

OTIF



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LES TRANSPORTS INTERNATIONAUX FERROVIAIRES

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### **RID/ADR/ADN**

Joint Meeting of the RID Committee of Experts and the  
Working Party on the Transport of Dangerous Goods  
(Bern, 8-11 September 2009 and  
Geneva, 14-18 September 2009)

### **Item 6 of the provisional agenda: Harmonisation with the UN Model Regulations on the Transport of Dangerous Goods**

### **Remarks submitted by the International Union of Railways (UIC) and the International Rail Transport Committee (CIT) concerning document ECE/TRANS/WP.15/AC.1/2009/16/Add.1**

#### **Introduction**

1. UIC and CIT have observed that document ECE/TRANS/WP.15/AC.1/2009/16/Add.1 contains a number of provisions which appear neither practicable nor necessary. Further, amendments are proposed to the documentation requirements for empty uncleaned means of containment (which were revised as recently as 2007), which will once more incur high costs for the parties involved in the carriage of dangerous goods whilst bringing about no tangible improvement in safety.

UIC and CIT thus request the Joint Meeting to take account of the following remarks when taking its decision.

#### **Remarks concerning specific provisions**

2. **1.3.1** Add a new second sentence to read as follows:

"Employees shall be trained in accordance with 1.3.2 before assuming responsibilities and shall only perform functions, for which required training has not yet been provided, under the direct supervision of a trained person."

For reasons of cost, only a limited number of copies of this document have been made. Delegates are asked to bring their own copies of documents to meetings. OTIF only has a small number of copies available.

3. The above provision bears little relation to practice and is legally questionable, since it is not clear what is meant by “under direct supervision”. Is a set of instructions for dealing with specific circumstances sufficient or must the supervisor be present on the ground? It is also unclear who bears responsibility in such instances – the employee performing the function, or the supervisor?
4. For these reasons, the new provision should either not be included in the regulations, or at least the text should be deleted from the words “assuming responsibilities” onwards. If the text is not deleted entirely, the term “employee” should be replaced by the word “personnel”, which is otherwise used throughout Chapter 1.3.
5. [1.4.2.2.1 b) reads as follows:

“(b) Ascertain that all information related to the dangerous goods to be carried has been provided by the consignor before carriage, that the prescribed documentation is attached to the transport document/is on board the transport unit ...”.

6. UIC and CIT propose that the sentence be worded as follows:

“(b) Ascertain that all the documents provided by the consignor concerning the goods to be carried have been accepted and/or the information has been processed, that the prescribed documentation is attached to the transport document and is on board ...”.

7. Reasoning:

The carrier cannot judge whether the consignor has provided all the requisite information and/or documentation (in particular those required besides the transport document e.g. approvals, authorisations, test certificates, etc.). All the carrier can do is to process all the information received and accept and forward all the documentation provided.

In addition, this requirement would lead to a “double” responsibility, since the consignor is already obliged to provide the requisite details and information (cf. 1.4.2.1.1 (b)). It cannot be considered the carrier’s duty to check again what the consignor is already responsible for having checked. This would contradict the principles of the RID/ADR structural reform.

In addition, the term “transport unit” is one which is used in road transport, but not in the railways.

8. **1.7.1.1** [Insert at end:

“The prime responsibility for safety shall rest with the person or organisation responsible for facilities and activities that give rise to radiation risk”.]

9. In UIC and CIT’s view, this sentence should not be included in the regulations, since due to the separation of different areas of law, no responsibility may be defined in transport law for parties subject to other legal regimes (in this instance atomic and radiation protection law). Responsibility for the safety of transported radioactive materials lies exclusively with the parties involved in the transport as per RID/ADR/ADN Chapter 1.4.
10. **5.4.1.1.6.1** “replace ‘proper shipping name required in 5.4.1.1.1 (b)’ with ‘dangerous goods description specified in 5.4.1.1.1 (a) to (c)’”.
11. UIC and CIT propose not to execute this fresh amendment to the documentation requirements for uncleaned empty means of containment (which were revised as recently as 2007).

12. Reasoning:

Many consignors (and also some carriers), produce their transport document electronically. In this context, carriers must make sufficient EDP provision for all permitted documentation types, whereas consignors can choose freely which they use. Consignors and carriers adapted their EDP systems as recently as 2007, at very high cost, in order to meet the provisions amended at that time. A fresh amendment of the requirements would necessitate another extremely cost-intensive reprogramming of EDP systems, whilst bringing no improvement in safety.

Further, it is unclear where in the indications the words "EMPTY, UNCLEANED" or "RESIDUE, LAST CONTAINED" are to be applied if markings are to be applied in accordance with RID 5.3.2.1 as is set out in RID 5.4.1.1.1 (j).

This issue was already raised in 2007, for which reason four new documentation types were introduced for empty uncleaned means of containment.

13. UIC and CIT thus propose that this amendment to 5.4.1.1.6.1 not be executed, or that for the purposes of standardisation and simplification the provisions of 5.4.1.1.6.1 be formulated as follows:

"For uncleaned empty means of containment containing residue of dangerous goods of classes other than Class 7, the information required by paragraph 5.4.1.1.1 (a) to (d) <(RID only:) and (j)> must be prefixed by the words "EMPTY, UNCLEANED" [or "RESIDUE, LAST CONTAINED"]. In addition, paragraph 5.4.1.1.1 (f) shall be inapplicable.

Examples:

"EMPTY, UNCLEANED, <(RID only:) 663,> UN 1098, ALLYL ALCOHOL, 6.1 (3), I" or  
"EMPTY, UNCLEANED", <(RID only:) 663,> UN 1098, ALLYL ALCOHOL, 6.1 (3), PG I" [or  
"RESIDUE, LAST CONTAINED", <(RID only:) 663,> UN 1098, ALLYL ALCOHOL, 6.1 (3), I" or  
"RESIDUE, LAST CONTAINED", <(RID only:) 663,> UN 1098, ALLYL ALCOHOL, 6.1 (3), PG I".]

14. [Add a new 5.4.1.4.3 to read as follows:

**"5.4.1.4.3** When the dangerous goods transport information is given to the carrier by EDP or EDI techniques, the consignor shall be able to produce the information without delay as a paper document, with the information in the sequence required by this Chapter."]

15. In view of 5.4.0, UIC and CIT cannot see what purpose this provision is intended to serve, and thus propose not to adopt this new requirement, particularly as, in the view of the Ad hoc Working Group on Harmonisation, it would contradict the current Note/Note 2 under RID/ADR/ADN Chapter 5.4 (see document ECE/TRANS/WP.15/AC.1/2009/16, paragraph 43).

16. [Add a new paragraph 5.4.2.4 to read as follows:

**"5.4.2.4** When the dangerous goods transport information is given to a carrier by EDP or EDI techniques and subsequently the dangerous goods are transferred to a carrier that requires a paper dangerous goods transport document, the carrier shall ensure that the paper document indicates "Original received electronically" and the name of the signatory shall be shown in capital letters."]

17. In view of 5.4.1.1.1 (g), UIC and CIT cannot see what purpose this new provision is intended to serve, particularly given that the transport document is generally not personally signed by the consignor. Further, it is not clear how the provision is to be implemented if it is not apparent prior to transport whether the transport document will be required in paper form during the journey. In addition, the parties involved should be free to determine their own arrangements with regard to 5.4.0 in each specific instance.

UIC and CIT thus propose not to adopt this new requirement.

18. Insert a new section 5.4.4 to read as follows:

**“5.4.4            Retention of dangerous goods transport information**

**5.4.4.1**        The consignor and the carrier shall retain a copy of the dangerous goods transport document and additional information and documentation as specified in RID/ADR/ADN, for a minimum period of three months.”

19. The proposed retention period for (paper) copies of the carriage document and other information and documentation is in contradiction with the principles of paperless transport. In addition, national law would continue to apply, as well as which the CIM UR limitation period (for actions) is to be observed.

20. UIC and CIT thus propose that this new text not be adopted. Should the text be adopted, however, it is proposed that it be worded as follows:

“The consignor and the carrier shall retain a copy of the dangerous goods transport document and additional information and documentation as specified in RID/ADR/ADN **in paper form or data recording format**, for a minimum period of three months. **Any rules stemming from national law and the CIM UR limitation period (for actions) remain unaffected.**”

21. **“5.4.4.2**        When the documents are kept electronically or in a computer system, the consignor and the carrier shall be able to reproduce them in a printed form.”

22. Irrespective of the fact that there is no material difference between keeping documents “electronically” or “in a computer system”, UIC and CIT cannot see what purpose this provision is intended to serve in view of 5.4.0, and thus propose not to adopt this new requirement.

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