
ECONOMIC COMMISSION FOR EUROPE INLAND TRANSPORT COMMITTEE

Joint Meeting of the RID Safety Committee and the
Working Party on the Transport of Dangerous Goods
(Geneva, 11-15 September 2006)
Agenda item 9

ANY OTHER BUSINESS

Duties of participants assigned in the UN Model Regulations

Transmitted by the expert from Austria

1. The Joint Meeting at its spring session of 2006 dealt with the question of duties of participants assigned in the UN Model Regulations when examining INF 6 from the secretariat of OTIF where it was pointed out that the use of terms as “filler” “packer and “consignor” and the assignment of duties to participants in the UN Model Regulations created problems in relation to the terms used in RID/ADR/ADN and the duties assigned in chapter 1.4 of RID/ADR/ADN.
2. In the report (ECE/TRANS/WP.15/AC.1/102, para 59f) the following was stated: “Given that there is little chance of global harmonisation being achieved and that the concept differs between RID/ADR/ADN on the one hand and the UN Model Regulations on the other, the Joint Meeting was not opposed to Austria’s submitting a proposal to the UN Sub-Committee of Experts in order that it no longer assigns specific obligations in the UN Recommendations and in order to leave it to the transport modes to deal with these specific provisions. If the Sub-Committee did not take a decision, the Meeting could envisage a more passive formulation.”
3. The representative of Austria then submitted a relevant proposal to the Sub-Committee (ST/SG/AC.10/C.3/2006/15) where he suggested that – unless in certain special cases - assignment of responsibilities to particular persons should be avoided in the Model Regulations. He also quoted the provision in 1.1.1.3 of the UN Model Regulations where the following is stated: “In certain parts of these Regulations, a particular action is prescribed, but the responsibility for carrying out the action is not specifically assigned to any particular person. Such responsibility may vary according to the laws and customs of different countries and the international conventions into which these countries have entered. For the purposes of these Regulations, it is not necessary to make this assignment, but only to identify the action itself. It remains the prerogative of each government to assign this responsibility.”

4. The Sub-Committee dealt with the proposal at its 29th session in July 2006 (see report ST/SG/AC.10/C.3/58 para 109 to 112) and although some experts shared the view that assignment of “responsibilities” or better “duties” in a multimodal instrument is likely to create conflicts with existing assignments in international or national instruments pertaining to the specific transport modes. Several experts felt nevertheless that it was useful to provide guidance in the Model Regulations on who has to do what, since this guidance may be used by regulators to assign duties to the various participants in a transport operation under each legal system. The Sub-Committee agreed that paragraph 1.1.1.3 might need to be revised in order to better reflect the principles to be followed but this could be done on the basis of a written proposal only.
 5. The representative of Austria then submitted a relevant proposal to the Sub-Committee (ST/SG/AC.10/C.3/2006/xx) where he suggested the following new text for 1.1.1.3 of the UN Model Regulations: “Where in these Regulations a particular action is prescribed the duty for carrying out the action need not be specifically assigned to any particular person. Such assignment may vary according to the laws and customs of different countries and the international conventions into which these countries have entered. This does not preclude that these Regulations contain guidance for such assignment to be used by international and national legislators.” In his proposal he would also ask the opinion of the Sub-Committee on the further proceeding.
 6. If a text along these lines was adopted by the Sub-Committee the representative of Austria would then submit a revised proposal where instead of the deletions and modifications proposed in ST/SG/AC.10/C.3/2006/15 he would propose to assign duties to defined (!) participants in form of guidance.
 7. Before deciding on further proceeding in the Joint Meeting one therefore should wait for the decision in the UN Sub-Committee.
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