

INLAND TRANSPORT COMMITTEE

Working Party on the Transport of Dangerous Goods

Joint Meeting of the RID Committee of Experts and the
Working Party on the Transport of Dangerous Goods

Geneva, 22-26 March 2009

Item 7 of the agenda

UNLOADER

Agenda Item 7: Reports of informal Working Groups

Report of the Unloader Working Group

Submitted by the Government of Spain on behalf of the Working Group

Introduction

The Unloader Working Group (WG) met outside the plenary sessions of the Joint Meeting under the chairmanship of Ms. Lia Calleja. The WG was tasked by the Plenary Meeting to:

- To identify possible obligations of enterprises responsible for unloading and to clarify the respective roles of the different participants;
- To explore, as an alternative solution, the possibility of clarifying the role of the consignee and the procedure which the consignee should follow in using the services of subcontractors (in the context of 1.4.2.3.2);
- To consider the problems created by each of the proposals put forward, such as the imposition on the participants of new obligations which they were unable to meet;
- To consider the idea that the unloaders' obligations could be shared by a number of participants;
- To consider the issue in the specific context of each mode of transport (rail, road, inland navigation);
- To submit a report and recommendations to the Joint Meeting.

Attendants

Representatives of the following delegations attended to the meeting held on February 18th to 20th: Austria, Belgium, Bulgaria, Germany, Romania, Spain, Syria and United Kingdom. Representatives of Industry also attended the meeting: ICCTA (International Council of Chemical Trade Associations) and IRU (International Road Transport Union).

Report of the Working Group on Unloader

The working method established by the Working Group was to work on the proposal presented by Spain in the Joint meeting held in Bern in 2008. It was agreed to keep as a reminder the comments contained in INF. 21, INF. 24 of the same meeting and INF 27 of 2007's meeting. Also, it was agreed to keep in mind all comments presented by France as we worked on developing the document to present to the Joint Meeting.

As a clarification, before starting discussions, ICCTA made a presentation of the different persons or enterprises involved in the unloading of goods, using pictograms for a better understanding.

There was a discussion about the possibility of having the consignee assume the unloader's responsibilities instead of creating a new figure, as it is reflected at the end of the French document. In this context, it was said that those duties that cannot be assumed by the consignee should be assigned to the other figures. Due to the difficulties encountered in determining exactly who is in charge of what duty at every point in time, it was decided to work on the definition of unloader, that includes duties which, if necessary, may be assumed by other participants. This will be kept as general as possible to enable each country to later adjust it in detail to their own legal framework.

Concerning CIM (art.13) which, as the French proposal establishes a differentiation between transport by rail and road, it is noted that there is a similar regulation, CMR, for road transport. After checking this regulation, it is agreed that there is no differentiation between both modes of transport.

It was agreed that other participants may assume the role of unloader at any point in time by assuming the unloader's duties, the unloader's duties will correspond to whoever is, at that specific moment, performing that role, so it could be a carrier, a consignee, etc. The WG decided that this would be clearer if explained in a note at the end of the definition and, since it is applicable to all participants, it was decided to propose that the Joint Meeting consider the possibility of adding a general note applicable to all participants under chapter 1.4, to avoid problems, the text should be something similar to what could be said for the unloader, i.e., "the unloader may be one of several entities that are already defined by the ADR", modified so that it can be applied to all participants.

It was considered important to distinguish between responsibilities and duties, that is, between who is responsible for what has to be done and who is responsible for doing it.

The Group began by reviewing the definition of unloader, given the fact that there could be several kinds of unloaders. At the end, it was divided into three paragraphs to reflect the different cases that might arise. Some editorial modifications were also made to the text of the proposal. With regard to the IBCs, it was agreed by the majority not to mention them specifically in the definition, since there are no provisions in the ADR/RID on the process of discharging IBCs direct from the means of transport, so it cannot be included in the definition if not regulated under the ADR/RID.

While developing the definition of the unloader, the WG identified difficulties for the loader and the filler because the existing obligations are not comprehensive. This WG also wants to highlight the problem relating the discharge of the IBCs.

Having agreed on the definition the working group worked on the unloader's functions. Regarding the first function, the group agreed that the definition meant for the unloader to unload the proper goods, making use of the reasonable means available, and should be limited to identifying the merchandise by checking it against the marks and transport documents. There was a discussion regarding how to express this most clearly. A text was finally proposed that was agreeable to all Group members (see proposal to see text).

The second function was less problematic. It was decided to eliminate the word 'emergency' and leave 'appropriate measures'(see text).

A change was made in the function described under letter c, to denote that there are other provisions in the ADR/RID that could also be applicable to this figure. The decision was not to add the term "stowage", since none of the participants were responsible for it, and it would be left as a task performed exclusively by the unloader (see text).

The function formerly included under section f) (previously assigned to the consignee) was moved to d). While the participants agreed that the function should exist, how to distinguish between this function for road and rail posed a problem for the group. Therefore, one text was proposed for the ADR, and another for the RID, set off in square brackets, for the Joint Meeting to decide (see text). There was agreement that the purpose was, to ensure that once there is no longer any dangerous merchandise, there should be no markings that create confusion.

The Group detected a difference between the RID and ADR texts that it wishes to point out to the Joint Meeting. The meaning of section 1.4.2.2.1f) is different in the RID and ADR. Upon checking the texts in English, French and German versions, the group detected differences in the German version. It was decided that the experts at the Joint Meeting should determine which text is the correct one and which language is the original and solve the problem.

Regarding the function included in section (e), it was agreed to keep the text as is (see proposal).

In section (f), it was agreed that the meaning of this function (previously assigned to the consignee) given to the unloader is to check that cleaning is performed, but not to do the job personally. This way, the Group try to develop a text that express that meaning, introducing "will be" and "ensure" (see text). The majority of the group agrees to this text and to this meaning, even if there is a minority who opposes to it.

After having agreed on the definition and duties of the unloader, the WG worked on the text left for the consignee. Because the aim of this WG is not to decide on new obligations for the consignee, it is agreed to remove only those duties assigned now to the unloader from 1.4.2.3, and leave the text as it is for RID and ADR, adapting it editorially so that it made sense in the ADR. It is agreed that is not our task to harmonize texts in ADR and RID, this should be,

if necessary, done by the Joint Meeting. That explains why there is a text for RID and another for ADR in the proposal. (see proposal).

With regard to the French comments on the proposal, the WG believes paragraphs 3.a) and 3.b) are already answered throughout the report. With regards to 3.c), the duty concerning cleaning has been modified, the unloader now doesn't have to perform the cleaning. The group believes that text proposed by France saying: "if unloading (...) procedure in 1.4.1.2" is a responsibility that is not for the unloader but for other participants. The terms agreed for the Working Group don't allow us to give responsibilities to parties other than the unloader. Perhaps the French delegation may want to submit a proposal in this regard.

Finally, the WG thanked the Government of Spain for the excellent arrangements made for the hosting of the meeting.

Proposal

- (a) Add a new definition in paragraph 1.2.1:

““Unloader” means any enterprise which:

- (a) removes a container, bulk-container, tank-container or portable tank from a vehicle/wagon; or
- (b) unloads packaged dangerous goods, small containers or portable tanks out of or from a vehicle/wagon or a container; or
- (c) discharges dangerous goods from a tank (tank-vehicle/wagon, demountable tank, portable tank or tank-container) or from a battery-vehicle, MEMU or MEGC and/or from a vehicle/wagon, large container or small container for carriage in bulk.”

- (b) Add a new Subsection 1.4.3.x:

“1.4.3.x Unloader

1.4.3.x.1 In the context of 1.4.1, the unloader shall in particular:

- (a) ascertain that the correct goods are to be unloaded by comparing the relevant information on the transport document with the package/container/tank/MEMU/MEGC markings;
- (b) before and during unloading or discharging, check whether the packagings, the tank, the vehicle/wagon or container have been damaged to an extent which would endanger the unloading or discharging operation. In these instances, unloading shall not be carried out until appropriate measures have been taken;

- (c) comply with all relevant requirements concerning unloading and discharging;
- (d)

[<ADR only: Ensure that the containers once completely unloaded, cleaned and decontaminated, no longer display danger markings conforming to Chapter 5.3;>

<RID only: Ensure that the wagons and containers once completely unloaded and cleaned, degassed and decontaminated, no longer display placards and orange plates;>]

- (e) immediately following the discharging of the tank, vehicle/wagon or container:
 - remove any dangerous residues which have adhered to the outside of the tank, vehicle/wagon or container during the process of discharging;
 - ensure the closure of valves and inspection openings;
- (f) ensure that the prescribed cleaning and decontamination of the vehicles/wagons or containers will be carried out.

1.4.3.x.2 If the unloader makes use of the services of other participants (cleaner, decontamination facility, etc.) he shall take appropriate measures to ensure that the requirements of RID/ADR have been complied with.”

- (c) Subsection 1.4.2.3 shall read as follows:

<RID only: "1.4.2.3.1 The consignee has the obligation not to defer acceptance of the goods without compelling reasons and to verify, after unloading, that the requirements of RID concerning him have been complied with.

1.4.2.3.2 A wagon or container may only be returned or reused once the requirements of RID concerning the unloading have been complied with.

1.4.2.3.3. If the consignee make use of the services of other participants (unloader, cleaner, decontamination facility, etc) he shall take appropriate measures to ensure that the requirements of 1.4.2.3.1 have been complied with.”>

<ADR only: "1.4.2.3.1 The consignee has the obligation not to defer acceptance of the goods without compelling reasons and to verify, after unloading, that the requirements of ADR concerning him and the unloader have been complied with.

1.4.2.3.2 if, in the case of a container, this verification brings to light an infringement of the requirements of ADR, the consignee shall return the container to the carrier only after the infringement has been remedied.

1.4.2.3.3. If the consignee make use of the services of other participants (unloader, cleaner, decontamination facility, etc) he shall take appropriate measures to ensure that the requirements of ADR have been complied with.”>
