



Economic and Social Council

Distr.: General
19 June 2019

Original: English

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, 17-27 September 2019

Item 5 (b) of the provisional agenda

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

Amendment of section 1.2.1: Definitions

Transmitted by International Tank Container Organisation (ITCO)*, **

Summary

Executive summary: ADR Chapter 1.4 “Safety obligations of the participants” places obligations upon the “Tank-container/portable tank operator”. The definition in Chapter 1.2 provides for the Tank-container/portable tank operator to be “any enterprise in whose name the tank is registered”. This results in an uncertainty to identify the responsible participant because the entity “in whose name the tank is registered” is often a financial entity that is not a participant in the operation of the tank. A proposal to clarify the definition was considered by the Working Group on Tanks at the spring 2019 session and an alternative definition is recorded in item 3 of the report. This paper adopts the alternative definition proposed by the Working Group.

Related documents: Autumn 2018 session: INF.7 and ECE/TRANS/WP.15/AC.1/152/Add.1 item 5, Report of the Working Group on Tanks. Spring 2019 session: ECE/TRANS/WP.15/AC.1/2019/6 and Report of Working Group item 3.

Introduction

1. This proposal requests consideration of an amendment to Chapter 1.2 Definitions and units of measurement, to the definition of “Tank-container/portable tank operator”.

* 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)).

** Circulated by the Intergovernmental Organisation for International Carriage by Rail (OTIF) under the symbol OTIF/RID/RC/2019/30.

2. Authorities in the Netherlands undertaking routine controls of tank containers and portable tanks in the Port of Rotterdam, notified ITCO of their concern identifying the enterprise required to undertake the safety obligations of participants in accordance with the provisions of Chapter 1.4.

3. The provisions of 6.8.2.5.2 of RID/ADR require: “the following particulars shall be inscribed on the tank-container: “Names of owner and of operator”. »

4. The provisions of 6.7.2.20.1 require the owner’s registration number and 6.7.2.20.2 the name of the operator.

5. The existing Chapter 1.2, definition of a “Tank-container/portable tank operator” could allow “any enterprise in whose name the tank-container/portable tank is registered” to be defined as the operator.

ADR 1.2.1 “Tank-container/portable tank operator” means any enterprise in whose name the tank-container/portable tank is operated.

RID 1.2.1 “Operator of a tank container, portable tank or tank-wagon” means any enterprise in whose name the tank-container, portable tank or tank-wagon is registered or approved for transport.

6. The “enterprise in whose name the tank-container/portable is registered” is often a financial entity such as a leasing company or bank and takes no part in the tank-container/portable tank operators safety obligations. The tank is leased or otherwise made financially available by legally enforceable contract between the registered owner e.g. the bank or leasing company and the tank container/portable operator.

7. In Chapter 1.4 of ADR safety obligations are assigned to the tank-container/portable tank operator. No obligations are assigned to the owner i.e. “enterprise in whose name the tank-container/portable is registered”.

8. The United Nations Model Regulations on the Transport of Dangerous Goods do not provide a definition of either the registered owner or operator but acknowledge the distinction by requiring:

6.7.2.20.1(a) markings to display the owner’s registration number

6.7.2.20.2 name of the operator.

Proposal

9. The proposal is to amend the definitions in Chapter 1.2 of RID/ADR.

For ADR:

“*Tank-container/portable tank operator*” means any enterprise that operates a tank-container/portable tank. Where the operator is not the owner, the operator is the enterprise to which the tank-container/portable tank is leased or otherwise made available for use by a legally enforceable contract.”.

For RID:

“*Operator of a tank-container or portable tank*” means any enterprise that operates a tank-container or portable tank. Where the operator is not the owner, the operator is the enterprise to which the tank-container, portable tank or tank-wagon is leased or otherwise made available by a legally enforceable contract.

“*Operator of a tank-wagon*” means any enterprise in whose name the tank-wagon is registered or approved for transport.”.

Justification

10. Chapter 1.4 of ADR assigns the safety obligations of the participants. Paragraph 1.4.3.4 assigns obligations to the “tank-container/portable tank operator”.

11. No safety obligations are assigned to “any enterprise in whose name the tank-container/portable tank is registered”.
 12. This existing definition does not specify the obligated participant. The Netherlands authorities undertaking control activities notified ITCO of their uncertainty.
 13. RID Chapter 1.2, note 6 states “the term operator is equivalent to the term keeper and refers to Article 2, n) Appendix G to COTIF (ATMF)”
 14. A proposal to clarify the definition was considered by the Working Group on Tanks at the spring 2019 session and an alternative definition is recorded in item 3 of the report. This paper adopts the definition proposed by the Working Group.
 15. Safety obligations are best served when there is clarity to the definition of the entity specifically designated to undertake the safe use of the tank-container/portable tank.
-