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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**

Geneva, 17–21 September 2018

Item 5 (b) of the provisional agenda

Proposals for amendments to RID/ADR/ADN:**New proposals****Proposal for an adjustment in Chapter 6.2 of RID/ADR/ADN**

Transmitted by the Government of the Russian Federation*,**

Summary

Related documents: ECE/TRANS/WP.15/AC.1-18-BE-inf12
ECE/TRANS/WP.15/AC.1/150, paragraphs 36 to 38
ECE/TRANS/WP.15/AC.1/122, paragraphs 20 and 21

Introduction

1. In reviewing the RID/ADR/ADN regulations, as amended in 2017, experts from the Russian Federation carried out a check of the legal and regulatory instruments referred to in Chapter 6.2. In subsection 6.2.4.1, “Design, construction and initial inspection and test”, it is stated that the standards referenced therein may be applied to meet the requirements of Chapter 6.2. It is further stated that the scope of application of each standard is defined in the scope clause of the given standard unless otherwise specified in the table in 6.2.4.1. It was discovered that the first three entries in the table include references to directives of the European Council on the approximation of the laws of the Member States relating to:

- Seamless steel gas cylinders;
- Seamless unalloyed aluminium gas cylinders; and

* In accordance with the programme of work of the Inland Transport Committee for 2018–2019 (ECE/TRANS/2018/21/Add.1, Cluster 9 (9.2)).

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- Aluminium alloy and welded unalloyed steel gas cylinders.

2. It is well known that:

A **directive** is a legislative act, of the European Union in the current instance;

A **standard** is a normative or rule-setting document that is distinguished by the manner in which it is developed and approved, the ways in which it is used and the fact that it is directed towards a particular goal.

3. In other words, the inclusion of these directives in the subsection of the regulations devoted to the application of standards is, in our opinion, not legally justified.

4. Nevertheless, in the course of the audit undertaken to ensure that the legal and regulatory instruments referred to in subsection 6.2.4.1 are current, it was found that Council Directives 84/525/EEC, 84/526/EEC and 84/527/EEC on the approximation of the laws of the Member States were no longer in force.

5. According to the experts from the Russian Federation, referring to documents that are not in force not only violates the principles of legal practice, but also misleads actors in the transport process, thereby creating a risk of the text's being misinterpreted and the rules incorrectly applied. If the actors applying the Council Directives believe that only annexes to the Directives issued prior to the entry into force of the corresponding directive should be applied, then specific references to these annexes (rather than to the Directives themselves) must be included in RID/ADR/ADN with an indication of the legal basis for their direct application, namely, the details of the instrument that gives effect to them and thereby renders them binding. Without such references, there is no legal basis for compliance with these documents (their separate parts, annexes and so forth). Referring to a document without citing any basis for its validity creates no legal obligations for actors in the transport process and is misleading.

Proposal

6. In order to keep the references to legal and regulatory instruments in Chapter 6.2 up to date and to eliminate breaches of the principles of legal practice, it is proposed to delete the references to Council Directives 84/525/EEC, 84/526/EEC and 84/527/EEC.

Justification

7. This amendment will remove references to legal and regulatory instruments that are no longer in force and eliminate breaches of the principles of legal practice.

Enforceability

8. No difficulties with enforcing the amendment are anticipated.
