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**Sub Committee of Experts on the
Transport of Dangerous Goods
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Agenda item 6 (b)**

GLOBAL HARMONISATION OF CLASSIFICATION AND LABELLING SYSTEMS FOR CHEMICALS AND DANGEROUS GOODS

Hazards to the Environment

Comments on documents ST/SG/AC.10/1999/27 (United Kingdom) ST/SG/AC.10/1999/77 (Belgium)

Submitted by the Expert from Germany

Comments to Document ST/SG/AC.10/1999/27

1. The Expert from Germany welcomes the intention of the proposal from the Expert of the United Kingdom and the very detailed technical requirements drafted. He recognises that the expert from the United Kingdom has tried to keep the text as close as possible to the proposals for criteria for the Global Harmonised System (GHS) as developed by OECD and endorsed by the Third Meeting of the Intersessional Group (ISG III) of the Intergovernmental Forum on Chemical Safety (IFCS), held in December 1998 in Yokohama, Japan, as well as by the Committee of Experts on the Transport of Dangerous Goods in the 20th session in December 1998. The Expert from Germany supports the proposal as being the starting point for further discussion how to implement the criteria for aquatic environmental hazard in the UN Recommendations (Model Regulation).
2. It is recognised that currently the UN Recommendations (Model Regulation) do not provide criteria for the classification of environmentally hazardous substances. But many different arguments will have to be taken into consideration on the way to a safe and practical solution to fill this gap.
3. The criteria proposed for the GHS cover aquatic environmental hazard only. In future criteria for soil environmental hazard as well as for atmospheric environmental hazard may be developed. So the way of implementation in the Recommendations should be kept open to cover such needs in future.
4. The proposed criteria are addressed to substances only; proposals for criteria, calculation methods as well as low cut-off or percentage values for mixtures currently are discussed in the OECD Working Group chaired by Canada. The structure of a possible outcome still is not on the route for acceptance.

5. Implementation of criteria for substances first and later for mixtures would lead to the fact, that the international agreements and codes as well as supranational and national directives and Regulations will have to be amended twice for the same issue and industry will have to address the same groups of substances and products twice as well as to cope with these amendments.
6. Currently there is no commonly agreed and world-wide used label for aquatic environmental hazard. Although the marking for marine pollutants for sea transport may be regarded as such, but it is not defined as a label but a marking. For transport with other modes the usual label for class 9 is used, giving no specific information on the aquatic environmental hazard. The „Supply and Use“ scheme of the European Union (EU) uses a label indicating environmental hazard in general, but not specifically hazard to the aquatic, terrestrial or atmospheric environment.
7. Discussion on Harmonisation of Labelling just started within the ILO Working Group chaired by Ireland; the question of a harmonised label for aquatic environmental hazard may be not the first to be solved. Following the route as proposed by the Expert from the United Kingdom, this would lead to a third amendment of the Recommendations, Codes, Agreements and Regulations followed by a third effort from industry this time changing the Labelling world-wide.
8. The proposal is linked to another problem, the question of classified substances. Introducing the criteria as such would require industry to check all possible candidates and to carry out testing for many of them. Although this is the normal procedure for classification, it has to be recognised that the data situation for such criteria is not as complete as for other hazards.
9. The EU did not follow the general route of just inserting criteria leaving industry to test and classify. For „new“ substances - meaning those to be placed on the market - industry has to provide sufficient data for classification including for aquatic environmental hazard. But for „existing“ substances - meaning those already having been on the market before 1988 - there is a complex and long program requiring industry to test and provide data in steps, first for high volume substances (> 1000 t/year), then for medium volume (> 100 t/year) and later for low volume substances (> 10 t/year) - leaving those below 10 t/year still open. This program is running behind schedule, so that for very important substances data will not be available in a short time.
10. Should then transport requirements take the lead to impose testing duties to industry if even for supply and use including storage, worker and consumer protection, environmental protection this is not the case? In Europe following the introduction of criteria in ADR/RID for environmentally hazardous substances, this problem came up and required multilateral agreements to cope with the situation.
11. A way out of this problem could be to link the introduction of criteria linked to a list of already classified substances. Substances currently are classified for the EU based on directive 67/548/EC and by IMO as marine pollutants. Those classified may be listed in the UN Recommendations (e.g. in the alphabetical index and/or in part 2). As such a list currently is prepared by Germany to be linked to the multilateral agreements for ADR and RID, the Expert from Germany offers to submit a proposal. Other substances should additionally be classified if relevant test data have been published.

12. The principle of the proposal of the Expert of the United Kingdom, to introduce criteria for aquatic environmental hazard only in class 9, the Expert from Germany could not go along with.
13. Substances and products as well as wastes presenting aquatic environmental hazard probably will exist in all classes of dangerous goods, mainly in classes 3, 6.1 and 8. The aim of the Global Harmonisation could not be met by the proposal in Document ST/SG/AC.10/1999/27.
14. Real protection of the environment during transport of such substances, products and wastes can only be achieved by - at least - a clear identification of this type of hazard for those concerned in all classes to convey the necessary hazard information in case of accidents, spillage and emergencies. So to follow the route as proposed by the Expert from the United Kingdom would set a case of precedence and would complicate a safe and practical solution.
15. Introducing criteria for substances now would mean - in case of aligning IMDG-Code, ADR/RID and ICAO-TI - different criteria, the „new“ ones of the GHS for substances and the existing ones for mixtures and wastes, having no label for the „new“ GHS criteria for substances but having different labels/markings for mixtures and wastes. Would people understand such a way forward and where are the benefits justifying such a complicated procedure?
16. It has to be seen as well, that such an approach will probably not be followed by other decision and legislation making organisations or authorities responsible for other areas like supply and use, worker and environmental protection, thus transport would create new problems for industry and world-wide trade not being justified by clear safety arguments.
17. Furthermore the proposal clearly indicates, that the toxicity testing of fish, daphnia and algae should give the basic and main information on the aquatic environmental properties. Other criteria such as log Kow, BCF, are just supplementary criteria or serve as substitute. So what is really tested is toxicity - not in humans or animals living on soil, but in animals living in water. So there is a clear and reasonable link to class 6 rather than to class 9. The Expert from Germany continues to be in favour of a separate sub division in class 6; as the list of classified substances is growing and already covers more than 300, this is justified and offers a suitable way for implementation with a clear perspective to future and to Global Harmonisation.

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18. The proposal from Belgium is recognising the problem of test data raised above, but offers a solution going beyond to a classification not in the responsibility of the manufacturer or sender, but under the responsibility of competent authorities. Classification industry is common use for a lot of other hazards like acute toxicity, corrosivity. There is no specific reason to justify not to follow the same route for aquatic environmental hazard. The concept of “closed classes” has been reduced to some specific hazards only. Also the GHS is envisaged to permit self classification.
19. To introduce criteria for aquatic environmental hazard in class 9 of the Model Regulation only on the one hand, but to state that this would be different for sea transport on the other hand, is showing an important inconsistency of the proposal from Belgium. It is the aim of the GHS process to harmonise criteria for aquatic environmental hazard for the modes and beyond for supply and use,

handling, storage etc. as long as sizes of a packaged form (e.g. up to container size) are relevant. Such a Harmonisation would not be possible if the proposal from Belgium would be endorsed.

20. In a meeting in 1996 in London, it was common view that the criteria for the aquatic environmental hazard when ship loads are to be transported in tank ships or bulk cargoes, are different and need to consider more than the proposal of OECD and should not be included in the GHS. Therefore to mention such transports in the UN Recommendations is not necessary and could create a case of precedence for other hazards covered in the Model Regulation.

21. To include that many of explanatory material and provisions about criteria and testing methods for aquatic environmental hazard in part 2.9 of the Model Regulations may be questioned. The test methods are defined in OECD guidelines and could be referenced as it is the case for division 6.2. If the Sub Committee wishes to include such provisions, it may be more appropriate to include testing methods in the Manual of Tests and Criteria and the criteria only in part 2.9.

Proposal

22. In the light of the ongoing discussions in the OECD Working Group on criteria for mixtures and the ILO Working Group on Harmonisation of Labelling and Hazard Communication, the Sub Committee should continue discussions on implementation of the GHS criteria in a more general way and not just limited to aquatic environmental hazard.

23. The outcome of the debate of the IOMC-CG/HCCS on the long term strategy for implementation of the GHS in existing international, supranational and national recommendations, agreements, codes and legislation may also have an impact on the discussion of the Sub Committee and the Committee for a co-ordinated implementation. The CG/HCCS twice confirmed the preference not to implement the GHS in bits and pieces, but as a whole system and at one. This view was strongly supported by chemical industry.

24. Furthermore a lot of detailed technical questions concerning the downstream consequences of the introduction of criteria for aquatic environmental hazard in the UN Recommendations (Model Regulation) will have to be solved. So the Sub Committee may wish to consider these issues involving Experts for environmental hazards in a more detailed way, e. g. during it's next sessions or on an interim basis.