

## Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals

Sub-Committee of Experts on the Transport of Dangerous Goods

18 November 2014

### Forty-sixth session

Geneva, 1 – 9 December 2014

Item 2 (b) of the provisional agenda

**Recommendations made by the Sub-Committee on its forty-third, forty-fourth and forty-fifth sessions and pending issues: listing, classification and packing**

### **Exemption in SP 375 for environmentally hazardous substances of UN 3077 and 3082 relating to document ST/SG/AC.10/C.3/2014/74**

**Transmitted by the expert from Switzerland**

#### *Summary*

- Executive summary:** Is it allow to transport dangerous goods of the entries UN 3077 and 3082 in packagings of not more than 5 l or kg without applying the exemption of SP375 of chapter 3.3?
- Reference documents:** UN/SCETDG/42/INF.20 (Netherlands), ST/SG/AC.10/C.3/84, UN/SCETDG/43/INF.15 (CEFIC), ST/SG/AC.10/C.3/86, UN/SCETDG/44/INF.33/Rev.1 (ICCA), ST/SG/AC.10/C.3/88, ST/SG/AC.10/C.3/2014/74

1. We have been confronted with the question of the application of the special provision 375 of chapter 3.3. The question is to know if the companies are obliged not to transport as dangerous goods the environmentally hazardous dangerous goods with UN-Numbers 3077 and 3082 which can benefit from the total exemption which appears in the special provision 375.

2. These companies transport the same products in the same consignments at the same time in packagings of capacity lower than 5 l or kg and in packagings which exceed 5 l or kg. The separate management of the same consignments according to the fact there are exempted or not for the same product induces additional costs of data-processing modification and logistics which poses problems at all levels of the chain of distribution. That concerns large companies but the financial incidence of this more complicated management has more impact at the end of the chain among the small and medium-sized companies.

3. Furthermore, the practice among the control authorities are very often simple: Goods which are not subject to the Model Regulations should not be transported as dangerous goods and any indication, labelling or marking on the vehicle must be removed because this can in the event of accident induce disproportionate costs of intervention and complicates controls in an useless way.

4. Another point which does not help the users is the description of Column 6 in Chapter 3.2

"Column (6) "special provisions" - this column contains a number referring to any special provision(s) indicated in 3.3.1 that are relevant to the article or substance. Special provisions apply to all the packing groups permitted for a particular substance or article unless the wording makes it otherwise apparent."

In SP 375 the wording does not make apparent that the special provision could be optional. Thus the exemption laid down in this special provision is mandatory.

5. Considering the discussions that took place at previous sessions and the results of these discussions laid down in the document ST/SG/AC.10/C.3/2014/74 on a similar question of more stringent self-classification, by analogy and for the same reasons, it would not be allowed without the approval of the competent authority to transport goods with UN-Numbers UN 3077 and UN 3082 in packagings of not more than 5 l or kg contradicting the special provision 375 and applying all the provisions of the Model Regulations (classification, marking, labelling, marking of the vehicle and documentation).

6. The WP.15 has considered this question by his last session in November. The results of the discussions can be found in points 26. and 27. of the draft report ECE/TRANS/WP.15/2014/CRP.3/Add.1:

26. Most delegations that took the floor considered that the exemptions provided under ADR were proposed as options, and that participants could decide not to apply them. It was, however, recognized that there were certain exceptions which in their current wording could be interpreted as being mandatory, for example in special provision 375.

27. As the question will be discussed at the next session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods, the representative of Switzerland was invited to raise the matter at the next session, in the light of the Sub-Committee's conclusions.

7. Switzerland is also supporting this approach and does not believe necessary to ask for an approval through the competent authority to decide in case of SP 375 to apply the Model Regulations in full.

8. We are conscious that it was not the subject about exemptions elsewhere in the Regulation which was in the spirit of those who formulated the proposal in document ST/SC/AC.10/2014/74. We wonder nevertheless if one could not avoid this hesitation and at the same time clarify the situation of those who, in a voluntary way, do not apply the exemptions formulated in a compulsory way in our texts. It should not happen that on the basis of this new text in ST/SC/AC.10/2014/74 companies could not classify their products any more in a more restrictive way than the Model Regulation does it without receiving the previously an authorization from the competent authority. Thus p. e.g. it should be possible to transport as fully regulated dangerous goods those assigned to UN-Numbers 3077 and 3082 in receptacles of not more than 5 kg or l eligible to benefit of the exemption in the SP 375 without needing to receive an authorization from the competent authority.

9. If the Sub-committee shares also this view the following change could be introduced in 2.0.0.

### **Proposal**

2.0.0 Add the following sentence at the end.

"A consignor may consign dangerous goods fully regulated without applying possible exemptions foreseen elsewhere in these Regulations."

10. The adoption of such a modification at this session will be in conformity with the general interpretation of the use of the exemptions and will allow in particular an immediate correct implementation of the SP 375 from the beginning of its enforcement in 2015 in the modes.

---