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Ref. T3/1.01

MSC/Circ.1075
May 2003

GRANTING EXEMPTIONS FROM THE PROVISIONS OF THE INTERNATIONAL MARITIME DANGEROUS GOODS (IMDG) CODE

1 The Maritime Safety Committee (MSC), at its seventy-sixth session, in considering the issue of granting exemptions from the requirements of the IMDG Code under the existing provisions for competent authority approvals set forth in chapter 7.9 of that Code, recalled that MSC 75, having considered the matter at some length, had decided to refer the issue to the Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC) for detailed consideration and advice to MSC 76.

2 MSC 76, having been advised on the outcome of DSC 7 on draft amendments to chapter 7.9 of the IMDG Code and recognizing that there indeed was a compelling need to clarify the issue of granting exemptions before the envisaged 2004 amendments to the mandatory IMDG Code enter into force on 1 January 2006, requested the DSC Editorial and Technical Group to prepare, at its session in March 2003, an appropriate MSC circular, which should be based on the draft amendment to chapter 7.9 that had been agreed to, in principle, by DSC 7, for submission to MSC 77 for consideration with a view to approval.

3 The Maritime Safety Committee, at its seventy-seventh session (28 May to 6 June 2003), agreed that the unified interpretation set forth in the annexed circular contained appropriate guidance for the competent authorities acting in accordance with chapter 7.9 of the Code when granting exemptions not specifically covered under the approvals, permits, certificates and other authorizations already provided for by the provisions of chapter 7.9.

4 Member Governments are invited to use the annexed unified interpretation as guidance when applying the IMDG Code, 2002 edition, and to bring it to the attention of shipowners, shipmasters, shippers and other parties concerned.

ANNEX**UNIFIED INTERPRETATION OF CHAPTER 7.9 OF THE INTERNATIONAL MARITIME DANGEROUS GOODS (IMDG) CODE*, 2002 EDITION****Part A**

1 Where the IMDG Code requires that a particular provision for the transport of dangerous goods shall be complied with, a competent authority or competent authorities (port State of departure, port State of arrival or flag State) may authorize any other provision by granting exemption if satisfied that such an exemption provision is at least as effective and safe as that required by the IMDG Code.

2 Acceptance of an exemption authorized under this part by a competent authority not party to it is subject to the discretion of that competent authority. Accordingly, prior to any shipment covered by the exemption, the recipient of the exemption shall notify other competent authorities concerned.

3 A competent authority or competent authorities which have taken the initiative with respect to the exemption:

- .1 shall send a copy of such exemption to the International Maritime Organization which shall bring it to the attention of SOLAS Contracting Governments and/or MARPOL Parties, as appropriate; and
- .2 if appropriate, take action to amend the IMDG Code to include the provisions covered by the exemption.

4 The period of validity of the exemption shall be not more than five years from the date of authorization. An exemption not covered under paragraph 3.2 may be renewed in accordance with the provisions of part A.

5 A copy of the exemption shall accompany each consignment when offered to the carrier for transport under the terms of the exemption. A copy of the exemption or an electronic copy thereof shall be maintained on board all ships transporting dangerous goods to which exemptions have been granted.

6 Part A does not apply:

- to exemptions mentioned in chapters 1 to 7.8 of the IMDG Code (e.g. exemptions for limited quantities in 3.4.7 of the IMDG Code);
- to approvals (including permits, authorizations or agreements) and certificates which are referred to in part B of this annex; and
- to class 7. For consignments of radioactive material for which conformity with any provision of the IMDG Code applicable to class 7 is impracticable, refer to 1.1.3.4 of the IMDG Code.

* As adopted by resolution MSC.122(75)

Part B

1 Approvals, including permits, authorizations or agreements, and certificates referred to in chapters 1 to 7.8 of the IMDG 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 as in 4.1.3.7 of the IMDG Code, certificates for portable tanks as in 6.7.2.18.1 of the IMDG Code or approvals for segregation as in 7.2.2.3 of the IMDG Code) shall be recognized as appropriate:

- .1 by other SOLAS Contracting Governments 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 MARPOL Parties, 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 73/78, Annex III), as amended.
