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Interpretation of ADR

Interpretation of the exemption under 1.1.3.1 (a)

Transmitted by the Government of Switzerland¹

Summary

Executive summary: Define the scope of the exemption under 1.1.3.1 (a) for the transport of dangerous goods by private individuals.

1. In relation with the activities of a diving club, we have had to face some questions of interpretation of the exemption under 1.1.3.1 (a) for transport by private individuals. We would like to know the opinion of the Working Party.
2. Under 1.1.3.1 (a), transport by private individuals is exempted when the dangerous goods are intended for their personal or domestic use or for their leisure or sporting activities.
3. The terminology used excludes transport by private individuals of goods that are not for their own personal or domestic use or their own leisure or sporting activities.
4. Thus, private individuals may carry diving tanks for their own personal use, but the exemption does not apply if they transport diving tanks for others.

¹ The present document is submitted in accordance with paragraph 1 (f) of the terms of reference of the Working Party, as contained in document ECE/TRANS/WP.15/190/Add.1, which provides a mandate to “discuss and resolve problems relating to the interpretation and enforcement of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)”.



5. Similarly, private individuals cannot make deliveries of unlimited quantities for a group (for friends, their neighbourhoods, sporting associations or a village) under the exemption provided by 1.1.3.1 (a). There are not quantitative limits in 1.1.3.1 (a); private individuals are thus perfectly able to load an entire truckload of dangerous goods packed for retail sale. The only safeguard against abuse is that they must be able to show that the goods are for their own use.

6. The situation becomes more murky when private individuals carrying dangerous goods for their own use transport other people in their vehicles (such as vans, or even buses), such as friends or members of clubs, who are carrying their own dangerous goods (for example, diving tanks). In such cases, the passengers themselves do not carry out the transport; only the drivers do, and the exemption applies only to the dangerous goods that are carried for their own use. Dangerous goods for the use of the passengers are not covered under 1.1.3.1 (a); the diving tanks that are not for the use of the driver are not exempted under ADR. No passenger, who by definition does not carry out the transport of the dangerous goods, can claim the exemption under 1.1.3.1 (a) when dangerous goods are placed in the vehicle of another person.

7. This case may also apply to carriage of dangerous goods in public transport (such as trams, buses and coaches). In such cases too, the transport apparently is not covered by the exemption under 1.1.3.1 (a), as drivers are not private individuals but transport professionals, and the dangerous goods that they carry are not for their own leisure activities or domestic use.

8. One may conclude that in order to be covered by the exemption under 1.1.3.1 (a), private individuals must carry out the transport themselves.

9. We would like to know the opinion of the other delegations and to know whether these issues are addressed sufficiently clearly in the current texts.
