

Economic Commission for Europe

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

17 September 2018

Geneva, 17-21 September 2018

Item 5 (b) of the provisional agenda

**Proposals for amendments to RID/ADR/ADN:
new proposals**

Use of directives that have ceased to have effect - ECE/TRANS/WP.15/AC.1/2018/24

Submitted by the Government of the Russian Federation

1. The government of the Russian Federation submitted a document ECE/TRANS/WP.15/AC.1/2018/24.
2. Experts of the Legal Department of JSC “Russian Railways” have once again considered in detail paragraphs 36 - 38 of the Report of the Joint Meeting of the RID Committee of Experts and the Working Party on the Transport of Dangerous Goods on its spring 2018 session (12-16 March 2018) document [ECE/TRANS/WP.15/150, pp. 36 - 38] (hereinafter – the 2018 Report) and wish to make the following remarks. The 2018 Report refer to the Joint Meeting of the RID Committee of Experts and the Working Party on the Transport of Dangerous Goods on its spring 2011 session (21-25 March 2011) [Document ECE/TRANS/WP.15/AC.1/122] (hereinafter - the 2011 Report), which establishes the status of annexes to the directives referenced in RID and ADR subsections 4.1.4 and 6.2.4. Paragraph 20 of the 2011 Report states that the reference in RID and ADR section 6.2.4 relate to the annexes to those directives, not to the directives themselves. The report argues that the annexes to those directives were published in the Official Journal of the European Community in 1984, and that even if there was no reason to apply them under the repealed directives, they would still be applicable in the legal framework of RID and ADR.
3. However, neither the 2011 Report of nor the 2018 Report specifies what these annexes represent: they are independent acts adopted and published under a separate procedure, or they are an integral part of these directives.
4. In this case, it is necessary to confirm that the annexes to the abolished directives are independent documents, have their own requisites and were put into effect by a special procedure that creates a legal basis for their application directly without regard to the directives in which they are mentioned.
5. If there are relevant documents with which the annexes were put into effect, references in the text of RID and ADR can be replaced by references to these documents. Otherwise, the fact of cancellation of the directives, in which the annexes are integral parts, entails unconditional cancellation of these annexes.
6. In addition, it should be borne in mind that Directives 84/525/EEC, 84/526/EEC and 84/527/EEC were repealed by directive 2010/35/EC (Strasbourg, 16 June 2010), which

provides for the abolition of the above directives, but also the introduction of new provisions to replace the cancelled ones. Directive 2010/35/EC also contains several annexes.

7. In this regard, we consider it necessary to verify these new annexes for their relation with annexes for revoked directives and consider the possibility of replacing references to inactive directives with references to details of documents that could previously be used for their immediate implementation.
