

SUB-COMMITTEE ON DANGEROUS  
GOODS, SOLID CARGOES AND  
CONTAINERS  
18th session  
Agenda item 7

DSC 18/7/12  
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**DEVELOPMENT OF AMENDMENTS TO THE IMDG CODE AND SUPPLEMENTS,  
INCLUDING HARMONIZATION WITH THE UNITED NATIONS  
RECOMMENDATIONS ON THE TRANSPORT  
OF DANGEROUS GOODS**

**Non-declared and misdeclared dangerous goods**

**Submitted by ICS**

**SUMMARY**

*Executive summary:* This document comments on the report of the E&T Group with respect to the issue of misdeclared and non-declared dangerous goods, and recommends amendments to MSC.1/Circ.1442 in order to improve the ability of States and industry to address the problem worldwide

*Strategic direction:* 5.2

*High-level action:* 5.2.3

*Planned output:* 5.2.3.4

*Action to be taken:* Paragraph 10

*Related documents:* DSC 17/3/13 and DSC 18/7/1

**Introduction**

1 This document is submitted in accordance with paragraph 6.12.15 of the *Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.4/Rev.2), and provides comments on document DSC 18/7/1 (Secretariat).

2 In considering the proposals of ICS and BIMCO in document DSC 17/3/13, the Sub-Committee recognized that problems existed with respect to the misdeclaration and non-declaration of dangerous goods, and forwarded the document to E&T for consideration. This document, noting these developments, seeks to further explore the acknowledged problem of the misdeclaration and non-declaration of dangerous goods, and proposed solutions through the mechanisms available to the Organization.

### Existing provisions and guidance

3 E&T 19, in considering the industry proposals, identified 1.1.1.8 of the IMDG Code and MSC.1/Circ.1442 as relevant existing measures which addressed the issue and which are essentially linked – with the circular providing the mechanism by which the terms of the provision can be enacted.

4 Theoretically, the application of the recommendations of MSC.1/Circ.1442 and subsequent compliance with 1.1.1.8 of the Code should ensure the identification and rectification of non-compliances concerning misdeclaration and non-declaration. However, there are shortfalls and discrepancies in each, suggesting that they do not overlap sufficiently to ensure a coherent and targeted response by competent authorities throughout the supply chain such that persistent offenders are identified and dealt with.

5 Whilst the intent of provision 1.1.1.8 is fully endorsed, it is felt that there are certain aspects of the provision which may impede its consistent application worldwide, in particular the lack of definition for believing that a non-compliance threatens the safety of transportation, and what constitutes serious and repeated infringements. Furthermore, the requirement to notify the competent authority of the State in which the non-compliant enterprise is domiciled is discretionary, and at present there is no supporting guidance on the circumstances under which such reporting would be advisable. Given the variety of different modes in the supply chain and the numerous State authorities that can be involved in its regulation, the ability to identify what the competent authority might be in any given circumstance may also present difficulties in the consistent and effective application of the provision.

6 MSC.1/Circ.1442 also contains a number of elements that appear to undermine effective implementation of the guidelines and associated provisions of the Code. The sections of the guidance on deficiency reports make no recommendations on subsequent analysis or action that would connect the reporting mechanism to the requirements of 1.1.1.8 of the Code, and the document generally lacks recommendations for communication between competent authorities. This undermines the likelihood of transgressors under the jurisdiction of another State being dealt with appropriately. It is also questionable whether the detail of information generated by the reporting system outlined in annex 2 to the circular is sufficient to identify specific problems such as misdeclaration of dangerous goods and to ensure that a clear picture of the root causes of non-compliances are available to the Organization.

7 The fundamental problem with the current provisions and guidance is that they provide no means by which to address the issue of misdeclared dangerous goods consistently worldwide. No mechanism is provided to effectively centralize reporting by States, nor is there a global oversight of communication between competent authorities to assist in identifying solutions to misdeclarations, whether they are caused by ignorance or outright criminality. At present, there is an awareness of the problem and its impact on the safety of the transport chain, but few means available to assess and resolve the problem coherently on a global scale.

## Proposals

8 In light of the above, the following proposals are made with a view to strengthening existing provisions and guidance, as well as encouraging other means to combat the problem of misdeclared and non-declared dangerous goods:

- .1 revise MSC.1/Circ.1442 to include guidance on Competent Authority to Competent Authority communication in line with the provisions of 1.1.1.8 of the Code;
- .2 increase the detail of the reporting form in annex 2 to MSC.1/Circ.1442 to include further information on incident types and follow-up action including State to State communication;
- .3 include a single contact point for State Competent Authorities on dangerous goods issues on GISIS; and
- .4 develop a GISIS module for the collation of reports submitted in accordance with MSC.1/Circ.1442.

9 Furthermore, consideration should be given to other possible measures to improve the application of the Code in general and to increase control of the misdeclaration and non-declaration of dangerous goods. In particular, States should be encouraged to undertake inspections in line with MSC.1/Circ.1442 prior to the loading of a container on board ship, ideally at source, in order to apply pressure to comply with the provisions of the Code and minimize risks presented by such cargoes throughout the supply chain. Similarly, States should be invited to consider measures to include consignees scheduled to receive goods found to be misdeclared within the relevant legislation in order to discourage malpractice and non-compliance with the Code.

## Action requested of the Sub-Committee

10 The Sub-Committee is invited to note the information provided and take action, as appropriate.

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