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MERCHANT SHIPPING ACT, 2007

MERCHANT SHIPPING (PREVENTION OF POLLUTION BY
HARMFUL SUBSTANCES IN PACKAGED FORM) REGULATIONS, 2002

ARRANGEMENT OF REGULATIONS

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MERCHANT SHIPPING ACT, 2007

MERCHANT SHIPPING (PREVENTION OF POLLUTION BY HARMFUL SUBSTANCES IN PACKAGED FORM) REGULATIONS, 2012

| 1st Day of June, 2012 | Commence-
ment.

In exercise of the powers conferred on me by section 335 (1) and (3) and section 434 of the Merchant Shipping Act, 2007 and all other powers enabling me in that behalf, I, SENATOR
UMAR, Honourable Minister of Transport, make the following Regulations : *

1. These Regulations apply to—

Application.

- (a) Nigerian ships wherever they may be ; and
- (b) other ships while they are in Nigeria.

2. The carriage or stowage in accordance with the provisions of the Carriage of
Regulations, of harmful substances by sea on any ship registered in the State is
prohibited. harmful
substances.

3. The packaging of harmful substances carried by sea shall be adequate to
minimise any hazard to the marine environment, having regard to the particular
nature of such substances. Packaging.

4.—(1) Packages containing—

Marking and
labelling.

- (A) harmful substances which are carried by sea shall be durably marked
with the correct technical and trade name ; or
- (b) labelled to indicate that the substance is a marine pollutant.

(2) The identification referred to in sub-regulation (1) of this regulation
shall where possible, be supplemented by any other means of identification for
example, by use of the relevant United Nations number.

(3) The marking or labelling of packages pursuant to sub-regulations (1)
and (2) of this regulation shall be such as will ensure that, if the package concerned
is immersed in the sea for a period of not less than three months, the name or
other information on the package shall still be identifiable on the package on the
expiration of that period.

(4) The durability of the—

- (a) materials used for the marking or labelling of packages ; and
- (b) surface of the package,

shall be taken into account in deciding the method to be used for the purpose
of such marking or labelling required under this regulation.

(5) This regulation shall not apply to packages containing small quantities
of harmful substances falling within the specific exemptions in that regard
provided for by the International Maritime Dangerous Goods Code as amended
from time to time.

5.—(1) All documents relating to the carriage of harmful substances shall—

- (a) state the correct technical name of each substance ; and
- (b) identify each substance by adding the words "Marine Pollutant".

(2) The shipping documents supplied by a shipper shall be accompanied by a signed certificate or declaration stating that the shipment offered for carriage is—

- (a) properly packaged and marked or labelled ; and
- (b) in proper condition for carriage to minimise any hazard to the marine environment.

(3) Each ship carrying harmful substances shall have either of the following documents—

- (a) a special list or manifest stating the harmful substances on board and their location ; or
- (b) a detailed stowage plan setting out the location of the harmful substances on board.

(4) A copy of either of the documents referred to in sub-regulation (3) of this regulation shall be—

- (a) retained on shore by the owner of the ship or his representative until the harmful substances concerned are unloaded ;
- (b) made available before departure of the ship to a person designated by the port authority or other persons having control of the harbour or terminal concerned.

(5) Where a ship carries a special list or manifest or a detailed stowage plan required by the International Convention for the Safety of Life at Sea for the Carriage of Dangerous Goods 1974 (as amended), the documents required by this regulation may be combined with those for such goods and a clear distinction shall be made in the documents between the dangerous goods concerned and the harmful substances to which these Regulations apply.

(6) Anything required to be stated or set forth by this regulation may be stated or set forth by any means of electronic data processing or electronic data interchange that is capable of reproducing information in legible form.

Stowage.

6. Harmful substances shall be properly stowed and secured so as to minimise hazards to the marine environment without impairing the safety of the ship and persons on board.

Exceptions.

7.—(1) Je (1) on the carriage of harmful substances in packing or in bulk is prohibited except where it is necessary, for the purpose of securing the safety of the ship or saving life at sea.

(2) Subject to the provisions of these Regulations, appropriate measures based on the physical, chemical and biological properties of the harmful substance

concerned shall be taken to regulate the washing of leakages overboard but no such measures shall be taken that would impair the safety of the ship and persons on board.

8.—(1) A ship that is registered in another State that is a party to the MARPOL Convention may, when it is in a Nigerian port, be inspected by a duly authorised officer of the Agency, if the officer has clear grounds for believing that the master or crew are not familiar with shipboard procedures relating to the prevention of pollution by harmful substances under these Regulations.

Control by the State of a ship in a port on operational requirement.

(2) Where, consequent upon an inspection of a ship by an officer under sub-regulation (1) of this regulation, the officer confirms that the master or crew are not familiar with the procedures referred to in that sub-regulation, the Agency shall take such steps as will ensure that the ship shall not sail from the port until the time the master or crew or, as the case may be, both the master and crew have become familiar with those procedures.

(3) The procedures specified in Article 5 of the MARPOL Convention shall as are appropriate apply, with any necessary modifications, for the purpose of this regulation.

(4) Nothing in this regulation shall operate to derogate from the powers and duties of the Minister or any other person under the Merchant Shipping Act or Regulations made pursuant to that Act.

9. A person who commits an offence under these Regulations shall be liable on conviction to a fine of not less than ten million naira for each individual violation.

Penalties.

10.—(1) In these Regulations—

Interpretation.

“Agency” means Nigerian Maritime Administration and Safety Agency ;

“harmful substances” means those substances which are identified as marine pollutants in the International Maritime Dangerous Goods Code as amended for the time being ;

“the MARPOL Convention” means the International Convention for the Prevention of Pollution from Ships, 1973 as amended by the 1978 Protocol thereto ;

“the Minister” means the Minister responsible for transport;

“packaged form” means any of the forms of containment specified for harmful substances in the International Maritime Dangerous Goods Code as amended from time to time.

(2) For the purposes of the definition of “harmful substances” in these Regulations, the Appendix to Annex III of the MARPOL Convention as set out in the Schedule to these Regulations shall have effect.

(3) For the purposes of these Regulations, empty packaging which has been used previously for the carriage of harmful substances shall themselves be treated as harmful substances unless adequate precautions have been taken to ensure that they contain no residue that is harmful to the marine environment.

(4) The requirements of these Regulations do not apply to ships, ships' equipment.

Citation.

11. These Regulations may be cited as the Merchant Shipping (Harmful Substances in Packaged Form) Regulations, 2012.

SCHEDULE

TEXT OF APPENDIX TO ANNEX III OF THE MARPOL CONVENTION GUIDELINES FOR THE IDENTIFICATION OF HARMFUL SUBSTANCES IN PACKAGED FORM

For the purposes of this Annex, substances identified by any one of the following criteria are harmful substances :

- bio-accumulated to a significant extent and known to produce a hazard to aquatic life or to human health (hazard rating "+" in column A*); or
- bio-accumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one week or less (hazard rating "Z" in column A); or
- liable to produce tainting of Seafood (hazard rating "T" in column A*); or
- highly toxic to aquatic life, defined by a LC50/96 hour less than 1 ppm (hazard rating "4" in column B*).

The concentration of a substance which will, within the specified time (generally 96 hours), kill 50% of the exposed group of test organisms. LC50 is often specified in mg/l (parts per million (ppm)).

MADE at Abuja this 1st day of June, 2012.

SENATOR IDRIS UMAR,
Honourable Minister of Transport.

EXPLANATORY NOTE

(This note does not form part of the above Regulations but is intended to explain their purport)

These Regulations give effect in Nigeria to MARPOL Annex III which apply mainly to container carriers and other carriers of relevant cargo with condescend on strong packing and identification requirements including marking and labelling, documentation and stowage, to ensure effective handling of relevant harmful substances.