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Australian Maritime Safety Authority
Matt Johnston
MANAGER | ENVIRONMENT AND STRATEGY
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15 March 2022

Dear Mr Johnston,

SUB-COMMITTEE ON POLLUTION PREVENTION AND RESPONSE, 9th session, Agenda item 15
Proposed amendments to the criteria for the identification of harmful substances in package form – Classification of plastic pellets

Chemistry Australia is the peak national body representing the chemistry industry. Chemistry Australia members include chemicals manufacturers, importers and distributors, logistics and supply chain partners, raw material suppliers, plastics fabricators and compounders, recyclers, and service providers to the sector and the chemistry and chemical engineering schools of a number of Australian universities.

Australia's entire society – businesses, consumers and governments – along with its natural environment receive enormous benefits associated with the safe, responsible and sustainable use of industrial chemicals. By supplying 108 of 114 Australian industry sectors, chemistry assists Australia to respond and address global challenges of protecting the environment, ensuring a safe and sustainable food supply and improving standards of living in Australia and elsewhere.

Chemistry Australia welcomes the opportunity to provide comments to AMSA on the various proposal to classify plastic pallets as hazardous. Plastics pellets are an essential starting block that inspire countless innovations that help make life better, healthier and safer every day. **Chemistry Australia and its members are committed to ending plastic pollution** – investing in industry programs, such as, Operation Clean Sweep and directly within our plastic circular economy.

However, Chemistry Australia does not support the proposal to classify plastic pellets as marine pollutants. As Australia, and the rest of the world emerge from the pandemic crisis and we look to the future, this is an opportunity to learn from the crisis and build a more robust society and economy that not only aids our recovery, but which shapes a more resilient Australia for the future. This submission outlines our concerns with the proposal, as this would increase supply chain disruptions, increase costs of resin, hurt consumers and our competitiveness, and could drive perverse outcomes in enhancing plastic pollution risks.

For more information or if we can assist this inquiry any further, please don't hesitate to contact me on 03 9611 5417 or by email at nzovko@chemistryaustralia.org.au

Yours sincerely,

Nick Zovko
Regulatory Policy and Stewardship Manager
Chemistry Australia

Marine pollutant classification of plastic pellets for sea transportation

Chemistry Australia does not support the proposal in classifying plastic pellets as marine pollutants. Resolving the underlying cause of the problem is critical for establishing effective and efficient regulation to manage risks. Poor laws can create inefficiencies, market instability and drive irrational market behaviours. Our concerns with the proposal are expressed below, both from a global, and an Australian context:

The proposal fails to address the primary or underlying risk of container loss.

The proposal does not futureproof container loss, which is the primary risk pathway to marine pollution. Any container loss can have adverse impacts to the environment, not just plastic pellets. We consider improvements should be explored through various available programs to help mitigate against container loss and support improved recovery when it does occur, through such programs, as the international shipping voluntary Code of Practice for Packing of Cargo Transport Units and/or through the industry program - Operation Clean Sweep*. The causes of many maritime accidents, such as the loss of the MV X-Press Pearl, are complex, compounding and not prevented by classification of pellets for transport.

***Operation clean sweep** is a program designed to help the plastics and logistics industries reduce the loss of plastic pellets from all parts of the plastic value-chain into the environment. The programs goal is to help every plastic resin pellet handling operation implement good housekeeping and pellet containment practices to work towards achieving zero pallet loss.

Plastics pellets are not classifiable, as a marine pollutant.

Plastic pellets are not classifiable as marine pollutants under the acute and chronic toxicity criteria within MARPOL Annex III. Plastic pellets are not water soluble and as such are not immediately hazardous in an aqueous environment based on their chemical properties. Whilst negative impacts arising from the physical properties of pellets have been reported, and are acknowledged, there is no provision in the GHS to classify an article based exclusively on its physical properties. The direct assignment of transport classification for pellets would be a precedent.

Furthermore, whilst pellets can contain additives that are classified as hazardous, these additives are typically present below GHS thresholds for mixture classification. Furthermore, many of these additives, especially those approved for food contact, have gone through migration evaluations and have been deemed to be safe due to their acceptably low migration potential.

Chemistry Australia considers that the proposed direct categorisation classification lacks sound scientific justification. Applying this general principal basis, one could argue that any loss, of many other types of cargo at sea, could also be equally considered as marine pollutants. A dangerous goods classification is to ensure substances that exhibit certain immediate high-risk properties are managed safely to mitigate against various risk to support safe transportation. Skewing the inclusion of non-dangerous goods into the dangerous goods criteria would degrade the purpose and intent of the criteria which could drive perverse outcomes with handling.

It would increase our supply disruption and vulnerability with plastics in Australia

Plastics are considered by the government as one of the seven priority supply chains that are critical for our security, economic policy and national resilience. In Australia, plastic pellets are already considered vulnerable as they are imported from a concentrated and limited supply source[1]. A marine pollutant classification would further exacerbate our supply problems as this would decrease the cargo space

[1] Productivity Commission Interim Report on vulnerable supply chains, March 2021

availability. These goods would now be considered dangerous goods under IMDG and they would be competing for the limited cargo space on ships due to segregation and stowage requirements imposed. This increase in supply disruption would undermine the governments priorities and our national sovereignty to support local critical capabilities, such as, food production.

It could decrease plastic capabilities of smaller markets and drive increased transboundary movement of plastics.

A marine pollutant/ dangerous goods classification would impose significant costs with plastic pellet transportation. The proposal indirectly drives a more favourable bias towards finished article supply from larger competitive markets. This increase in cost could unhinge the current plastic supply chains, erode our local competitiveness, and reduce our local plastic capability in Australia.

> According to Logistics Bureau (2020), production in China results in significant savings:
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> *With significant reductions in labour and capital investment expenditure, production costs can be slashed by some 20 to 40 percent, and for labour-intensive products, up to 50 percent and beyond. The main reason for these savings is the availability of cheaper labour — manufacturing labour costs in China average US$5.5 per hour against the Australian average of US$15 per hour.*
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> *An added factor is that Chinese companies produce in bulk for global consumer markets and therefore import raw materials, e.g. plastics and resins, in quantities so vast that they attract significant discounts from suppliers.*

A reduction in our plastic capability, would limit our local recycling capabilities. As such, this would drive increased transboundary movement of plastic to a more global circular economy, away from a local capability, thus increasing the magnitude of plastic exposure risks to the marine environment.

Classifying plastic pellets would create technical complexities and increased burdens with dangerous goods management between different transport modes.

In Australia, it is illegal to mark packages as dangerous goods under Road and Rail, when goods are not classified as such. This classification for sea, would create compliance complexities and confusion for both the regulator and industry - with industry workarounds needing to be applied to satisfy the Road and Rail requirements, while trying to satisfy the Class 9 under IMDG. These workarounds would apply a significant cost to industry. Refer to our case study below as an example of the competitive loss on Australian industry where the IBC labelling deviates between modal codes.

Case Study:
Cost impact to the chemical industry when the labelling requirements of the ADG code for Road and Rail deviates against other international modal codes.

Background
Chemistry Australia conducted a survey and analysis[2] on the impact on industry with the uniquely Australian requirement for Intermediate Bulk Containers (IBCs) labelling. In Australia, IBCs are required to be labelled with the Emergency Information Panels (EIPs) under our ADG code for road and rail. These provisions deviate from international practices, both with our major trading partners (such as the EU, USA, China, NZ) and with other international modal codes, such as the International Maritime Dangerous Goods Code (IMDG).

Estimated cost to the chemical industry in relabelling one type of package (IBCs) = $(AUD) 96M

[2] www.chemistryaustralia.org.au/Library/PageContentVersionAttachment/f05888e3-1dea-4d38-8322-d12d55881539/19_07_22_chemistry_australia___eip_data_analysis_.pdf

IMDG Code addresses normal operations, not unforeseen event

The IMDG code is intended to address foreseen operations and not unforeseen events. The changes in packaging and labelling requirements would apply a significant burden with little benefit in mitigating pallet loss - as accidental pellet release is due to unforeseen circumstances.

The proposal directs states to adopt the HNS Convention.

Australia has a negative trade balance, which means we import more than we export, therefore the impact of this proposal on Australia would be far more reaching, when compared to other trade positive economies. The HNS convention would apply to a significant number of traded substances, beyond the proposed scope of plastic. Chemistry Australia has always been concerned with the Australian ratification of the Convention, and in particular, the cost imposts on our industry and economy. Chemistry Australia recognises the need to show leadership and take account of its products in the unlikely event of an incident. We are committed to ensuring prevention of HNS incidents at sea through appropriate dealings with shipping companies and we are committed to a strong product stewardship approach to our products. We are committed to the principle of “polluter pays”, however the HNS fails to deliver on this principle - as costs are appropriated on receivers.

In Australia, the HNS convention was previously reviewed through the Joint Standing Committee on Treaties (JSCOT) and the convention was withdrawn due to commerce concerns. Chemistry Australia considers that any intention to ratify the convention would need to be stewarded through our robust treaty making process, prior to any commitment.

Final Remarks

In our submission, we have outlined a number of concerns and why it is not in our national interest to support the proposal. In terms of the Australian Position, Chemistry Australia would greatly appreciate if the department could keep us up to date on any final position, prior to the International Maritime Organization’s Sub-Committee on Pollution Prevention and Response (PPR 9) that is being held from 4 – 8 April 2022. We would also welcome any further dialogue to support the Australian position.