

COMMITTEE OF EXPERTS ON THE TRANSPORT OF DANGEROUS GOODS AND ON THE GLOBALLY HARMONIZED SYSTEM OF CLASSIFICATION AND LABELLING OF CHEMICALS

Sub-Committee of Experts on the Transport of Dangerous Goods

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HARMONIZATION WITH THE GLOBALLY HARMONIZED SYSTEM OF CLASSIFICATION AND LABELLING OF CHEMICALS (GHS)

Hazards to the aquatic environment

Comments on ST/SG/AC.10/C.3/2004/68

Transmitted by the expert from the United States of America

1. The United States of America would like to thank the Netherlands for its work and offer the following comments to the proposals in ST/SG/AC.10/C.3/2004/68, for consideration by the Sub-Committee:
2. Chapters 2.1-2.9 are numerically aligned with the hazard class system. Creating a new 2.10 implies a new hazard class. Since aquatic pollutants are included in Class 9, it would be preferable to maintain the text in its current location in 2.9. There appears to be no benefit of moving 2.9.3 to a new chapter 2.10. The expert from the United States is also not in favor of changing all references to “environmentally hazardous substances” to “Substances hazardous to the aquatic environment”. “Environmentally hazardous substance” is a generic term that can be used to describe other environmental hazards should this be necessary in the future. Specific comments on the proposed text are provided in Annex. It should be noted that in a number of instances some of the text proposed in 2004/68 may not be necessary if it is agreed to maintain the requirements for aquatic toxicity criteria in Chapter 2.9.
3. With respect to including a list of substances that meet the aquatic toxicity criteria, the expert from the United States of America favors including such a list in the Model Regulations. It is believed this list can be drawn directly from the IMDG Code using the list of substances currently identified as marine pollutants and severe marine pollutants. The IMDG Code list has been approved by the 130 countries that participate at IMO. The IMDG Code classifies marine pollutants as those substances that are highly toxic to marine life ($LC_{50} \leq 1\text{mg/L}$) or substances that have a tendency to bioaccumulate ($\log Pow > 3$). The criteria that IMO used to develop the marine pollutant list are close to the criteria that are now in the Model Regulations. It is believed that more people worldwide are familiar with the IMO marine pollutant list and therefore it would be advantageous to adopt a list drawn directly from the IMO marine pollutant list. There was some support for this approach at DSC 8 which met in September 2003. IMO will need to consider the impact of the new list and the TDG Sub-Committee should continue to work with IMO to develop the list to ensure that the same list is included in both the Model Regulations and the IMDG Code. The expert from the United States also favors indicating that if a substance that is listed is shown not to meet the criteria, it can be transported as not subject to the Regulations, and conversely that substances not listed but which meet the criteria are subject to the Regulations. Over time as data is provided, the list could be improved to establish better correlation with the GHS criteria.

4. With respect to the proposal to use the EU “N-Class” data as a basis for developing a list, a thorough comparison of the N-Class substances with the GHS criteria would be necessary to determine if the materials listed could be used to establish a list for inclusion in the Model Regulations. The differences in cut-off values for biodegradability, bioaccumulation and toxicity (algal, fish and crustacean) would need to be considered as the Netherlands suggests, if the EU database is used to generate a list. The list has more than 7,000 entries. We were not able to easily program the database to produce a listing that would correlate with the criteria in the Model Regulations and we are not certain that this is possible. The list does not include BCF values for the majority of the substances included. On this basis, it may be difficult to correlate the substances listed in the EU N-Class list with the GHS criteria. Therefore the US favors basing the initial list in the Model Regulations on the IMO list and amending it on a case-by-case basis as data is provided, whether this data is drawn from the N-Class database or from other sources.

Annex
Specific Comments on Proposals in 2004/68

Proposed UN Paragraph	Proposed Text	Comments
2.0.0.1	<i>Except for aquatic pollutants, the classification shall be made by the appropriate competent authority when so required, or may otherwise be made by the consignor.</i>	2.0.0 of the current Model Regulations already allows for the consignor to classify dangerous goods. These paragraphs are unnecessary.
2.0.0.2	<i>The consignor shall identify substances or mixtures transported which are Aquatic Pollutants according to the criteria of Chapter 2.10."</i>	
2.0.1.2	<i>2.0.1.2. Many of the substances assigned to classes 1 to 9 may also fall within the criteria for [Substances hazardous to the aquatic environment] (see chapter 2.10).</i>	We do not support a reference to 2.10. There is no need to amend this paragraph. The words "environmentally hazardous" are sufficient and allow for other environmental criteria to be added at some future date.
2.0.1.4	Dangerous goods are determined to present one or more of the dangers represented by classes 1 to 9 and divisions, <i>aquatic pollutants</i> and, if applicable, the degree of danger (packing group) on the basis of the provisions in Chapters 2.1 to 2.10.	We would prefer to maintain all of the criteria in 2.9. We do not support creating a new 2.10. The Part 2 chapters were established based on the 9 hazard classes. Environmentally hazardous substances fall within Class 9 so it is appropriate for the requirements to be included in Chapter 2.9. There is no need to amend this paragraph.
2.9.2.1 a)	Amend 2.9.2.1 a) to read: a) environmentally hazardous substances (see Chapter 2.10) which are not covered by other classes;	This amendment is also not necessary if the criteria remain in Chapter 2.9. As stated previously, we do not believe the creation of a new Chapter 2.10 is necessary. There is no need to amend this paragraph.
2.10.1.1	2.10.1.1 [Substances hazardous to the aquatic environment] are liquid or solid substances pollutant to the aquatic environment and solutions and mixtures of such substances as defined in 2.10.4 (including preparations and wastes)	We note that this is an amended definition (existing 2.9.3.4) and question why a reference specific to mixtures is added with no reference to the existing definition for 2.9.3.2.3 for aquatic toxicity. This is another example of why we prefer to maintain the text in 2.9.

2.10.5	<p>Properties</p> <p><i>Aquatic pollutants shall be transported under the appropriate entry according to their properties if they fall within the criteria of any of the classes 1 to 8. If they do not fall within the criteria of any of these classes, they shall be transported under the entry:</i></p> <p><i>UN 3077 ENVIRONMENTALLY HAZARDOUS SUBSTANCE, SOLID, N.O.S., or</i></p> <p><i>UN 3082 ENVIRONMENTALLY HAZARDOUS SUBSTANCE, LIQUID, N.O.S.,</i></p> <p><i>as appropriate, unless there is a specific entry in Class 9.</i></p>	<p>Agree. However, we propose that the new example simply replace the current example in 2.9.3.5.</p>
5.4.1.4.3(e)	<p>Substances hazardous to the aquatic environment: Substances hazardous to the aquatic environment, other than those transported under the proper shipping name "Environmentally hazardous substance" (UN 3077 and UN 3082) shall be identified as such by adding the words "SUBSTANCE HAZARDOUS TO THE AQUATIC ENVIRONMENT" immediate preceding or immediate following the dangerous goods description. Examples of such permitted dangerous goods descriptions are:</p> <p>"UN 2218 ACRYLIC ACID, STABILIZED 8 (3) II, SUBSTANCE HAZARDOUS TO THE AQUATIC ENVIRONMENT" or</p> <p>"ACRYLIC ACID, STABILIZED, 8 (3), UN 2218, II, SUBSTANCE HAZARDOUS TO THE AQUATIC ENVIRONMENT"</p>	<p>A small editorial error is noted in that the word "immediate" should be "immediately".</p> <p>It is questioned whether the indication could be shortened for documentation purposes, for example "marine pollutant" which would be consistent with the current IMDG Code requirement (IMDG requires the words "marine pollutant" on the transport document). The words "substance hazardous to the aquatic environment" are quite cumbersome. This is an unnecessary burden for users of the regulations that does not provide any safety benefit. The words "marine pollutant" are well known.</p>
7.1.1.6	<p><i>7.1.1.6 All operations with [substances hazardous to the aquatic environment] (such as, but not limited to, loading/unloading, stowage and the disposal of spills) shall be done with due regard to its hazards and the mode specific regulations applicable for that mode of transport.</i></p>	<p>This text is of questionable value in that it contains no specific guidance. It is proposed that this text not be incorporated.</p>