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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**

Bern, 18–22 March 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 uncertainty identifying 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. This proposal clarifies the definition of the Tank-container/portable tank operator. The proposal in informal document INF.7 was considered by the Working Group on Tanks at the autumn 2018 session and recorded in item 5 of the report. ITCO was invited to submit an official document to the spring 2019 session.

Related documents: Informal document INF.7 (Autumn 2018 session) and ECE/TRANS/WP.15/AC.1/152/Add.1, item 5, Report of the Working Group on Tanks item 5.

* In accordance with the programme of work of the Inland Transport Committee for 2018-2019, (ECE/TRANS/WP.15/237, annex V, (9.2)).

Introduction

1. This proposal requests consideration of an amendment to section 1.2.1 in respect of the definition of “Tank-container/portable tank operator”.

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

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

3. The provisions in 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 existing definition of a “Tank-container/portable tank operator” allows “any enterprise in whose name the tank-container/portable tank is registered” to be defined as the operator.

5. 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.

6. 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”.

7. The proposal concerns both ADR and RID where the proposed deleted text is crossed-out, new added text is underlined.

ADR 1.2.1 “Tank-container/portable tank operator” means any enterprise in whose name the tank-container/portable tank is ~~registered~~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 operated ~~registered or approved for transport~~.

8. The Working Group on Tanks, at the autumn 2018 session, considered the term “operator” in the context of RID and the COTIF terminology “keeper”.

9. 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)”. The definition reads:

“Appendix G to COTIF n) “keeper” means the person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the vehicle register referred to in Article 13; “.

10. 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

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

ADR

Amend the definition of “Tank-container/portable tank operator” in Chapter 1.2 as follows:

“Tank-container/portable tank operator” means any enterprise in whose name the tank-container/portable tank is ~~registered~~. Operated”.

RID

Amend the definition of “operator of a tank container, portable tank or tank-wagon” as follows:

“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 operated ~~registered or approved for transport~~”.

Justification

12. 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”.

13. No safety obligations are assigned to “any enterprise in whose name the tank-container/portable tank is registered”.

14. This existing definition does not specify the obligated participant. The Netherlands authorities undertaking control activities notified ITCO of their uncertainty.

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.
