



LEGAL COMMITTEE
95th session
Agenda item 3

LEG 95/3/2
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**MONITORING THE IMPLEMENTATION OF THE HNS CONVENTION:
DEVELOPMENT OF A POSSIBLE DRAFT PROTOCOL TO THE CONVENTION**

Definition of HNS – IMDG Code in effect in 1996

Note by the Secretariat

SUMMARY

<i>Executive summary:</i>	This document provides information relating to list of substances covered by the IMDG Code as that Code was in effect in 1996
<i>Strategic direction:</i>	1, 2
<i>High-level action:</i>	1.21, 2.1.1
<i>Planned output:</i>	1.2.1.1, 2.1.1.3
<i>Action to be taken:</i>	Paragraph 10
<i>Related document:</i>	LEG 94/12, paragraphs 4.43 to 4.71

1 At its ninety-fourth session, the Committee considered the definition of HNS as it relates to the IMDG Code under article 3 of the draft protocol, which amends article 1, paragraph 5, of the 1996 Convention. The Committee agreed to the following wording of the text (document LEG 94/12, paragraph 4.49):

“5 “Hazardous and noxious substances (HNS)” means:

- (a) any substances, materials and articles carried on board a ship as cargo, referred to in (i) to (vii) below:
 - (i) ***
 - (vii) solid bulk materials possessing chemical hazards covered by the Code of Safe Practice for Solid Bulk Cargoes, 2004, as amended, to the extent that these substances are also subject to the provisions of the International Maritime Dangerous Goods Code **in effect in 1996** when carried in packaged form...”

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2 In taking this decision, the Committee recalled that the 1996 Conference had agreed that the HNS Convention should not apply to certain materials (for example coal, woodchips, fishmeal) and that subparagraph (vii) had been carefully formulated to ensure that result (document LEG 94/12, paragraph 4.45).

3 The Committee requested the Secretariat, in consultation with the technical divisions of the Organization, to consider the practicality of preparing either a list of substances which would have been included under subparagraph (vii) using the 1996 version of the IMDG Code as the reference, or a list of substances that would have been excluded using that same reference. It was also suggested that any such list should be entirely separate from the draft protocol to avoid re-opening a debate about substances which was settled in 1996. Such a list, if feasible, might be issued as a circular as a matter of information. The Committee further requested the IMO Secretariat to verify which version of the Code was in effect in 1996, and to consider producing a list of products included in, or excluded from, that Code, for circulation to Member Governments (see document LEG 94/12, paragraphs 4.48 and 4.50).

Methodology adopted in the preparation of the lists of products

4 The IMDG Code, incorporating amendment 27-94, was in effect at the time of the 1996 Conference. Therefore, the Secretariat has primarily consulted that version of the Code and the BC Code, 2004, in preparing the two lists, set out in annexes 1 and 2, namely:

- .1 a list of solid bulk materials possessing chemical hazards which are mentioned by name in the BC Code, 2004, and which are also mentioned by name in the IMDG Code in effect in 1996; and
- .2 a list of solid bulk materials possessing chemical hazards which are mentioned by name in the BC Code, 2004, but which are *not* also mentioned by name in the IMDG Code in effect in 1996.

5 Typical cargoes currently shipped in bulk, together with advice on their properties and methods of handling, are given in the schedules for individual cargoes in the BC Code, 2004. However, these schedules are not exhaustive and the properties attributed to the cargoes are given only for guidance. Consequently, before loading, it is essential to obtain current valid information from the shipper on the physical and chemical properties of the cargoes presented for shipment. The shipper shall provide appropriate information about the cargo to be shipped.

6 As a first step towards preparing the lists of products, the Secretariat prepared a list of materials mentioned by name, and belonging to group B, in the BC Code, 2004, and then compared these materials to the proper shipping names in the IMDG Code, amendment 27-94. Where a bulk cargo shipping name also had a proper shipping name as per the IMDG Code, amendment 27-94, then that name has been included in the List of solid bulk materials possessing chemical hazards which are mentioned by name in the BC Code, 2004, and which are also mentioned by name in the IMDG Code in effect in 1996, as set out in annex 1. Accordingly, annex 1 is the list of substances that fall in the definition as drafted in paragraph 1 and would therefore be covered by the draft protocol. It may be noted that 'fishmeal' is included in this list. In this regard, the Committee is invited to recall that the 1996 Conference adopted a resolution concerning the treatment of fishmeal in the IMDG Code and the BC Code. If further action is required in light of the Committee's decision to refer, in the draft protocol, to the IMDG code "in effect in 1996", the Committee may want to consider what action would be appropriate at this stage with respect to fishmeal.

7 Where the bulk cargo shipping name belongs to group B of the BC Code, 2004, but does not have a proper shipping name as per the IMDG Code, amendment 27-94, the bulk cargo shipping name has been included in the List of solid bulk materials possessing chemical hazards which are mentioned by name in the BC Code, 2004, but which are *not* also mentioned by name in the IMDG Code in effect in 1996, as set out in annex 2. Accordingly, annex 2 is the list of substances that would fall outside of the definition as drafted in paragraph 1 and would therefore not be covered by draft protocol.

8 The Committee's attention is drawn to the material having the bulk cargo shipping name Direct reduced iron (C), which is placed in square brackets in annex 2, as this material is hazardous only in bulk as per the schedule in the International Maritime Solid Bulk Cargoes (IMSBC) Code, adopted by resolution MSC.268(85) and is envisaged to give effect to the IMSBC Code as a mandatory instrument from 1 January 2011. However, the latter's provisions may be applied on a voluntary basis from 1 January 2009. By means of the aforementioned MSC resolution, the BC Code, 2004, will be superseded by the IMSBC Code.

9 While every effort has been made to be accurate in the preparation of the two lists, set out in the annexes, solid bulk materials covered by the Code of Safe Practice for Solid Bulk Cargoes, 2004, and the International Maritime Dangerous Goods Code, in effect in 1996, may not necessarily be mentioned by name in these two Codes; some materials might not be mentioned by name in the BC Code, 2004, yet fall in group B of the BC Code, 2004, and are covered by the generic entries in the IMDG Code, amendment 27-94. Therefore, the lists as presented in the annexes should be taken as indicative.

Action requested of the Legal Committee

10 The Legal Committee is invited to consider the information provided in this document and decide as appropriate.

ANNEX 1

**LIST OF SOLID BULK MATERIALS POSSESSING CHEMICAL HAZARDS WHICH
ARE MENTIONED BY NAME IN THE BC CODE, 2004, AND WHICH ARE ALSO
MENTIONED BY NAME IN THE IMDG CODE IN EFFECT IN 1996**

1 A number of solid bulk materials mentioned by name in the Code of Safe Practice for Solid Bulk Cargoes, 2004, possessing chemical hazards, also present significant hazards when carried in packaged form as per the IMDG Code, in effect in 1996. These materials are:

Bulk cargo shipping name/Proper shipping name

Aluminium ferrosilicon, powder (UN 1395)
 Aluminium nitrate (UN 1438)
 Aluminium silicon powder, uncoated (UN 1398)
 Aluminium smelting by-products or
 Aluminium remelting by-products (UN 3170)¹
 Ammonium nitrate (UN 1942)
 Ammonium nitrate based fertilizer (UN 2067)²
 Ammonium nitrate based fertilizer (UN 2071)³
 Barium nitrate (UN 1446)
 Calcium nitrate (UN 1454)
 Castor beans or Castor flake or Castor meal or Castor pomace (UN 2969)
 Copra (UN 1363)
 Ferrosilicon, with 30% or more but less than 90% silicon (including briquettes) (UN 1408)
 Ferrous metal borings, shavings, turnings, or cuttings (UN 2793)
 Fishmeal (Fishscrap), stabilized, anti-oxidant treated (UN 2216)
 Iron oxide, spent or Iron sponge, spent (UN 1376)
 Lead nitrate (UN 1469)
 Magnesium nitrate (UN 1474)
 Potassium nitrate (UN 1486)
 Radioactive material, low specific activity (LSA-I) (UN 2912)⁴
 Radioactive material, surface contaminated objects (SCO-I or SCO-II) (UN2913)⁵
 Seed cake (UN 1386)
 Seed cake (UN 2217)
 Sodium nitrate (UN 1498)
 Sodium nitrate and potassium nitrate mixture (UN 1499)
 Sulphur (UN 1350)
 Zinc ashes (UN 1435)

2 The above list is indicative and should not be considered as exhaustive.

¹ Known as Aluminium processing by-products as per the IMDG Code, amendment 27-94.

² Known as Ammonium nitrate fertilizers as per the IMDG Code, amendment 27-94.

³ Known as Ammonium nitrate fertilizers as per the IMDG Code, amendment 27-94.

⁴ Known as Radioactive material, low specific activity (LSA), N.O.S. as per IMDG Code, amendment 27-94.

⁵ Known as Radioactive material, surface contaminated objects(s) (SCO-I) and (SCO-II) as per IMDG Code, amendment 27-94.

ANNEX 2

LIST OF SOLID BULK MATERIALS POSSESSING CHEMICAL HAZARDS WHICH ARE MENTIONED BY NAME IN THE BC CODE, 2004, BUT WHICH ARE *NOT* ALSO MENTIONED BY NAME IN THE IMDG CODE IN EFFECT IN 1996

1 A number of solid bulk materials mentioned by name in the Code of Safe Practice for Solid Bulk Cargoes, 2004, possessing chemical hazards, do not present significant hazards when carried in packaged form as per the IMDG Code in effect in 1996. These materials, which are defined as “Materials hazardous only in bulk” (MHB) and fall under group B of the BC Code, as amended, are:

Bulk cargo shipping name

Brown coal briquettes
 Charcoal
 Coal
 Direct reduced iron (A)
 Direct reduced iron (B)
 [Direct reduced iron (C)]
 Ferrophosphorus
 Ferrosilicon, with 25% to 30% silicon, or 90% or more with silicon (including
 briquettes)
 Fishmeal (Fishscrap), stabilized, anti-oxidant treated*
 Fluorspar
 Lime (unslaked)
 Magnesite (unslaked)
 Metal sulphide concentrates
 Peat moss
 Petroleum coke
 Pitch prill
 Pyrites, calcined
 Sawdust
 Siliconmanganese
 Tankage
 Vanadium ore
 Woodchips
 Wood pellets
 Wood pulp pellets

2 The above list is indicative and should not be considered as exhaustive.

* The provisions of Fishmeal (Fishscrap), stabilized UN 2216, should not apply to consignments of fishmeal, group C, which are accompanied by a certificate issued by the competent authority of the country of shipment, stating that the material has no self-heating properties when transported in bulk.