

**GAS ENERGY AUSTRALIA**

**SUBMISSION**

**GAS ENERGY AUSTRALIA  
SUBMISSION TO  
THE JOINT STANDING COMMITTEE ON TREATIES  
INQUIRY INTO  
THE 2010 HARMFUL AND NOXIOUS SUBSTANCES  
(HNS) CONVENTION**

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23 November 2012

**Committee Secretary**

Joint Standing Committee on Treaties  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

Via email: [jsct@aph.gov.au](mailto:jsct@aph.gov.au)

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**GAS ENERGY AUSTRALIA**  
**SUBMISSION TO THE JOINT**  
**STANDING COMMITTEE ON TREATIES**

**Inquiry into the 2010 Hazardous and Noxious Substances (HNS) Convention**

Dear Secretary

Gas Energy Australia is pleased to make a submission to the Joint Standing Committee on Treaties - Inquiry into the 2010 Hazardous and Noxious Substances (HNS) Convention, that is:

- a. the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in connection with the Carriage of Harmful and Noxious Substances by Sea, 1996, (London, 30 April 2010) and;
- b. the International Convention on Liability and Compensation for Damage in connection with the Carriage of Harmful and Noxious Substances by Sea, 2010 (Consolidated text of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, and the Protocol of 2010 to the Convention) (London, 30 April 2010).

The key question this submission seeks to answer is whether any potential benefit to the environment from requiring Australian LPG suppliers to contribute to the International Hazardous and Noxious Substances (HNS) Fund would outweigh the costs to the Australian LPG industry and Australian LPG consumers.

## 1. Background

Gas Energy Australia, until recently LPG Australia, is the national peak body which represents the bulk of the downstream alternative gaseous fuels industry which covers Liquefied Petroleum Gas (LPG), Liquefied Natural Gas (LNG) and Compressed Natural Gas (CNG). The industry comprises major companies and small to medium businesses in the alternative gaseous fuels supply chain; refiners, fuel marketers, equipment manufacturers, LPG vehicle converters, and the providers of services to the industry.

Australia's LPG suppliers ship significant quantities of LPG to and from Australia as well as within Australian coastal waters. Consequently, if Australia was to sign and ratify the Protocol to the 2010 HNS Convention, and the Convention was to come into force, Australia's LPG suppliers would be required to make contributions to the HNS Fund.

## 2. LPG industry concerns with the 2010 HNS Convention

Australia's LPG suppliers have concerns about, and are opposed to being subjected to, the 2010 HNS Convention for the following reasons.

- a. The low risk of an LPG shipping incident in Australian waters:
  - 1) Australian shipping standards and regulations are exceptionally high compared to many parts of the world.
  - 2) LPG vessels are built and maintained to a very high standard.
  - 3) In many cases, LPG companies comply with higher safety standards than generally applies when using Australian ports and major oil company facilities. For example, LPG carriers delivering to Port Botany comply with major oil companies' (Shell, BP, Chevron & ExxonMobil) ship standard policies, which typically exceed government requirements.
  - 4) LPG vessels are only allowed to berth at selected terminals and wharves that meet very high standards of safety and security and operate within a highly controlled environment when in port.
  - 5) All LPG ships now have exclusion zones around them when in port, thereby minimising contact with third party vessels and personnel, thus further reducing risks.
  - 6) Moreover, the LPG trading fleet has always had a relatively enviable safety record and serious incidents have been few over the years.<sup>1</sup>
- b. The low impact of LPG spills:
  - 1) The risk of exposure to an LPG shipping incident is extremely low, and the physical characteristics of LPG are far less likely to cause the sort of collateral damage the HNS Fund is designed to cover.

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<sup>1</sup> Poten and Partners, LPG Shipping – Past, Present and Future, 2004.

- 2) LPG is not toxic and will evaporate rather than cause widespread environmental damage of the sort caused by oil and chemical spills.
- c. The inefficient and inequitable incidence of proposed contributions to the HNS Fund:
- 1) It is inefficient and inequitable for LPG to be grouped into the same HNS category as other products which don't maintain the same safety standards as LPG and/or are of a higher risk nature than LPG due to their product characteristics.
  - 2) While the LPG industry acknowledges that the intent of the 2010 HNS Convention is to cover liability exposure over and above a ship owner's insurance, there does not appear to be any evidence that this risk necessitates a greater level of insurance and cost.
  - 3) The LPG industry is also concerned about the equity of the tiers of compensation that would apply under the 2010 HNS Convention. Whereas the primary responsibility for compensation for damage rests with the ship and ship owner(s) due to the limitation of liability, the larger share of the compensation would be paid by receivers. Given the abovementioned controls of the perceived risk and high safety standards, the second tier contribution by receivers is inequitable. It could also lead to a lowering of shipping standards.
  - 4) The possibility that the Australian LPG shipping industry could be exposed to uncapped HNS contributions caused by other countries' lower shipping safety standards is an unacceptable risk for LPG suppliers. The Australian LPG industry questions why it should be forced to subsidise the poor practices and standards of other countries.
  - 5) The LPG industry's view is that the marine insurance industry should be contributing to the HNS Fund, and recovering the cost from its customers to overcome instances where insurance cover places a capped liability on individual claims.
  - 6) Getting the insurance industry to contribute to a fund is a more direct solution than introducing a new layer of regulation. Placing the fund liability on the insurance industry is more likely to put pressure on shipping operators in higher risk areas to improve standards. On the other hand, the approach of forcing cargo purchaser to pay into the HNS Fund could result in Australian purchasers (using reputable shipping carriers) subsidising lower standard carriers in other regions.
- d. The impact of proposed HNS Fund contributions on LPG customers:
- 1) The cost of making contributions to the HNS Fund would place LPG at a further price disadvantage to competing fuels such as natural gas and electricity which would not be exposed to HNS contributions.
  - 2) While the LPG industry operates in a very competitive market place, some of the costs of making contributions to the HNS Fund would be passed on to consumers.

- 3) Moreover, the uncertainty of the exact cost of the contributions that would be required to be paid by the LPG industry is uncertain and impossible to evaluate from a business perspective. This is particularly pertinent if an incident was to occur and the cost was spread across a small number of parties.

Overall, it appears there would be little benefit to the environment from the Australian LPG industry and Australian LPG consumers contributing to the HNS Fund, given the low likelihood of a serious incident involving an LPG vessel in Australian waters.

### 3. Australia's LPG consumers

At present, LPG is the main alternative fuel used in Australia. LPG makes a significant contribution to meeting the energy needs of Australian consumers in the following two ways:

- a. As a stationary energy source, LPG is used by households and businesses for a variety of uses:
  - 1) LPG has given Australians access to gas for cooking, space and hot water heating since the 1950s and has provided a pathway for consumer acceptance and take-up of natural gas. Today, it is the gaseous fuel used by around one million households for these purposes. LPG is also used by around seven million households for recreational activities (BBQs and outdoor heating).
  - 2) LPG also supplies around 100,000 commercial and industrial enterprises and is used in a variety of industrial processes, including power generation and heating.
  - 3) LPG's use is most prevalent in areas not connected to the natural gas network, especially regional Australia.
- b. As an automotive fuel, Autogas is Australia's most significant alternative transport fuel accounting for the bulk of the sector's share of the overall transport fuel market. It fuels over 500,000 vehicles, the majority being owned by private motorists, and is the predominant fuel used by the taxi industry and is heavily used by fleet and trade vehicles, including light commercial vehicles.
  - 1) A recent survey of Autogas and other fuel vehicle users commissioned by ABMARC<sup>2</sup> found that 95 per cent of LPG vehicle owners live in outer suburbs or country areas.
  - 2) The Survey also found that more LPG users than other respondents were in lower weekly household income brackets (less than \$700/week).
  - 3) Moreover, 72 per cent of Autogas users considered they would not be able to afford their current range of activities if they had to use petrol.

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<sup>2</sup> ABMARC, a specialist Powertrain Research Company is the authoritative source for completely unbiased and comprehensive analysis of conventional and alternative Powertrains and fuels.

#### 4. Conclusion

The low risk of an LPG shipping incident in Australian waters and the low impact of LPG spills suggest that requiring Australian LPG suppliers to contribute to the HNS Fund would be of little or no benefit to the environment. Moreover, it would result in inefficient and inequitable outcomes that would end up, in part at least, being borne by LPG consumers.

#### 5. Recommendations

Gas Energy Australia recommends that the Joint Standing Committee on Treaties' Inquiry into the 2010 HNS Convention acknowledge that:

- a. Australian LPG suppliers do not consider a case has been made for the LPG industry to be forced to contribute to the HNS Fund given the low risk of an LPG shipping incident in Australian waters and the low impact of LPG spills; and
- b. requiring Australian LPG suppliers to contribute to the HNS Fund would be of little or no benefit to the environment and would result in inefficient and inequitable outcomes that would end up, in part at least, being borne by Australian LPG consumers.

For your consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read "Michael Carmody".

Michael Carmody  
Chief Executive Officer

Distribution: Members of the Joint Standing Committee on Treaties

For Information:

Gas Energy Australia Board of Directors  
Members – Advisory Council Working Group – Policy  
Gas Energy Australia Members and Associates – via Advisory  
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