

SUB-COMMITTEE ON CARRIAGE OF  
CARGOES AND CONTAINERS  
5th session  
Agenda item 6

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## AMENDMENTS TO THE IMDG CODE AND SUPPLEMENTS

### Practical application of section 7.9.2 of the IMDG Code

#### Submitted by the Russian Federation

#### SUMMARY

*Executive summary:* This document presents information on the practical application of the provisions of section 7.9.2 of the IMDG Code in terms of the recognition of certificates and other relevant documents for the packaging of dangerous goods, as well as a proposal to amend the Code with recommendatory provisions for use as a reference

*Strategic direction, if applicable:* Other work

*Output:* OW 3

*Action to be taken:* Paragraph 13

*Related documents:* None

#### Introduction

1 Section 7.9.2 of the International Maritime Dangerous Goods (IMDG) Code contains the following provisions:

"7.9.2.1 Approvals, including permits, authorizations or agreements, and certificates referred to in chapters 1 to 7.8 of this Code and issued by the competent authority (authorities when the Code requires a multilateral approval) or a body authorized by that competent authority (e.g. approvals for alternative packaging in 4.1.3.7, approval for segregation as in 7.3.4.1 or certificates for portable tanks in 6.7.2.18.1) shall be recognized, as appropriate:

.1 by other contracting parties to SOLAS if they comply with the requirements of the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended; and/or

- .2 by other contracting parties to MARPOL if they comply with the requirements of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL, Annex III), as amended."

2 Thus, the IMDG Code imposes an essential requirement for Member States to recognize all permits, approvals, certificates, etc. (hereinafter collectively referred to as "documents"), including those issued for packagings intended for dangerous goods, if those documents have been issued by the competent authority of another State or a body authorized by that competent authority.

### **Procedures of recognition of documents for packaging of the dangerous goods**

3 While imposing the obligation on States to recognize documents issued in accordance with the IMDG Code, the Code does not specify any requirements for that recognition, its associated procedures or for the requirements for documents and/or the requirements for the competent authority of the State or body authorized by the competent authority.

4 The purpose of taking such an approach is presumably to allow States certain flexibility while implementing the provisions of the IMDG Code and regulating the recognition at the national level, in accordance with applicable national legislation in the field of recognition of documents.

5 It is evident that, depending on the type of documents and the provisions of national legislation, States could recognize all documents issued by the competent authorities (or bodies authorized by them) of another State by default, or impose certain additional requirements or procedures in order to ascertain that all requirements of the IMDG Code have been met. Those additional requirements could include the provision of test results, the technical specifications of a packaging type, production specifications, information on quality assurance scheme of the manufacturer, etc.

6 The major issue associated with the recognition of statutory documents is the liability, including financial liability of a party, e.g. the competent authority, the State of the port of loading, in case of a potential accident with dangerous goods involved resulting from the use of sub-standard packaging. It might be logical to conclude that, by default, the State that recognized the document for packaging issued by the competent authority of another State shall be liable to the full extent.

7 Despite the periodically updated list of competent authorities and organizations authorized by them, as referred to in section 7.9.3 of the IMDG Code and in the *Contact information for the designated national competent authority* (MSC.1/Circ.1517), at present, there is neither an internationally recognized database of certificates nor any unified reliable method to confirm the validity of certificates/documents for the packaging of the dangerous goods provided by the shipper. Thus, the competent authority of the port of the loading State does not have a possibility to check the validity of such documents by recognizing the documents issued by the competent authority/authorized organization of another State for packagings manufactured abroad, pursuant to section 7.9.2 of the IMDG Code. Loading of a dangerous cargo in a sub-standard packaging with fraudulent documents on board may have dramatic consequences.

8 In that connection, the Russian Federation considers that, for the purpose of mutual recognition of documents for the packaging of the dangerous goods issued in compliance with the IMDG Code, the conclusion of bilateral undertakings (in the form of agreements or equivalent legal arrangements) between States could constitute quite an effective and practical

approach, which is also not in contradiction with section 7.9.2 of the IMDG Code. Such undertakings may aim to regulate the conditions for the mutual recognition of documents issued in compliance with the IMDG Code.

9 An effective example of a similar mechanism in the IMO instruments is regulation I/10 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention). For the purpose of mutual recognition of certificates pursuant to the STCW Convention, the Administration shall confirm by measures, including the inspections of facilities and procedures, that requirements concerning the standards of competence are complied with by the other Administration. The undertaking, as a rule, in the form of bilateral agreement concluded between the two Administrations, pursuant to regulation I/10, may serve as a legal basis for the recognition of certificates by one Administration issued by the other Administration. Such undertakings concluded for the purpose of the mutual recognition of the documents for the packaging of the dangerous goods pursuant to the IMDG Code should also address the issues of liability in due course, as well as the matters related to the confirmation of the validity of certificates.

10 Using the above mechanism in the STCW Convention as a precedent, the Russian Federation intends to offer the interested States, where packaging for dangerous goods is produced, to enter into such bilateral undertakings for the purpose of the mutual recognition of packaging related documents issued in compliance with the IMDG Code, with the possibility of using such packagings for loading of the dangerous goods in Russian ports.

11 In the absence of such undertakings, the Russian Federation considers that there are no sufficient grounds for default recognition of the documents for the packaging of dangerous goods issued by the competent authorities of the other States or bodies authorized by them, which are to be presented for loading in Russian ports, as there is no mechanism to confirm their compliance with all applicable requirements of the IMDG Code. This constitutes certain unjustified risks associated with the consequences of using sub-standard packagings for the dangerous goods not compliant with the IMDG Code.

### **Proposal**

12 On the basis of its experience in implementing the provisions of section 7.9.2 of the IMDG Code, in terms of the recognition of documents for the packaging of dangerous goods at national level, the Russian Federation considers it useful to suggest that such an approach be included in the IMDG Code as a reference of possible recommendatory action by Member States.

### **Action requested of the Sub-Committee**

13 The Sub-Committee is invited to take note of the information regarding the implementation of the provisions of section 7.9.2 of the IMDG Code in the Russian Federation, as well as the proposal in paragraph 12 above, and take action, as appropriate.

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