



European Maritime Safety Agency

Workshop Report

**Second Workshop on the HNS
Convention, held in Lisbon on the
21st of November 2006**

Workshop Report: Ratification and Implementation of the HNS Convention

Background

The International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances 1996 (HNS Convention) establishes rules of civil liability for damage caused by HNS substances. It provides for a limited liability of a ship-owner and a supplementary liability of an HNS Fund, created from the fees paid by the importers of HNS substances. The Fund should be able to provide compensation up to 250 million SDR.

The Convention will enter into force 18 months after the following conditions have been fulfilled: when 12 States have accepted the Convention, four of which have not less than two million units of gross tonnage, and provided that persons in these States who would be responsible to pay contributions to the general account have received a total quantity of at least 40 million tonnes of cargo contributing to general account in the preceding calendar year.

Out of the EU Member States only two of them (Cyprus and Slovenia) have so far ratified the Convention.

In this context EMSA organised the first workshop on the ratification of the HNS Convention (as well as the Bunker Oil Convention) in February 2006 in order to speed up the process and exchange the experiences between the Member States. A second workshop in November 2006 followed, whose aim was to explore in detail certain issues relating to the reporting necessary for the purpose of the HNS Convention.

Workshop Objectives

The Workshop had the following objectives:

- To exchange the experiences of different Member States in the process of ratification of the HNS Convention;
 - To discuss the remaining obstacles, in particular the identification of receivers, especially of packaged goods and the organisation of the reporting system;
 - To discuss a possibility of amending the Directive 2002/59 on vessel traffic monitoring in order to use the SafeSeaNet system as a verification mechanism for the HNS reporting.
-
-
-

Workshop Programme

The workshop was chaired by Mr Emilio Martin Bauza, Head of Unit E in EMSA who, together with Mr Urban Hallberg from the European Commission, opened it greeting the participants.

The programme was divided into three blocks:

I) BLOCK I: Before the ratification of the HNS Convention – the remaining issues

Mrs Catherine Grey from the International Oil Pollution Compensation Funds made a presentation on the notion of “receiver” in the HNS Convention and the problems related to the identification of the receiver. Mrs Birgit Sølling Olsen from Danish Maritime Authority presented the result of Danish work on the implementing legislation for the HNS Convention, especially in the area of enforcement of the reporting and penal sanctions for incomplete reporting or lack of it.

A discussion followed after each presentation. After the first one, it took a form of “tour de table”, in which every participant described the steps taken in the process of implementation of the HNS Convention in the state he was representing, especially in relation to the identification of receivers. After the second presentation, the participants exchanged their views over the Danish solution of enforcement and many of them admitted that a similar one was envisaged in their countries.

All participants agreed that due to the specific character of the HNS Convention, the implementing legislation relating to the reporting system should be prepared before the actual ratification. In particular, it is so because art. 43 of the Convention requires that a reporting on overall contributing cargo be made at the moment of ratification.

Even if there are difficulties, the example of the countries that have made a progress in the process of preparing the secondary legislation (Denmark, UK, The Netherlands) proves that there are no technical obstacles preventing the ratification.

In the process of implementation of the provisions of the Convention it is important to exchange best practices and find common solutions for the most persistent items, so the interpretation of those provisions would be similar. Otherwise, if e.g. the practice on how to identify the receivers of packaged goods (packaged HNS being only a small percentage of the overall transport, but nevertheless the most difficult to trace) differs in the State Parties, it might result in some receivers avoiding the obligation to contribute to the Fund or choosing to receive their cargo in certain countries for that reason.

Moreover, it is important for the countries, where the major contributors are located (in the EU and outside) to ratify the Convention together in order to avoid so one country would bear a disproportionate burden for the contributions to the Fund and would put its chemical industry in a worse competitive position. This is also in order to avoid the “forum shopping” by the receivers: to receive HNS by sea in states not parties to the Convention and then transport them further Parties by other means.

II) BLOCK II: Sources of data

Mrs Malgorzata Nesterowicz from EMSA presented the result of EMSA analysis of the existing EU instruments done in search of the potential sources for the HNS

reporting or the verification of the HNS reporting. In conclusion, no EU instrument provided for a complete solution to verify the entire scope of the HNS reporting but a combination of some of them could be used for the partial verification. Thus the relevant information was to be found at the customs' authorities, ports and terminals, national statistical institutes and, to a lesser extent, in Eurostat and REACH database. In the discussion, some of the participants of the workshop have confirmed that the authorities responsible for the implementation of the HNS Convention in their countries have already been in touch with customs, terminal and statistics.

III) BLOCK III: Directive 2002/59

First, the representative of the European Commission, Mr Urban Hallberg from DG TREN, made a short presentation of the policy developments in which he declared the interest of the European Commission to use the tool of SafeSeaNet for other purposes, like the verification of the HNS reporting, if such a wish of the Member States. Then, Mr Lazaros Aichmalotidis from EMSA presented EMSA analysis on the possible amendment of the Directive 2002/59 for the purpose of the implementation of the HNS Convention in the EU Member States and the eventual use of the SSN for the verification of the HNS reporting. A discussion followed in which the views of the participants were divided. The supporters of the idea thought that it would be good to use a tool that has already been designed and could serve an additional purpose after an amendment. The opponents of the idea were worried that the inclusion of the report of discharge in the extended Hazmat message would increase the workload for the shipping industry. This has to be further analysed before any decision taken, as well as the issue of compatibility between introduction of a certain private data to the system with the rules on data protection. EMSA asked the participants to submit their comments in writing and the issue will be explored further in the future.

Workshop Conclusions

1. It is important to establish the implementation rules before the actual ratification of the HNS Convention.
2. On the basis of the principle of solidarity, it is important for the states, where major contributors are located, to ratify the Convention together, so no country would have to bear a disproportionate burden. Moreover, the cooperation to ratify the Convention should be promoted at the international level to the area of the influence of the EU.
3. No EU instrument provides for a solution that would allow for the entire and complete verification of the HNS reporting. However, the combination of the different sources allows for a partial verification of the HNS reporting. To facilitate this, a translation table between the EC nomenclature and the UN numbers of the HNS goods would be helpful and the possibility of developing it will be explored by EMSA together with the IOPC Funds.
4. Further work is needed to clarify the potential use of SSNet for verification purposes. The workshop finds it also important to explore the legal implications of the provision of certain personal data and the access to it. In any case, no initiative should prejudice the speed of the ratification of the HNS Convention.

5. Some Member States indicate that they already have potential verification systems and that the implementation legislation for the purpose of the HNS Convention is being developed. EMSA asks to be informed about them – they can always constitute a basis for the exchange of best practice or a next workshop.
6. The European Commission has been invited by the workshop to clarify the “political support towards the application of a single window concept to facilitate the maritime trade”, single window being defined as “a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfill all import, export, and transit- related regulatory requirements”¹. This would serve as an explanation for the purpose of using the SafeSeaNet in relation to the reporting on the maritime carriage of HNS.
7. EMSA invites the participants of the workshop to send their comments in writing on the principles of the potential use of the SSN and the presentation made on the 21/11 by the 15th of December 2006.
8. In order to coordinate in time the ratification of the Convention by the countries where the major contributors are located, those States need to have the information on the potential HNS contributing cargo beforehand. The workshop invites the Member States to share such data. The most appropriate platform to do it is the IOPC Fund.

Attachments:

- (1) Agenda of the workshop
- (2) List of participants

Presentations from the workshop are available at:
<http://www.emsa.europa.eu/end187d010.html>

¹ World Customs Organisation