

28 July 2017

Freight and Supply Chain Inquiry
Department of Infrastructure and Regional Development
GPO Box 594
CANBERRA CITY ACT 2601
Email: freightstrategy@infrastructure.gov.au

Dear Sir/Madam,

Discussion Paper for the *Inquiry into National Freight and Supply Chain Priorities*

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.

The chemistry industry is the second largest manufacturing sector in Australia. Our industry employs more than 60,000 people, with every job also creating five more in related supply chains. The industry contributes \$11.6 billion to gross domestic product, and supplies inputs to 109 of Australia's 111 industries.

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 109 of 111 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 strongly welcomes the opportunity to provide comment on the discussion paper. Australian businesses face excessive regulatory burdens beyond international practices with the transportation of dangerous goods by road and rail, which puts the economy at a competitive disadvantage.

This submission makes specific recommendations on the current dangerous goods practices, that will, if accepted and accommodated, would ensure improved productivity performance, while maintaining a balanced regulatory environment.

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 Manager
Chemistry Australia



Australia's reduced competitiveness with the Transportation of Dangerous Goods laws by Road and Rail

Logistical supply chains are complex and can involve multiple countries and different intermodal vehicles through a products lifecycle. Having consistent communication, such as labelling/ marking and other trade parameters which have direct interface with international trade are critical in underpinning seamless movement of goods. The lack of harmonisation of regulations can reduce industry competitiveness and can further frustrate compliance, to the extent that it results in non-compliance.

Chemistry Australia considers that the dangerous goods framework has an underlying complex structure which can lead to poor regulatory decisions and foster deviations from international practices. There is an unbalance within the framework, and an onus on industry to justify the benefit of international alignment, which can often be derailed by unjustified perceived risks without any sound data.

The Australian Dangerous Goods Code for Road and Rail (ADGC) is largely based on the UN Recommendations on the Transport of Dangerous Goods—Model Regulations' (UNMR). The Department of Infrastructure and Regional Development (DIRD) is the Australian representative to ensure our views are expressed at the UN level, along with other international peers and experts to support robust decision-making process for international benefits with safe transportation of dangerous goods and seamless trade. The UNMR is used as the basis for underpinning intermodal dangerous goods codes for sea and air, and are also used by countries, like Australia, to support their road and rail dangerous goods transport codes. However, there are deviations away from the UNMR within our rules of road and rail, which impedes trade and reduces our competitiveness. Refer to appendix 1 as an example – *Chemistry Australia's case study on IBC and the impact of the 'Australianisms' on labelling and marking away from international practices.*

Deviations that have direct impact on international trade are contradictory to DIRD principles and our involvement internationally, which DIRD also notes the following on their website¹ on *International Harmonisation of Dangerous Goods Transport Requirements*;

In order to assist industry through consistency and standardisation of regulation, Australia has been closely involved in international efforts to harmonise the classification and labelling requirements for all dangerous goods. This reduces the conformance burden for industries engaged in the use and transport of dangerous goods and facilitates seamless compliance for importers and exporters.

Chemistry Australia understands that there may be instances to introduce differences on road and rail laws for dangerous goods when risks are objectively viewed with consideration to cost, however elements that directly interface on trade which may impede or reduce our competitiveness must be avoided. Industry is not asking for reduced regulation from international practices, but parity with international obligations on vital elements that share direct interface with international movement of goods to foster seamless trade.

Where is the underlying issue?

Chemistry Australia recognises the efforts by the National Transport Commission (NTC) in terms of reforming the dangerous goods laws, both in terms of industry engagement and improved harmonisation with international laws. However, our dangerous goods transportation rules still have unbalanced rules and the ability to influence competitive improvements is challenged by a fractured framework. Chemistry Australia considers that these challenges are interrelated to both the final approval process and the first influence along the stakeholder approval chain, which leads to an unbalanced framework.

¹ https://infrastructure.gov.au/transport/australia/dangerous/international_harmonisation.aspx

Background on the approval process

The NTC has responsibility with the maintenance of the transport dangerous goods laws for road and rail. Dangerous Goods laws are approved by Ministers on the Transport and Infrastructure Council (the council), where unanimous support is required. The council is advised and assisted by the Transport and Infrastructure Senior Officials' Committee (TISOC).

The recommended amendments to dangerous goods laws are largely decided through the Transport of Dangerous Goods-Maintenance Advisory Group (TDG-MAG) which is stewarded by the NTC. This advisory group is made up of jurisdictional agencies responsible for delegating the legislation, other national agencies, industry and emergency services. To complicate matters further, the responsible jurisdictional members are often not the departments represented on TISOC.

The break-down in the framework

Chemistry Australia considers that outcomes on dangerous goods laws, can be influenced by the need for unanimous support by all ministers, which can unduly influence TDG-MAG positions. That is, any proposal which is not supported by a jurisdictional department within the TDG-MAG, can significantly influence the decision of the NTC policy position taken forward. These governmental departments in the TDG-MAG are usually technical-based representatives who are directly responsible for delegating the laws and are also making very critical policy outcomes on industry. There seems to be a lack of separation of duties to underpin objective discussion within the group on critical policy decisions. Industry concerns can be quickly quashed unfairly and avoid any further policy discussion beyond the confine of the TDG-MAG.

Chemistry Australia is currently an industry member of the TDG-MAG. It needs to be noted that the TDG-MAG does have good underlying principles within its 'term of reference' with decisions to consider the 'Australian Government Guide to Regulation', however we consider that principles are largely influenced by individual perceived risk and not viewed objectively in terms of cost and benefit analysis by good practice regulation.

Enhanced Opportunities

Chemistry Australia would be happy to engage further to explore opportunities to improve the effectiveness of the current framework to restore regulatory balance. Chemistry Australia has provided some suggested opportunities within the current scheme which may improve the effectiveness of the framework, however we are not wedded to this.

Firstly, we consider that there needs to be a change within the mindset of the TDG-MAG, which should have preferential support to adopt the principles of international practices and the onus to deviate, needs to be substantiated by sound factual data. The current mindset is largely opposite by members, which apply the principles of 'why should we adopt the international practices' and 'prove that there will be no increased risk', without consideration of the benefit.

Secondly, where decisions are not favoured by the TDG-MAG, there should be an opportunity to cascade a further independent review on decisions by the advisory group, where the benefit may have not been realised.

Lastly, we do understand that framework is based on model law and unanimous approval by jurisdictions removes potential deviations when implemented by states and territories. However, we consider that the approval process needs to move to a consensus framework in which group members agree to support a decision in the best interest of the whole, even if not the "favoured position" of each jurisdiction. This would underpin a more collective process and minimise the individual bias to underpin a more robust framework.



Conclusion

Is industry frustrated with the Dangerous Goods Rules to Road and Rail? - 'yes'. Are our rules internationally competitive? - 'no'. Does it negatively impact Australian productivity? - 'yes'

Freight transport plays an important role for the chemistry industry and our industry supplies in 109 of 111 Australian industry sectors in supporting our economy. Having unbalanced regulation in transport laws underpins poor productivity throughout the economy. Australian businesses face regulatory burdens that are far too high and they place us at a competitive disadvantage. The regulatory burden with dangerous goods laws requires a policy shift that is proportionate to risk and underpinned by an effective framework to support ongoing international changes.



Appendix 1

Chemistry Australia case study on IBCs and the impact of the 'Australianism' on labelling and marking

1) The problem

In Australia, IBCs and Flexi-IBCs (xIBC) are required to be labelled with the Emergency Information Panels (EIPs) under the ADGC. 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). This is an 'Australianism' and an impediment to trade and reduces our international competitiveness.

2) The impact

The key implications with current labelling laws to industry are the following;

- **Can apply labelling cost of up to \$15-20 per IBC to meet the Australianisms.** The total cost of compliance is variable as the cost of compliance varies depending on the logistical arrangements of the organisation and types of changes required. For instance, in Australia 300,000 tonnes per annum of ammonium nitrate is imported into Australia which is commonly traded in 1 tonne bulk bags - an improved economic benefit of up to \$6 million could be achieved alone on this product, based on worst case.
- **Reduces seamless trade**, as all imported product that are dangerous goods in xIBC will require the Australian receiver to relabel it further if distributed by road and rail:
 - ✓ Australia has small global market share with chemicals trade (<1%), therefore unlikely that external markets will label to Australian EIP requirements with such prominent information or if done by external markets a premium impost will apply.
- **Increases unnecessary risk to Australian workers** to relabel imported products which have no significant improved outcomes. These tasks can involve greater manual handling.
- **Disadvantages our exports and reduces our product desirability with external markets** as it can drive costs to external markets to remove Australian provisions from xIBCs. The EIP requires emergency numbers to be prominently displayed on two sides, such as 000, which have no bearing internationally and can increase risk to other economies with misleading information (NZ emergency number is 111).
- **Not synergistic with the principles and benefits of GHS implementation under workplace laws, which was introduced to improve international trade and safety communication.** EIP takes a sufficient amount of labelling space. The limited space reduces industry ability to meet the demands of multilingual safety information for external markets to improve desirability, compared to other economies.

3) The current roadblock

Industry remains frustrated as this issue remains roadblocked within the TDG-MAG, and the deviation is justified without any sound quantifiable evidence. We consider that the cost benefit is not viewed with risk objectively, and is skewed towards risk alone in decisions by risk managers and first responders within the TDG-MAG. Chemistry Australia acknowledges that there is a degree of reduction on information with international practices from current Australian requirements on labelling (no Hazchem code or emergency number). However, there are other existing controls within the Dangerous Goods rules to mitigate for an acceptable risk, such as outer placarding of vehicles with equivalent information,

emergency documentation requirements and modernisation of other laws. Industry strongly considers that the benefit, significantly outweighs the risk.

4) *The Resolution*

We are seeking parity with international requirements, not reduced obligations from international practices to ensure we can compete evenly internationally. If the risk can be managed appropriately internationally, we are not sure why Australia requires a more burdensome set of rules to mitigate the same risks.

Chemistry Australia considers that alignment with UNMR on xIBCx labelling will ensure Australian competitiveness remains at par with international practices and it will reduce current operational costs and burden to industry, while maintaining an acceptable risk profile.

