

## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on the Transport of Dangerous Goods

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Item 5 of the provisional agenda

Work of the RID/ADR/ADN Joint Meeting

### Comments on document INF.12 about Additive devices – transitional provision for ADR 2015

Transmitted by the Government of Switzerland

#### *Summary*

<b>Executive summary:</b>	Keep the approval by the competent authority of the country of use in the transitional provision 1.6.3.44 in ADR 2015
<b>Action to be taken:</b>	Not to adopt proposal of point 4. in INF.12
<b>Reference documents:</b>	INF.25 (Belgium) and INF.53 (Report Tanks Working Group) (RID/ADR/ADN Joint Meeting March 2014)

1. We estimate that if the proposal of item 1. (a) and 4 of the document Inf.12 were adopted the work of the experts in several meetings and the new texts of the special provision 664 (SP664) envisaged in the ADR 2015 will be reduced to nothing for the following reasons:

If one more closely looks at the transitional provision envisaged in point 4 of the document INF.12 this text could completely substitute the common rules adopted in the new SP664. Indeed this text is equivalent to a legalization for all the Contracting Parties to ADR of each practice into force today in each country in the form of approvals granted to tank-vehicles equipped with additive devices. In this sense the text proposed is not a transitional provision which leaves the things as their are, which should be the purpose of a transitional measure, instead it imposes to all the contracting Parts a new set of unknown rules laid down in the national decisions made by the countries of approval of origin of these constructions and no room is left to the authorities of the other countries which did not accept these types of construction. It legalizes a whole series of new construction in the ADR whose contents do not appear in the ADR. This empties of its contents and its sense the SP664.

2. In fact it should be supposed that all the tank-vehicles equipped with additive devices put in circulation to date in all the Contracting Parties of the ADR are in conformity with the approvals issued by the competent authority of those country of approval. There is thus no reason for which a competent authority of those approval-countries will withdraw after 2015 their own approvals of the tank-vehicles even if those are not in conformity with the requirements of the SP664. Considering that those authorities of the country of approval will always admit their own approvals issued at the national level before 2015, there is no reason for those authorities to introduce the new requirements of the DS 664. Their will

simply impose for all the Contracting Parties their constructions, which is the goal of the proposal 4. in INF.12. In fact provisions DS664 do not have any more a justification.

3. The transitional provision in its current form does not change the current situation which should be the goal of any transitional provision. I.e. it allows the countries which already admitted on their territory a certain type of construction not-in conformity to the provisions of the DS664 to continue to do it. It also authorizes the countries which did not yet admit this type of non conforming construction to do it on a case-by-case basis. And it especially allows the countries which do not want to admit these constructions not-in conformity not to admit them on their territory. Proposal 4 of document INF.12 is not a transitional provision because contrary to the adopted transitional provision where each country can decide to admit or not on its territory a certain construction, this new text exclusively removes this decision-making power to the countries of use by leaving this decision to the country which emitted approval in first. It is in fact the introduction and legalization in the ADR for all the Contracting Parts of each construction of additive devices which existed in each country before the ADR 2015 and which have nothing to do with those prescribed in the DS664. If this would have been the goal then the experts who met in several sessions wasted their time and one can give up in fact the requirements of construction of the DS664 for 2015.

4. In addition, in 1) (b) of the document INF.25 of the Joint Meeting, Belgium justifies the need to change to the authority of the country of approval instead of the country of use by the fact that in 664 b) it is required that these additives are in conformity with 6.8.2.3 .4. This justification does not make sense because if the provisions of 6.8.2.3 .4 ADR are fulfilled, those of the DS664 and those of the ADR are also satisfied and no authority should question any more tanks conforming to the ADR. Thus in the case described by Belgium the transitional provision is not applicable due to the fact that the additive device is in conformity with the ADR and there is no need to change the text.

5. Contrary to the explanations provided in the fourth point of item 11. of the Tank Working Group the text added to item 4 in Inf.12 does not say that after the first inspection the devices must be in conformity with SP664. This text says in fact that the authority which made the approval can decide to let continue these devices or not, this even if they are not in conformity. We wonder for what reason an authority would in fact disown itself and suddenly after 2015 will withdraw their own approvals.

6. If one wants that the new DS664 and the transitional provision keep their sense it will only be if the transitional measures in 1.6.3.44 only apply in the case where the DS 664 is not fulfilled and only on behalf of the competent authority of the country of use. We shouldn't change the text already adopted in 1.6.3.44.

Concerning item 1. (c) and 5 of the document, insofar as this knowledge is not required for the safety advisers within 1.8.3.13 it cannot be asked in case of provision 664. The added text is only a clarification of the range of these provisions which seems obvious to us. It can if necessary appear like a Note or a footnote .

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