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**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

Thirty-first session
Geneva, 2-6 July 2007
Item 3 of the provisional agenda

LISTING, CLASSIFICATION AND PACKING

Classification of substances specifically listed by name in the Dangerous Goods List

Transmitted by the International Council of Chemical Associations (ICCA)

Background

1. According to 3.1.1.2 of the UN Model Regulations, substances specifically listed by name in the Dangerous Goods List, shall be transported in accordance with the provisions in the list which are appropriate for that substance.
2. Special Provision 223 of Section 3.3.1 when noted in column 6 of the Dangerous Goods List allows a dangerous good to become non-regulated provided that, when tested, the substance does not meet the defining criteria for the class or division listed in column 3, or any other class or division because of its chemical or physical properties.
3. SP223 is currently already assigned to 309 UN entries but continual scientific and technological advancements make it possible to lower the level of hazard of more substances using technological developments (e.g. phlegmatisation by coating).

4. Rather than dealing with requests for the assignment of SP223 on a substance-by-substance basis, it may be worthwhile looking for a more general approach, which is already followed in some modal regulations.

5. It is therefore proposed to amend the UN Model Regulations by adding a general statement of classification to section 2.0.1 deleting references to SP223 in column 6 of the Dangerous Goods List in Chapter 3.2, and removing SP223 from section 3.3.1.

Proposal

6. Amendments to Chapter 2.0:

(a) Insert a new paragraph 2.0.1.6:

"2.0.1.6 Substances identified by name in the Dangerous Goods List in Chapter 3.2, however, are not subject to these Regulations if there is scientific evidence (e.g. results of tests) that their hazard characteristics are such that they do not meet the criteria of any class and if there is no other reason (e.g. human experience, as required by SP279) to use the assigned classification.";

(b) Renumber current paragraph 2.0.1.6 as 2.0.1.7;

(c) Amend the end of the second sentence of 2.0.2.2 to read as follows (new text is underlined):

"Where an article or substance is specifically listed by name, it shall be identified in transport by the proper shipping name in the Dangerous Goods List unless 2.0.1.6 is applicable.".

7. Amendments to Chapter 3.1:

Amend the end of the first sentence of 3.1.1.2 to read as follows (new text is underlined):

"Where a substance or article is specifically listed by name in the Dangerous Goods List, it shall be transported in accordance with the provisions in the List which are appropriate for that substance or article, unless 2.0.1.6 is applicable.".

8. Amendments to Chapter 3.2, Dangerous Goods List:

Delete "223" in column (6) from all entries.

Justification

9. Rather than dealing with requests for the assignment of SP223 on a substance-by-substance basis, it may be worthwhile to adopt a more general approach, which is already applied in some modal regulations.

10. For example, **RID/ADR/ADN** regulations do not make use of SP223 but have a general provision (see 2.1.2.5) that is similar to SP223 and applicable to all substances in Table A of the Dangerous Goods List:

"2.1.2.5 On the basis of the test procedures of Chapter 2.3 and the criteria set out in sub-sections 2.2.x.1 of classes when it is so specified, it may be determined that a substance, solution or mixture of a certain class, mentioned by name in Table A of Chapter 3.2, does not meet the criteria of that class. In such a case, the substance, solution or mixture is deemed not to belong to that class."

11. **US DOT Regulations CFR 49** also have a general provision allowing substances to be non-regulated as follows:

"§ 172.101 (c) (12)(iv) If it is specifically determined that a material is not a forbidden material and does not meet the definition of any hazard class, the material is not a hazardous material."

12. It is therefore proposed to harmonize the UN Model Regulations to these modal regulations, which have actually not caused any difficulties.

13. Such a general provision as proposed remains obviously restricted by special provisions, assigned to a particular substance e.g. SP279 which provides for the classification of substances on the basis of human experience rather than the strict application of classification criteria set out in the Regulations.

14. Harmonization between the UN Model Regulations (and also the modal regulations for transport by sea and air, which follow the UN Model Regulations) and the regulations for road/rail transport will take into account technological and scientific developments more adequately and will remove unnecessary obstacles for intermodal transport.

15. This proposal will eliminate disparity in classifying substances, which are considered as non dangerous goods for transport by road and rail but which have to be considered as dangerous goods for sea- and air shipments although this is not justified.

16. It should be noted in this respect that US DOT Regulation CFR 49 § 171.2 [i], in context with § 172.101 (c) (12), does not even permit the transport of substances classified, marked, labelled and placarded as dangerous goods when such substances actually do not meet the definition of dangerous goods.

17. The international chemical industry is therefore of the opinion that the proposed changes are an important step towards harmonisation (in this case "bottom-up") of the dangerous goods regulations, without jeopardising safety.
