CLASSIFICATION								
			CONTRIBUTING	ACCOUNT	SECTOR	I	II	III	IV	V	VI	VII		
<a href="#">(o- and p-) Methylnitrobenzene</a>		Bulk	✓	General	Other HNS		✓	✓						
<a href="#">1,2,3,4-Tetramethylbenzene</a>		Bulk	✓	General	Other HNS		✓	✓						



# To ensure an efficient way forward...

## *Get the Reporting well organised*



- The HNS reporting and contributions system needs to ensure that all the relevant parties (Companies, States and HNS Fund) get and transmit:

- ✓ the **right information**
- ✓ to the **right people**
- ✓ at the **right time**



If it fails to get the right information via the reports, the system will stop straight away and will disappoint a number of States currently attracted to join this regime.





# Definition of “Receiver”

*As defined in the HNS Convention*



## Art 1.4(a)

- The person who physically receives contributing cargo discharged in the ports and terminals of a State Party; provided that if at the time of receipt the person who physically receives the cargo acts as an agent for another who is subject to the jurisdiction of any State Party, then the principal shall be deemed to be the receiver, if the agent discloses the principal to the HNS Fund; or*

## Art 1.4(b)

- The person in the State Party who in accordance with the national law of that State Party is deemed to be the receiver of contributing cargo discharged in the ports and terminals of a State Party, provided that the total contributing cargo received according to such national law is substantially the same as that which would have been received under (a).*



# Option to use the Art 1.4 (a)

*Since 2010 and the adoption of the HNS Protocol*



“Physical Receiver” in Article 1.4(a) and a self-reporting mechanism by the Receivers were the preferred option.





# Option to use the Art 1.4 (a)

*However, there are complicated issues*

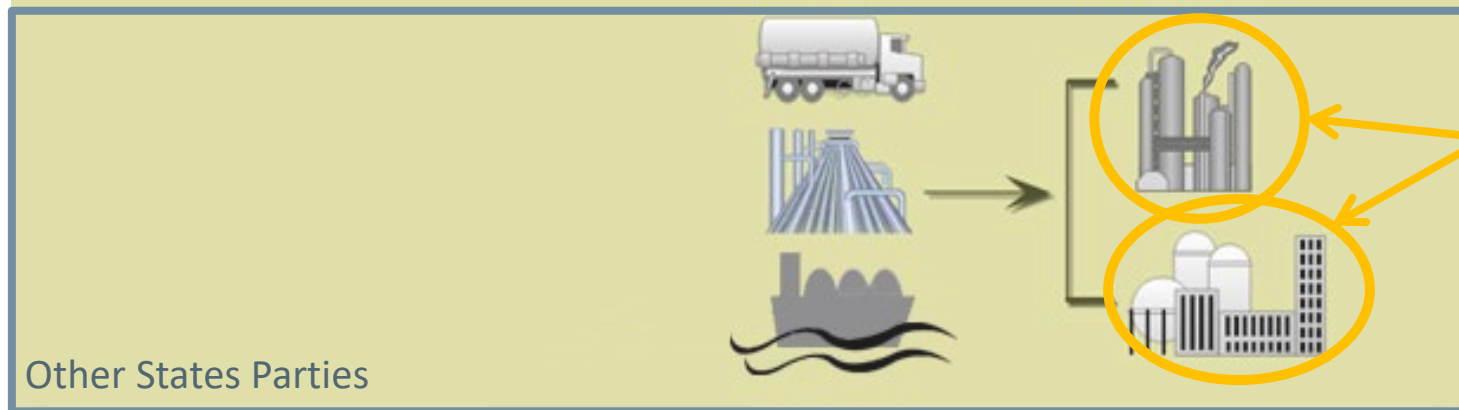
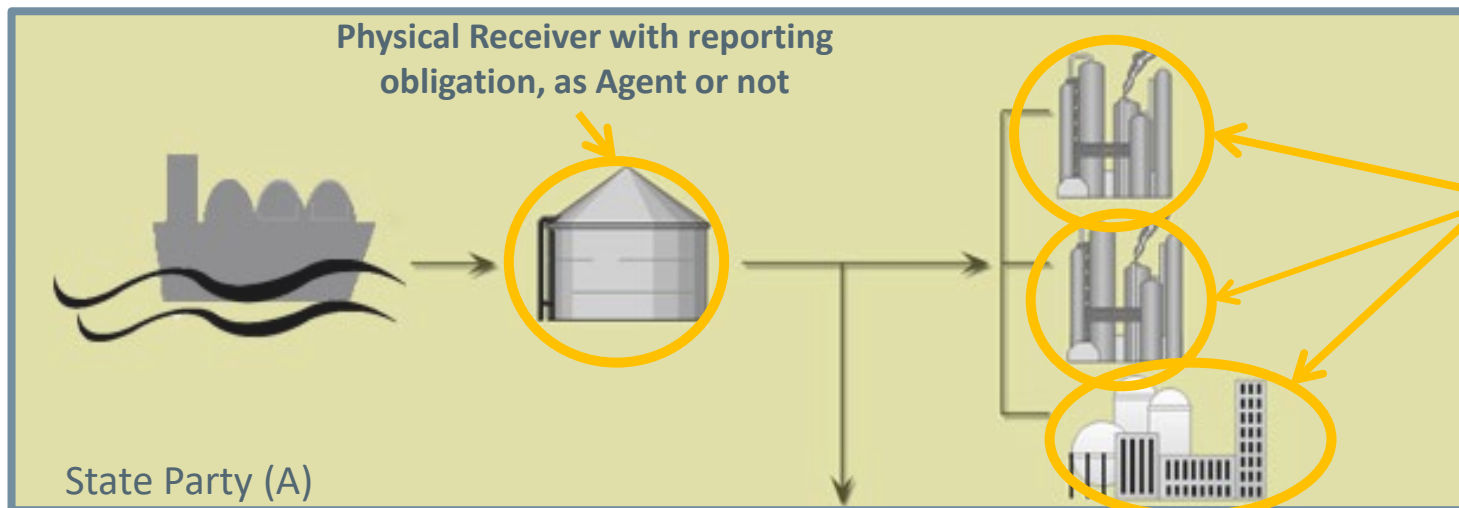


- The Agent/Principal option seems to be causing **difficulties** when States are implementing or planning the entry into force of the Convention.
- Practical issues, both for States and for the HNS Fund to **ensure the appropriate ownership** of HNS contributing cargo to the right company:
  - ✓ Physical Receiver
  - ✓ Agent
  - ✓ Principal, including the potential relationship with other States in that case
- **Uncertainty and unfair application of the Convention** in cross-border States where some are not Parties. It should be avoided but likely to happen in the first years of the Convention being in force.



# HNS Contributing Cargo Reporting

*Using Art 1.4 (a)*



**All possible reports have to be collected and circulated by the Physical Receiver, State A, and the HNS Fund.**



# Benefits of using the revised Art 1.4 (b)

## *Proposal from the IOPC Funds*



- According to 1.4(b), States can decide in their law who is the “Receiver”, IF the total contributing cargo received under such law is substantially the same as the total received under Article 1.4(a).
- Article 1.4(b) was originally intended as an alternative for States who wanted to use an existing system, or for the creation of new national entities for HNS management.



# Benefits of using the revised Art 1.4 (b)

## *Proposal from the IOPC Funds*



- The 2013 Guidelines on HNS reporting concluded that the initial reporting period should focus on the **physical receiver**, and practically, this would solve many potential issues going forward.
- As such, it could be decided that States must ensure that their national law identifies the Physical Receivers as the "Receiver" of contributing cargo in their ports and terminals.



# Benefits of using the revised Art 1.4 (b)

*Proposal from the IOPC Funds*

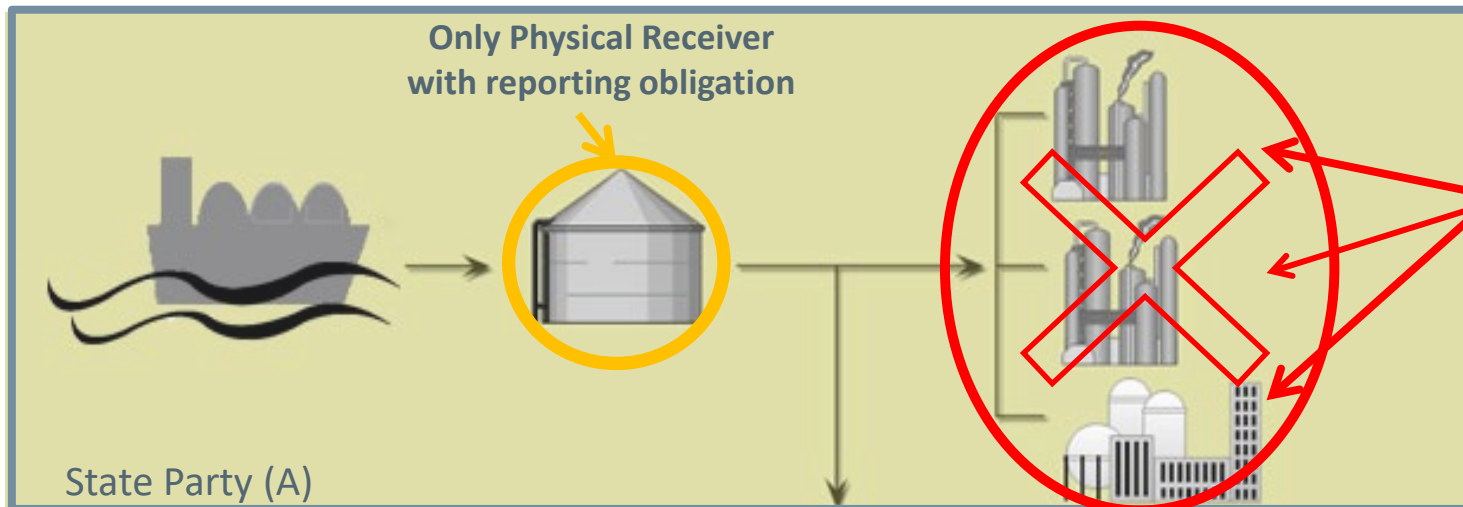


- For that to occur in line with the Convention's requirements, the solution should be to use the **option of Article 1.4(b)** under which States can rely on the **physical receiver only**, and not use the Agent/Principal option within Article 1.4(a).

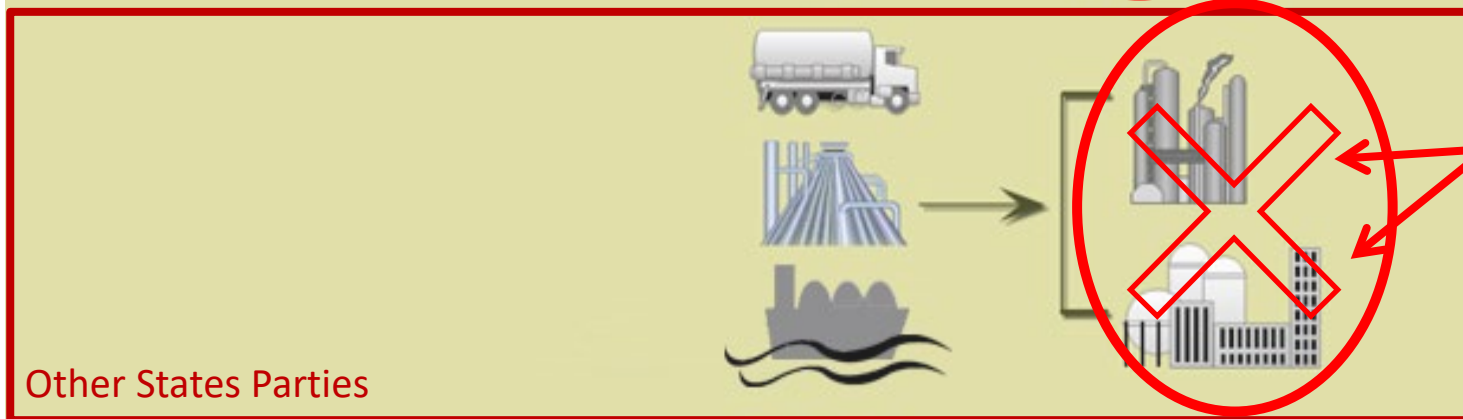


# HNS Contributing Cargo Reporting

*Using revised Art 1.4 (b)*



**Principals in State A**



**Potential Principals in other States**





# Benefits of using the revised Art 1.4 (b)

## *Simplification of the reporting process*

- States would put the obligation of reporting and contributing solely on the Physical Receivers:
- The same method is applied for managing the oil system for the IOPC Funds.



**This will significantly simplify the management of reporting and contributions for States and for the HNS Fund**



# Benefits of using the revised Art 1.4 (b)

## *Simplification of the reporting process*



- The Physical Receiver acting as Agent could make a contractual arrangement with the Principal(s) to be reimbursed for any contributions due to the HNS Fund for that received cargo.



**States could either regulate this in their domestic law or alternatively leave this to the parties to agree in a contract**



# Benefits of using the revised Art 1.4 (b)

## *Simplification of the reporting process*

- Such a “commercial” arrangement could also cover when the Physical Receiver acting as an Agent is located in a Contracting State, while the Principal is in a non-Contracting State



The Agent and the Principal will already have commercial contracts regulating many parts of the trade. A reimbursement clause for HNS costs could be part of it.

If accepted, a new **standard clause** could be developed with relevant stakeholders and organisations like BIMCO and/or the International Group of P&I.



# Benefits of the 1.4 (b) revised option

## *Key considerations*



### HNS Companies

- One HNS report per Physical Receiver = limited work
- Pre-arrangement for sharing costs between Physical Receivers and Principals

### States

- Less administrative work to manage the HNS reports
- Control limited to verifying Physical Receivers in their own State

### HNS Fund

- Reasonable solution to manage the reporting and financial arrangements
- Reduced costs to the Fund to manage a similar system as the IOPC Funds



### Introduction note for States regarding the reporting of HNS contributing cargo



January 2023

#### Introduction

Following discussions with the Contracting States<sup>1</sup> to the 2010 HNS Protocol as well as other States currently in the ratification-preparation process, it has been recognised that an efficient and jointly approved system for reporting HNS cargo is key to ensuring the success of the 2010 HNS Convention (the 'Convention').

This issue is therefore being addressed as a priority in order to ensure that the Convention is viable going forward.

#### Objective of this document

Taking into account the Guidelines on reporting of HNS contributing cargo, endorsed by the IMO Legal Committee in 2013 (the 2013 Guidelines), and noting the experiences of those that are already Contracting States to the 2010 HNS Protocol, as well as the views of those intending to soon ratify the Protocol, the opportunity is being taken to review and clarify the existing practices and guidance.

This preliminary document aims to engage with Contracting States and those intending to soon ratify the Protocol, in order to ascertain how they are already dealing with the cargo reporting issue and how they are interpreting the 2013 Guidelines. The sharing of such information will assist all States and interested parties in obtaining a clearer understanding of the existing IMO Guidelines. If all relevant States are able to provide details of their HNS reporting methods and the problems that they are facing, this will facilitate an effective review of the current established practices.

This document contains:

- A summary of the main issues to be resolved (Annex I);
- One questionnaire for Contracting States (Annex II); and
- One questionnaire for the States preparing to ratify the 2010 HNS Protocol (Annex III).

Once completed and returned, these questionnaires will help determine whether there is sufficient clarity with respect to certain aspects of HNS reporting, in particular terms such as the "Receiver", the "Principal", the "Agent" (and other types of names used to describe these roles). This should assist all interested parties in managing their reporting process going forward, including agreeing with the Secretariat the support they require in order to identify individual contributors and any other issues raised.

Following the completion of this exercise, further documents related to the HNS reporting process will be circulated.

<sup>1</sup> Prior to the entry into force of the 2010 HNS Protocol, those States who have ratified or acceded to the Protocol are referred to as 'Contracting States'. Following entry into force, those States will become States Parties to the 2010 HNS Convention.



# Questionnaire on HNS reporting - 2023

## *Questions asked*

1. Have you made the HNS reporting obligation a mandatory task in your domestic legislation?
2. Have you identified individual companies that will have to submit reports of HNS contributing cargo to the Government?
3. How do you currently or how do you plan to identify the individual reporting companies?
4. Using Article 1.4(a) as the basis for your legislation?
5. Using Article 1.4(b) as the basis of your legislation?
6. Would you consider using Article 1.4 (b) as described in Annex I ?
7. Does your domestic legislation include anything regarding sanctions for not reporting HNS cargo?
8. Have you established the national authorities responsible for the management of HNS?
9. What source of information have you used to check the figures provided by the receivers?



# Choice of definition for the Receiver

*Provisional decisions as the Convention is not yet in force*

## 1.4 (a)

Full use of the article  
**7 States**

Use only for the physical receiver now. No decision on role of Agent / Principal  
**3 States**

## 1.4 (b)

As described in the Convention  
**0 States**

As proposed by IOPC Funds  
**0 States**

**1 State not decided yet.**  
Legislation under development



# Example

*One State – two different challenges*



## IOPC Funds

One account: Persistent oil

7 Companies currently reporting

## HNS Fund

Four Accounts: General HNS, Oil, LNG, LPG

45 Companies identified

14 Agents

31 Principals





# Why definition of Receiver is important

## *Need by States to provide "Receivers" identity*

- Need to ensure that the financing of the HNS Fund is managed in an efficient and balanced method.



- Article 21 indicates that each State Party shall ensure that any person liable to pay contributions [...] appears on a list to be established and kept up to date by the Director [of the HNS Fund].



# Why definition of Receiver is important

*Need by States to provide "Receivers" identity*



- Where a State Party does not fulfil its obligations under article 21(2) and this results in a financial loss for the HNS Fund, that State Party shall be liable to compensate the HNS Fund for such loss.
- Another risk is described in Art 21bis where no compensation shall be paid for any incident in a Contracting State that does not submit its HNS reports.
- In addition, it is also a risk for the Contracting State which has failed to submit contributing cargo to be temporarily suspended from the 2010 HNS Convention (*Art 45.7*).



# Remaining issues to solve



## **Relationship between the receiver of LNG and the titleholder**

We have no information or knowledge about that situation which means that we have no modifications to make to the 2013 Guidelines on this matter.

## **Transhipment is an issue that remains unclarified**

It is one of the definitions which require additional clarification before the entry into force of the Convention, but no discussions have taken place to offer clarifications regarding its application since 2013.



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



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