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Working Party on the Transport of Dangerous Goods

Joint Meeting of the RID Safety Committee and the
Working Party on the Transport of Dangerous Goods
(Geneva, 13-23 September 2005)

INTERPRETATION OF RID/ADR 2005

Carriage prior to or following maritime or air carriage

Sub-section 1.1.4.2

Note by the UNECE and OTIF secretariats */

The secretariat reproduces below comments on the interpretation of 1.1.4.2 which were submitted at the September 2004 session of the RID/ADR/ADN Joint Meeting (INF.18), but which could not be considered due to lack of time. These comments were then submitted to the Working Party on the Transport of Dangerous Goods at its seventy-seventh session (Geneva, 25-28 October 2004) and to the RID Committee of Experts at its forty-first session (Meiningen, 15-18 novembre 2004). Their conclusions are also reproduced hereafter in italics (see also report of the Working Party at its seventy-seventh session, *TRANS/WP.15/181* paras. 12 to 29, and informal document *March 05/INF.9* submitted at the March 2005 session of the RID/ADR/ADN Joint Meeting which reproduces abstracts of the report of the RID Committee of Experts at its 41st session, *circular letter 81-03/511.2004*).

Although most questions raised are relevant for RID/ADR/ADN, they are related to problems which occur mainly at the road/seaport or road/airport interface. In addition, for

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documentation, 1.1.4.2.2 does not exist in RID, and therefore it seems that the questions raised by the secretariat concerning 1.1.4.2.2 are relevant for ADR and ADN only.

General

Questions raised by the UNECE secretariat (WP.15, 77th session, INF.9)

"1. The UNECE secretariat has received several requests concerning the interpretation of sub-section 1.1.4.2 of RID/ADR/ADN (as amended 2005). These requests lead to a number of fundamental questions as regards the reasoning behind this subsection and its interpretation.

2. The UNECE secretariat notes that this subsection (ex marginal 2007 of ADR/14 of RID) was originally intended to solve the problem of different labeling requirements in the IMDG Code/ICAO Technical Instructions (based on the UN Recommendations) and those of RID/ADR (not completely harmonized with the UN Recommendations). This was however on the assumption that the packing requirements of the IMDG Code and the ICAO Technical Instructions offered at least an equivalent degree of safety.

3. Following the introduction of package marking requirements and limited quantity provisions in RID/ADR which were not fully in line with the IMDG Code and the ICAO TI, the scope of marginal 2007 was extended, on the basis of proposals submitted in 1995 by Germany and CEFIC (TRANS/WP.15/AC.1/R.841, -/R.924 and -/R.934), to packages not meeting the packing/markings/labeling requirements of RID/ADR but meeting those of the ICAO TI or the IMDG Code, as well as to containers and tank-containers not meeting the placarding requirements of RID/ADR.

4. Since then, a new provision (1.1.4.2.2) was included in RID/ADR to allow the use of documents conforming to the ICAO Technical Instructions or the IMDG Code, with the restriction, as from 1 January 2005, that if additional information is required in RID/ADR, it should also be entered in that document.

5. The questions received by the UNECE secretariat show that the interpretation of 1.1.4.2 is not always very clear. These questions are summarized through the examples given below, with a proposed interpretation by the secretariat that the Joint Meeting may wish to confirm or modify as deemed necessary. "

Comments by WP.15 (Ref. Doc.: TRANS/WP.15/181, paras. 12-14)

"12. It was recalled that section 1.1.4.2 had initially been intended to facilitate multimodal transport by permitting dangerous goods to be carried in a transport chain including maritime or air carriage under packing, marking, labelling and placarding conditions applicable in accordance with the IMDG Code or the ICAO Technical Instructions when these differed from RID and ADR. The conditions of maritime or air carriage, aligned on those of the United Nations Model Regulations, were regarded as more stringent, and this exception did not affect the level of safety, which was considered to be at least equivalent.

13. *Existing divergences between modal regulations, particularly in air transport, however, gave rise to problems of interpretation in practice, particularly in matters of classification and when the conditions of maritime or air carriage did not meet RID and ADR safety requirements.*

14. *Several delegations would have preferred to discuss this document in the context of the RID/ADR/ADN Joint Meeting. The document had, however, already been submitted to the Joint Meeting in September 2004, but owing to lack of time it had not been possible to discuss it. On the other hand, the problems raised essentially concerned the interface between road transport and maritime or air transport in ports and airports. The Working Party therefore decided to consider the proposals for interpretation and arrived at the following conclusions."*

Marking of packages

Question raised by the UNECE secretariat (WP.15, 77th session, INF.9)

"8. Certain RID/ADR special provisions (e.g. 633) require additional markings on packages which are not required for other modes of transport. The question has been asked whether such marking was required prior to or following maritime/air carriage.

Proposed interpretation:

The answer is "no" because these additional markings are not required by the IMDG Code or the ICAO Technical Instructions and packages marked in accordance by the IMDG Code or the ICAO TI are accepted under RID/ADR prior to or following air/maritime carriage."

Comments by WP.15 (TRANS/WP.15/181, para. 17)

"17. *The additional markings required by RID or ADR (e.g. in accordance with special provision 633) were not necessary if the package was marked in accordance with the IMDG Code or the ICAO Technical Instructions."*

Comments by the RID Committee of Experts (81-03/511.2004, para. 77 reproduced in March 05/INF.9)

"77. *The RID Committee of Experts shared the view of WP.15 and explained that it was not prohibited to affix additional markings in accordance with RID/ADR, but that this was not an obligation."*

Limited quantities

Question raised by the UNECE secretariat (WP.15, 77th session, INF.9)

"9. The question has been asked whether dangerous goods carried in accordance with the limited quantities provisions of the IMDG Code or the ICAO Technical Instructions are accepted under ADR/RID, as limited quantities (i.e. fully exempted from other RID/ADR provisions), prior to or following maritime/air carriage.

Proposed interpretation:

Yes, for air transport provided that the packages are marked in accordance with Chapter 4 (section 4.5) of Part 3 of the ICAO Technical Instructions.

Yes, for maritime transport, provided that the packages are marked in accordance with 3.4.5.1 of the IMDG Code.

No for maritime transport if, by virtue of 3.4.7 of the IMDG Code, packages are not marked (unless of course the carriage of such goods is fully exempted from ADR/RID in accordance with the provisions of 1.1.3.1, 1.1.3.2 or 1.1.3.3 of RID/ADR). In such a case, the conditions of 1.1.4.2.1 (a) would not be met."

Comments by WP.15 (TRANS/WP.15/181, paras. 18-21)

"18. Marking according to ADR of packages containing dangerous goods in limited quantities was not necessary if the package carried the IMDG Code or ICAO Technical Instructions marking for limited quantities.

19. A problem arose, however, when the IMDG Code or the ICAO Technical Instructions completely exempted these limited quantities from marking or a transport document, since such exemptions were not permitted by ADR. Furthermore, the exemption of 1.1.4.2.1 was not valid for substances of Classes 1 to 8 considered as non-dangerous in the IMDG Code or the ICAO Technical Instructions.

20. The representative of AISE said that where maritime transport was concerned, the container would in any case carry "LIMITED QUANTITIES" markings. It was therefore suggested that these unmarked packages should be accepted for ADR carriage by road when the containers or vehicles carried these markings.

21. The Working Party did not reach a consensus on this issue which could only be settled on the basis of a written proposal."

Comments by the RID Committee of Experts (81-03/511.2004, paras. 78-79 reproduced in March 05/INF.9)

"78. The Chairman noted that in this case, it was a matter of replacing the marking (diamond shaped) of RID/ADR with markings in accordance with the IMDG Code or the ICAO Technical Instructions ("LIMITED QUANTITIES").

79. The RID Committee of Experts was of the view that these questions of interpretation should be dealt with by the Joint Meeting for all inland transport modes jointly on the basis of a written proposal. In discussion, the following particular points were raised:

- If a substance is carried in limited quantities in accordance with the IMDG Code or the ICAO Technical Instructions, it may also be carried by road or rail beforehand or subsequently in accordance with the limited quantity provisions.*

- *It is not clear whether the exemptions in accordance with the IMDG Code and the ICAO Technical Instructions are exemptions in accordance with Chapter 3.4 of RID/ADR and to what extent packages must meet the requirements of Chapter 3.4 of RID/ADR.*
- *If according to the provisions of the IMDG Code or the ICAO Technical Instructions it is possible completely to exempt substances of classes 1 to 8 which are nevertheless classified as dangerous according to RID/ADR, the relief available under 1.1.4.2.1 does not apply and the provisions of RID/ADR must be observed.*
- *It is not possible to see from the transport document whether substances are being carried in limited quantities."*

ICAO excepted quantities and consumer commodities

Question raised by the UNECE secretariat (WP.15, 77th session, INF.9)

"10. The question has been asked whether dangerous goods carried in accordance with the excepted quantity provisions of the ICAO Technical Instructions (Part 1, Chapter 2, section 2.4) may be carried under RID/ADR prior to or following air carriage.

Proposed interpretation:

Yes, according to 1.1.4.2.1 of RID/ADR, i.e. provided that the dangerous goods are packed in accordance with the relevant requirements of the ICAO TI and the packages are marked "Dangerous Goods in excepted quantities" and with the other details required by 2.4.6 of this Part 1, Chapter 2 of the ICAO TI.

Nevertheless, the dangerous goods have to be declared, in the transport document, in accordance with chapter 5.4 of RID/ADR (i.e. with the UN No., proper shipping name, class, etc.) and all other relevant RID/ADR provisions, other than packing, marking and labelling requirements, apply.

11. The question has been asked whether dangerous goods classified as "Consumer commodities, ID number 8000, class 9" for air transport, although they should normally be classified under a UN number in classes 1 to 9 of RID/ADR, may also be carried in the same conditions prior to or following air carriage.

Proposed interpretation:

Yes, in accordance with 1.1.4.2.1 of RID/ADR, i.e. provided they are packed in accordance with the relevant provisions of the ICAO TI, and that the package is marked "Consumer commodities, ID 8000" and bear a class 9 label.

Nevertheless, all other provisions of RID/ADR other than the packing/marketing/labeling provisions, apply, and the goods have to be declared in the transport document in accordance

with the provisions of Chapter 5.4, i.e. including the UN number, proper shipping name and class.

12. The same applies whenever the classification of the dangerous goods in the IMDG Code or the ICAO TI differs from that of RID/ADR. "

Comments by WP.15 (TRANS/WP.15/181, paras. 22-24)

"22. The marking/labelling of packages in accordance with the ICAO Technical Instructions for excepted quantities or consumer commodities could replace ADR marking/labelling, but this exception was not valid for classification and the transport document must contain the particulars prescribed by ADR for the substances in question.

23. The representatives of Norway and Denmark expressed a reservation concerning the acceptance of packages carrying a model No. 9 label in accordance with the ICAO Technical Instructions applicable to consumer commodities for road transport in their countries, since, in the event of an accident, this label would convey erroneous information about the real properties of the goods carried to the emergency services.

24. The representative of the Netherlands expressed a reservation on the adoption of an interpretation relating to excepted quantities and consumer commodities since discussions on the subject were in progress in the United Nations Sub-Committee of Experts. It was pointed out, however, that this work would continue in 2005 and 2006 and that consequently it would not be possible to include in ADR any provision reflecting the Sub-Committee's conclusions before 1 January 2009."

Comments by the RID Committee of Experts (81-03/511.2004, paras. 80-81 reproduced in March 05/INF.9)

"80. The representative of Austria noted that the concept of consumer commodities was unknown in RID/ADR, as it was not a recognized legal concept in this context.

81. The RID Committee of Experts considered that this question required further clarification, which should be discussed in the Joint Meeting. These were completely different systems which were not covered by 1.1.4.2.1."

Dangerous goods subject to RID/ADR but not subject to the IMDG Code or the ICAO Technical Instructions (Aquatic and maritime pollutants)

Question raised by the UNECE secretariat (WP.15, 77th session, INF.9)

"13. According to the last sentence of 1.1.4.2.1, the "derogation does not apply in the case of goods classified as dangerous goods in classes 1 to 8 of ADR and considered as non-dangerous goods according to the applicable requirements of the IMDG Code or the ICAO Technical Instructions".

14. For the secretariat this sentence is misleading, because if goods are not dangerous according to the IMDG Code or the ICAO Technical Instructions, the conditions of paragraphs a), b) and c) cannot be met and therefore the derogation cannot apply. It has perhaps the merit to clarify the situation for goods of classes 1 to 8 but may lead to different interpretations for goods of class 9, in particular for transport of aquatic pollutants prior to or following air transport.

15. The secretariat notes that all class 9 UN numbers of RID/ADR are subject to the IMDG Code and the ICAO Technical Instructions, and therefore class 9 RID/ADR dangerous goods are also subject to the IMDG Code and the ICAO Technical Instructions.

16. The question has been asked whether, on the basis of this sentence, a substance meeting the aquatic pollutant criteria of RID/ADR but not listed as marine pollutant in the IMDG Code may be exempted from RID/ADR prior to or following maritime carriage.

Proposed interpretation:

No, because the marine pollutant criteria of MARPOL Annex III/IMDG Code are the same as those of 2.3.5.6 of RID/ADR, and the fact that a marine pollutant is not listed by name in the IMDG Code is not sufficient to exclude it from the scope of the IMDG Code when it is known that the substance meets the criteria or even when is suspected that it meets the criteria (refer to 2.10.2.6 of the IMDG Code). For carriage prior to or following air transport, although there are no criteria for environmentally hazardous substances in the ICAO TI, special provision A97 of the ICAO TI specifies that substances classified as UN 3017 or UN 3082 by the regulations of other modes of transport may be carried by air under these entries. Therefore, when meeting the criteria of RID/ADR, such substances should be carried as UN 3077 or UN 3082 prior to or following air transport.

17. Proposal by the secretariat: In view of the above, the secretariat suggests to amend the last sentence of 1.1.4.2.1 by replacing “classes 1 to 8” with “classes 1 to 9”.

Comments by WP.15 (TRANS/WP.15/181, paras. 25-29)

25. Substances known to meet the criteria of 2.3.5 must be carried in the conditions applicable to UN Nos. 3077 or 3082 prior to or following air transport. This was not in contradiction with the ICAO Technical Instructions which provided for that situation.

26. Packages, containers and tank-containers marked “marine pollutants” in accordance with the IMDG Code prior to or following a maritime transport operation were accepted for carriage by road.

27. A member of the secretariat said that substances known to meet the criteria of 2.3.5 for aquatic pollutants should, prior to or following a maritime transport operation, be carried either according to the conditions of ADR for UN Nos. 3077 or 3082, or according to the IMDG Code for the same entries. In his opinion, a substance that satisfied the existing criteria of 2.3.5 also satisfied the criteria of annex III of the MARPOL Convention and the IMDG Code for marine pollutants, even if the substance was not named as a marine pollutant in the IMDG Code and paragraph 2.10.2.6 of the Code in this case enabled it to be identified as a marine pollutant.

28. *The secretariat considered that the last sentence of 1.1.4.2.1 should be simplified so as to apply to all substances of Classes 1 to 9, since in its opinion there were no instances of Class 9 substances that were considered dangerous according to ADR but were not considered dangerous for air or maritime transport. There was, however, no consensus on this question.*

29. *In view of the numerous problems of interpretation, the representative of Germany recommended the re-establishment of the informal working group which had had a mandate from the RID/ADR/ADN Joint Meeting in the past to deal with problems of documentation in a multimodal transport chain. His recommendation was backed by representatives of industry."*

Comments by the RID Committee of Experts (81-03/511.2004, para. 82 reproduced in March 05/INF.9)

"82. The representative of Germany was of the view that differences between aquatic and marine pollutants would remain until the criteria of GHS (Globally Harmonized System for the classification and labelling of chemical products) were implemented for all the transport modes. These criteria would be incorporated into the IMDG Code in 2007 with a transitional period up to 2008. Until then, one would have to live with this unsatisfactory situation."
