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INLAND TRANSPORT COMMITTEE

Working Party on the Transport of Dangerous Goods

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Geneva, 7-11 May 2007
Agenda item 5

PROPOSALS FOR AMENDMENTS TO ANNEXES A AND B OF ADR

Paragraph 1.9.5.3.2

Transmitted by the Government of Switzerland

SUMMARY

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| <i>Executive summary:</i> | The definition of a vehicle in article 1 (a) of ADR is not consistent with current definitions in each State, or with that in European Directive 94/55/EC. |
| <i>Action to be taken:</i> | Amend ADR 1.9.5.3.2 and propose the amendment of the Consolidated Resolution on Road Signs and Signals (R.E.2). |
| <i>Related documents:</i> | ECE/TRANS/WP.15/104, TRANS/WP.15/CD/6 and ADR 2007. |

Introduction

1. At the session in January, the Swiss delegation sought to draw the Working Party's attention to the fact that the definition of a vehicle to be inserted in 1.9.5.3.2 through a reference to the Vienna Convention on Road Signs and Signals (Vienna, 1968) and the European Agreement supplementing the Convention on Road Signs and Signals (Geneva, 1971), as interpreted by the Consolidated Resolution on Road Signs and Signals (R.E.2) of the UNECE Inland Transport Committee Principal Working Party on Road Transport, as amended, would be a definition specific to tunnels that differed from the definitions in existing national and international legislation. By referring to article 1 (a) of ADR, Resolution R.E.2 introduces an outdated definition of the vehicles to which the signs and signals apply. In the Convention on Road Traffic of 19 September 1949, a vehicle is defined as follows:

“‘Motor vehicle’ means any self-propelled vehicle normally used for the transport of persons or goods upon a road, other than vehicles running on rails or connected to electric conductors. Any State bound by annex 1 shall exclude from this definition cycles fitted with an auxiliary engine of the type described in that annex.”

2. Under annex 1, cycles fitted with an auxiliary internal combustion engine having a maximum cylinder capacity of 50 cm³ are excluded from the definition of a motor vehicle.

3. Cycles with a cylinder capacity of more than 50 cm³ are therefore included in the definition of a motor vehicle.

4. This definition of a vehicle differs from that adopted by the 1993 Conference (document TRANS/WP.15/CD/6), which took as its reference the definition contained in Directive 92/53/EEC, amending article 1 (a) of ADR as follows:

“(a) The term ‘vehicle’ shall mean any motor vehicle, other than a motor vehicle belonging to or under the orders of the armed forces of a Contracting Party, intended for use on the road, being complete or incomplete, having at least four wheels and a maximum design speed exceeding 25 km/h, and its trailers, with the exception of vehicles which run on rails and of agricultural and forestry tractors and all mobile machinery.”

5. The 1949 definition of a vehicle, which is now to be used in enforcing tunnel restrictions, is different from that adopted by each State and from that found in article 2 of European Directive 94/55/EC.

6. One consequence is that tunnel restrictions will apply to two-wheeled vehicles fitted with an engine having a cylinder capacity of more than 50 cc and to agricultural and forestry tractors, even though, according to Directive 94/55/EC, the other provisions of ADR do not apply to these vehicles. This anomalous situation will arise in each State in which the vehicles covered by the regulations on carriage of dangerous goods are not the same as those included in the definition of a vehicle contained in the Convention on Road Traffic of 19 September 1949, which is probably

the case in every country. Furthermore, the risk in tunnels is a function not of the vehicle's method of propulsion but of the load itself. There is no justification for having a definition of a vehicle that applies specifically in the case of tunnels and differs from the definition applicable on roads that are not tunnels; this will necessitate the invention of new signs and signals specific to the traffic concerned, which would only make the regulations more difficult to understand.

7. The issue is no longer whether it is legitimate to establish types of vehicle solely for tunnels in annex A to ADR, particularly if this occurs indirectly through a reference to the Consolidated Resolution on Road Signs and Signals (R.E.2), but whether the relevant texts can be rendered coherent and comprehensible. As these texts stand, a country in which the application of carriage of dangerous goods regulations depends not on a vehicle's method of propulsion - with or without an engine - but on the load itself will have one set of legislation that applies outside tunnels and covers all vehicles and another for vehicles as defined in 1949 under ADR. A second country, in which tractors and two-wheeled vehicles are not covered by carriage of dangerous goods regulations, will have to subject these same vehicles to tunnel restrictions. This situation is inexplicable, and modifications are therefore necessary.

8. The text of ADR 1.9.5.3.2 goes beyond the scope of a technical annex to an agreement in that it establishes a definition of a vehicle in respect of the application of signs and signals that covers all tunnels and provides for no deviation whatever. The text is extremely difficult to interpret and gives rise to anomalies, as we have described.

9. Moreover, it will also be extremely difficult to revise these texts. Assuming that other vehicles, even vehicles not bearing orange-coloured plates, are subject to tunnel restrictions, the amendment procedure - requiring recourse to both WP.15 and WP.1 - will be virtually impracticable and risks creating as much confusion as the definition itself.

Proposal

10. First, any reference in 1.9.5.3.2 to interpretation of the Vienna Convention on Road Signs and Signals (Vienna, 1968) and the European Agreement supplementing the Convention on Road Signs and Signals (Geneva, 1971) in accordance with the Consolidated Resolution on Road Signs and Signals (R.E.2) should be removed by amending the text as follows:

“1.9.5.3.2 For this purpose, they may use signs C, 3h and D, 10a, 10b and 10c and signals according to the Vienna Convention on Road Signs and Signals (Vienna, 1968) and the European Agreement supplementing the Convention on Road Signs and Signals (Geneva, 1971) ~~as interpreted by the Resolution on Road Signs and Signals (R.E.2) of the UNECE Inland Transport Committee Principal Working Party on Road Transport, as amended.~~”

11. Second, the Working Party should propose the deletion of the interpretations contained in the first paragraph of 1.11 (a) of annex 4 to the report of WP.1 (ECE/TRANS/WP.1/104). The text should be amended as follows:

“... DANGEROUS GOODS FOR WHICH SPECIAL SIGN PLATING IS PRESCRIBED’ described in the 1968 Convention on Road Signs and Signals should be used without an additional panel to prohibit the entry of all vehicles ~~defined in Article 1 (a) of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)~~ carrying dangerous goods defined in Article 1 (b) of ADR for which ~~orange coloured plates~~ sign plating according to section 5.3.2 of Annex A of ADR for marking of vehicles ~~are~~ is required on the vehicles.”

Justification

12. These amendments allow for an up-to-date interpretation of the texts concerning the definition of a vehicle and provide flexibility with respect to future amendments. They also avoid the confusion created regarding the definition of a vehicle for tunnels and resolve the internal and external contradictions identified.

Feasibility and safety implications

13. No changes foreseen.
