

Professor Rosaeg,
LNG Correspondence Group Leader
Scandinavian Institute of Maritime
Law,
University of Oslo

David Bolomini
Maritime Liability & Compensation
Department for Transport
2/33 Great Minster House
76 Marsham Street
London
SW1P 4DR

Direct Line: 020 7944 5452
GTN No: 3533
David.Bolomini@dft.gsi.gov.uk
Web Site: www.dft.gov.uk
27 July 2007

Dear Erik,

INTERSESSIONAL CORRESPONDENCE GROUP ON CONTRIBUTIONS TO THE LNG ACCOUNT - HNS CONVENTION

Following the Montreal IOPC Fund Meeting an intersessional correspondence group was convened to discuss the issue of levies to the LNG account of the HNS Fund. In addition to the excellent discussion paper (92Fund/A.ES.12.9.1 REV1) submitted by Norway and others, you kindly produced at very short notice a follow-up paper setting out a number of proposals and asking for interim comments by 20th July - a date we have missed and for which we apologise.

At present the UK imports approximately 5 million tonnes of LNG. However, we expect this figure to double over the next five to seven years, as new terminals are built to meet increasing demands. Therefore the UK agrees with other interested States that the matter of contributions to the LNG account is a crucial issue that must be addressed prior to ratification. We also agree with your point under the heading "Avoiding the LNG sector" that with co-ordinated ratification (subject to all outstanding matters being resolved) the conditions for operation of the separate account (20 million tonnes) will probably be met.

The comments below reflect the UK's initial reactions and thoughts on your paper. We have shared your paper with stakeholders in the UK's LNG industry and hope to be able to feed their comments into a more detailed response before the deadline for submissions to the next IOPC Fund meeting in October.

Joint liability for the receiver

Alongside your initial discussion paper, we have read with interest the comments submitted by Spain and Romania, and the Netherlands seem to have similar views. In general we would agree with their position that the proposal "to declare the physical receiver of LNG cargoes jointly and severally liable with the titleholder immediately before discharge is not in line with the spirit of the wording of the HNS Convention". We believe that the Convention as written should be implemented by State Parties. Whilst it is unfortunate that there is some potential that a shortfall in levies could exist due to non-payment of levies by titleholders based in non State Parties, the Convention does not envisage that the physical receiver of LNG would be liable to meet levies simply by virtue of receiving the LNG. Indeed, the drafting at Article 19 1(b) of the Convention is deliberate

and reflects the compromise solution which was agreed at the Diplomatic Conference in 1996.

Usage of the Administrative Funds

We are also in agreement with other States that any shortfall should not be made up from the HNS Fund's "Administrative costs", as this is not in the spirit of the Convention, and it is vital to ensure that cross-subsidisation between the accounts is avoided.

Reporting

In preparation for the commencement of the mandatory reporting cycle prior to ratification the UK Government has produced a database to collect, collate and monitor data received from receivers of HNS in the UK, this would allow us to report on all LNG received in the UK regardless of its origin. We agree with the Netherlands comment that Article 21.2 of the Convention states that the State Party is obliged only to report data in respect of liable cargoes. In this context it might also be worth pointing out that Article 43 *Information on contributing cargo* provides

When depositing an instrument referred to in article 45, paragraph 3, and annually thereafter until this Convention enters into force for a State, that State shall submit to the Secretary-General data on the relevant quantities of contributing cargo received or, in the case of LNG, discharged in that State during the preceding calendar year in respect of the general account and each separate account.

Article 43 clearly establishes an obligation to report all cargoes received, including LNG, for inclusion in the report accompanying the instrument of ratification and annually thereafter until the Convention enters into force. Of course, this is qualified in Article 43 by the words "relevant quantities of contributing cargo" which, for LNG, we interpret to mean LNG received in the State only where the titleholder is also in the State Party. Otherwise it could not be construed to be "relevant".

Nevertheless, it is therefore incumbent upon all potential States Parties to collect such data in order to comply with the requirements of Article 43. In your second paragraph on "reporting" you mention identifying titleholders for LNG. Our discussions with stakeholders in the UK suggest that, depending on the type of shipment contract, it would be very straightforward to identify the titleholder of the LNG cargo and in any case the Bill of Lading should always state the titleholder.

However, merely being able to identify the titleholder is not the problem and the solutions proposed to date seem at variance with the text of the Convention. As I mentioned above, we have invited comments from the appropriate UK industry body and we will pass on their comments in due course.

Yours sincerely,

David

David Bolomini