

EDITORIAL AND TECHNICAL GROUP OF  
THE SUB-COMMITTEE ON CARRIAGE OF  
CARGOES AND CONTAINERS  
38th session  
Agenda item 3.3

E&T 38/3/10  
8 February 2023  
Original: ENGLISH  
Pre-session public release:

**PREPARATION OF DRAFT AMENDMENTS (42-24) TO THE IMDG CODE**

**CONSIDERATION OF PROPOSALS REFERRED TO E&T 38 BY CCC 8**

**Amendments to 5.4.4 of the IMDG Code (Basic documentation requirements)**

**Submitted by BIMCO, P & I Clubs, WSC and IVODGA**

**SUMMARY**

*Executive summary:* This document urges – as discussed in paragraph 9 - that IMO adopt option 1 under "Amendments to 5.4.4 of the IMDG Code", as provided in document CCC 8/6/1 (report of the Correspondence Group on a Review of Maritime Special Provisions), as it would benefit shippers and carriers.

*Strategic direction, if applicable:* 7

*Output:* 7.10

*Action to be taken:* Paragraph 12

*Related documents:* CCC 7/6/2; CCC 8/6/1; and CCC 8/18

**Background**

1 CCC 8 had for its consideration document CCC 8/6/1 (report of the Correspondence Group on a Review of Maritime Special Provisions). Paragraphs 6.45, 6.46, 6.47, 6.53 and 6.54 of the report of CCC 8 (document CCC 8/18) deal with basic documentation requirements for goods not otherwise subject to the IMDG Code/amendments to 5.4.4 of the IMDG Code.

**Policy options for basic documentation requirements**

2 CCC 8 noted the Correspondence Group's discussion, as set out in paragraph 35 of the report, on the different views on the issue whether goods not otherwise subject to the IMDG Code should be subject to basic documentation requirements of the IMDG Code. CCC 8 further noted the Group's invitation to consider the options provided in paragraph 36 of the Correspondence Group report and the allocation of these options to the various maritime special provisions in the annex to the report; and the invitation to decide which option should be taken. Essentially, these options form the policy foundation based on which the Correspondence Group developed two draft language options for "Amendments to 5.4.4 of the IMDG Code", which will be considered further below in this document.

3 The three policy options for basic documentation requirements which CCC 8 considered were the following:

- .1 **Option 1:** Whenever a maritime SP exempts a good from the provisions of the IMDG Code without any justification or background in the UN Model Regulations, this exemption should be deleted, thus to apply the Code in whole for these goods. Whenever a maritime SP clarifies the classification by stating that a substance is not subject to the provisions of the Code when its properties do not meet the criteria provided in the proper shipping name or in the supplementary description added to the proper shipping name, the need for such a special provision should be evaluated and where such need is not obvious, the related special provision should be deleted. For dangerous goods which are subject to the Code (not exempted) and where in addition to the dangerous goods transport document a certificate is required by a maritime SP, the need for such a certificate should be evaluated and the related maritime SP should be deleted when deemed appropriate.
- .2 **Option 2:** All maritime SPs should remain in place and all goods which are addressed by a maritime SP should be subject to basic documentation requirements shown in provision 5.4.4, even if the special provision states that the goods are not subject to the Code. When the supplement to a proper shipping name restricts the application of the Code to substances with defined properties, e.g. aluminium bromide anhydrous, a maritime SP stating that "aluminium hydride in hydrated form is not subject to the Code" should require basic documentation (in this example for hydrated aluminium bromide) in a document required by 5.4.4. Whenever an additional certificate is required, this should be submitted together with the dangerous goods transport document or, for goods which are exempted from the application of the Code by a maritime SP, in the basic documentation required in provision 5.4.4.
- .3 **Option 3:** Dangerous goods which are not subject to the Code according to a maritime SP are considered not subject to the Code as a whole and therefore not subject to the requirement for a dangerous goods transport document. Whenever an additional certificate is required, to prove that the conditions for not applying the Code are complied with, such certificate is not a stand-alone transport document, and it shall be added to the written cargo information which has to be submitted to the carrier at the booking stage, as required by SOLAS regulation VI/2.

4 During the discussion, CCC 8 noted the following views:

- .1 option 1 could be supported; and the annex to document CCC 8/6/1 could be the basis for further work;
- .2 option 2 could be supported, in principle; however, decisions on retaining individual maritime special provisions should be made on a case-by-case basis; and
- .3 option 3 could be supported.

5 After consideration, CCC 8 agreed to invite interested Member States and international organizations to submit further proposals on this matter to E&T 38.

---

## Draft language options for amendments to 5.4.4 of the IMDG Code

6 Followingly, CCC 8 considered "Amendments to 5.4.4 of the IMDG Code", for which the report of the Correspondence Group offered two options that reflected the above options for basic documentation requirements. These two options were as follows:

.1 **Option 1:**

**"5.4.4 Other required information and documentation**

5.4.4.1 In certain circumstances, special certificates or other documents are required, such as:

- .1 a certificate providing evidence for a specific treatment or for the specific properties of the goods, as required in a special provision in column 6 of the Dangerous Goods List, (e.g. a weathering certificate, a certificate of oil content);
- .2 an exemption according to 7.9.1 or an approval according to 7.9.2;
- .3 for new self-reactive substances and organic peroxides or new formulations of currently assigned self-reactive substances and organic peroxides, a statement by the competent authority of the country of origin of the approved classification and conditions of transport.

These documents shall be submitted to the carrier together with the dangerous goods transport information according to 5.4.1.

5.4.4.2 Certain substances, materials or articles are not subject to the provisions of the Code when they comply with the conditions stated in a special provision assigned to the relevant UN number in column 6 of the Dangerous Goods List. When such a special provision refers to 5.4.4, the consignor who offers for transport such substances, materials or articles shall give the carrier the information applicable to these goods in accordance with 5.4.1, with the exception that the information in 5.4.1.4 to 5.4.1.6 is replaced by the information in 5.4.4.3.

When such a special provision requires the submission of a certificate, this certificate shall be submitted together with the information stated in 5.4.4.3.

5.4.4.3 When goods are not subject to the provisions of this Code because of a special provision which refers to 5.4.4, the cargo information shall contain the following information for each substance, material or article offered for transport:

- .1 the UN number, preceded by the letters "UN";
- .2 the proper shipping name, as determined according to 3.1.2;
- .3 the number of the special provision which relieves the goods from the application of the Code, preceded by the words "exempted as per SP"; and

.4 the total quantity of goods covered by the description (by volume or mass, as appropriate) of each item of goods bearing a different proper shipping name and the number and kind (e.g. drum, box, etc.) of packages.

5.4.4.4 The consignor who offers for transport excepted packages of radioactive material of class 7 shall inform the carrier about these goods. This information shall be provided in accordance with 5.4.1, with the exception that the information in 5.4.1.4 to 5.4.1.6 is replaced by the information in 5.4.4.5.

5.4.4.5 The cargo description for excepted packages shall contain the following information:

.1 the UN number, preceded by the letters "UN";

.2 the proper shipping name, as determined according to table 2.7.2.1.1; and

.3 the total quantity of excepted packages covered by the description (by volume or mass, as appropriate) of each item of goods bearing a different proper shipping name and the number and kind (e.g. drum, box, etc.) of packages.

5.4.4.6 Examples of the description of goods exempted by a special provision or excepted packages:

UN 1327 HAY, exempted as per SP954, 160 bales 16000 kg gross  
UN 2910 RADIOACTIVE MATERIAL, EXCEPTED PACKAGE – LIMITED QUANTITY OF MATERIAL, 4 fibreboard boxes, 120 kg gross."

.2 **Option 2:**

**"5.4.4 Other required information and documentation**

5.4.4.1 In certain circumstances, special certificates or other documents are required, such as:

.1 a certificate providing evidence for a specific treatment or for the specific properties of the goods, as required in a special provision in column 6 of the Dangerous Goods List, (e.g., a weathering certificate, a certificate of oil content);

.2 an exemption according to 7.9.1 or an approval according to 7.9.2; and

.3 for new self-reactive substances and organic peroxides or new formulations of currently assigned self-reactive substances and organic peroxides, a statement by the competent authority of the country of origin of the approved classification and conditions of transport.

These documents shall be submitted to the carrier together with the dangerous goods transport information according to 5.4.1.

5.4.4.2 A certificate exempting a substance, material or article from the provisions of the IMDG Code and referred to in a special provision assigned to an individual entry in the Dangerous Goods List shall be submitted together with the cargo information required by SOLAS regulate on VI/2."

7 CCC 8 agreed to refer this matter to E&T 38 for further consideration.

#### **Proposal to adopt draft language option 1 for amendments to 5.4.4 of the IMDG Code**

8 The co-sponsors of this document note that the above policy options for basic documentation requirements and draft language amendments to 5.4.4 of the IMDG Code are inextricably linked as they refer to the same subject and the former forms the foundation for the latter.

9 Starting with the policy options for basic documentation requirements, the co-sponsors urge that IMO take the following stance:

- .1 Follow option 2 (see above paragraph 3), but **not** in its entirety: Not all maritime SPs which provide exemptions should be retained. The very purpose of the Correspondence Group since its establishment in 2019 was to go through the SPs and decide which ones to retain, amend or delete, depending on their purpose and history of existence. These decisions were supposed to be made under outstanding issues in paragraph 41 of document CCC 7/6/2 (Germany) but due to the pandemic, CCC 7 did not have sufficient time to consider them.
- .2 Not support option 1 (see above paragraph 3) as it does not consider cases where SPs which provide exemptions are retained in the IMDG Code and therefore does not provide for how to deal with these cases.
- .3 Not support option 3 (see above paragraph 3), as this option would mean that the carrier would be aware of exempt cargoes only when a certificate is required, and additionally, since these substances would not be subject to the IMDG Code altogether, there would be a legal question: "How is the certificate required to be declared within the IMDG Code, when the IMDG Code does not regulate these substances in the first place?". The answer would then have to be that these substances must be regulated under SOLAS Chapter VI, and therefore IMO would need to split up the IMDG Code into sections under SOLAS Chapter VI and SOLAS Chapter VII, and create new documentation requirements under SOLAS Chapter VI for exempt cargoes. This would not only create additional administrative burden for the shipper, but also give rise to the need for a proposal to amend SOLAS and lead to matters of intermodal substance. Overall, this option would be inappropriate and impractical.

10 With the above foundation, therefore, as regards the draft language options for "Amendments to 5.4.4 of the IMDG Code", the co-sponsors of this document propose that IMO adopt draft language option 1 for amendments to 5.4.4 of the IMDG Code (see above paragraph 6). The reasons for this proposal are as follows:

- .1 Option 1 for amendments to 5.4.4 of the IMDG Code will mean that those substances for which IMO decides to retain an SP which provides an exemption will still be covered by the IMDG Code but only to the extent that the shipper simply needs to follow basic documentation requirements as explained in this option.
- .2 By choosing option 1 for amendments to 5.4.4 of the IMDG Code, it will also be clear that these goods which are not otherwise subject to the IMDG Code are "covered" by the IMDG Code only at this basic level, hence falling under SOLAS Chapter VII, regulation 1.2<sup>1</sup> and being considered dangerous goods only for the purpose of documentation requirements (i.e. without needing to formally classify them under classes 1 to 9, which is not a requirement under the SOLAS Chapter VI definition for "dangerous goods" in any case).
- .3 At the same time, option 1 for amendments to 5.4.4 of the IMDG Code removes the need to regulate these substances through SOLAS Chapter VI. If these substances were to be regulated through SOLAS Chapter VI, IMO would then need to develop new documentation and training requirements, including provisions for a new type of document that the shipper would need to use for declarations of these substances through SOLAS Chapter VI.
- .4 As mentioned, since option 1 for amendments to 5.4.4 of the IMDG Code will only apply to substances for which there is an SP that provides an exemption, IMO can choose to remove any of these SPs, as appropriate, so that the declaration requirement for goods not otherwise subject to the IMDG Code does not apply.

11 Overall, option 1 for amendments to 5.4.4 of the IMDG Code would give the carrier full visibility into what goods are to be loaded on the ship. While these goods may be exempt from the provisions of the IMDG Code (except the proposed documentation requirements), the carrier still needs to be aware of the existence of these goods, so as to be able to decide the stowage position and take other operational precautions as a matter of proactive, best-practice safety policy designed to enhance the protection of seafarers, ship, cargo and the environment.

#### **Action requested of the Group**

12 The Group is invited to consider the above proposal under paragraph 10 and take action, as appropriate.

---

<sup>1</sup> "*Dangerous goods* mean the substances, materials and articles covered by the IMDG Code".