

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, 23-27 March 2009
Item 8 of the provisional agenda

FUTURE WORK

Proposal to amend RID/ADR/ADN to include provisions for the retention of document, additional inspection requirements and conformity assessment procedures for gas cartridges

Transmitted by the Government of Sweden^{1,2}

Summary

<i>Explanatory Summary</i>	Inform the Joint Meeting on the provisions to be included.
<i>Related documents:</i>	ECE/TRANS/WP.15/AC.1/2009/8 INF.6 INF.30

In document ECE/TRANS/WP.15/AC.1/2009/8, the European Commission proposes to add to RID/ADR some provisions coming from the draft proposal for the new directive on transportable pressure equipment (TPED).

Sweden has also noted that some provisions from the present TPED have not been transferred into the RID/ADR or the new directive on transportable pressure equipment. We hope these provisions can be included into the Terms of reference for the proposed Working Group for discussion.

¹ In accordance with the programme of work of the Inland Transport Committee for 2006-2010 (ECE/TRANS/166/Add.1, programme activity 02.7 (c)).

² Circulated by the Intergovernmental Organisation for International Carriage by Rail (OTIF) under the symbol OTIF/RID/RC/INF.36.

These provisions that Sweden proposes to be included into the terms of reference for the Working Group concerns the Article 8, 9 and Annex I, II and III of Directive 99/36/EC.

The present TPED uses two types of bodies, the *Notified bodies* and the *Approved bodies*.

In 2008, the Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC was established. The Decision No 768/2008/EC uses also two types of bodies, the *Notified bodies* and the *Accredited in-house bodies*.

In the RID/ADR 2009 also two types of bodies are to be found, the Xa and the Xb bodies. But 1.8.6 of the RID/ADR 2009 is not harmonised with the EN ISO/IEC 17020:2004, Decision No 768/2008/EC or Directive 99/36/EC.

	Uses the term	
EN ISO/IEC 17020:2004	Type A	Type B
Decision No 768/2008/EC	Notified bodies	Accredited in-house bodies
Directive 99/36/EC	Notified bodies	Approved bodies
RID/ADR 2009	Xa	Xb

As the Decision No 768/2008/EC has the most modern text, Sweden prefers to use this text to be considered for inclusion into 1.8.6 of the RID/ADR 2011.

As this is the new requirements for the marketing of products on the EU internal market this will lead to an uniform implementation throughout the Members States of the European Community and also the Members State and Contracting Parties to ADR/RID.

In order to help the process and to view for all the Competent Authorities to be informed, the articles R17 and R21 from Decision No 768/2008/EC concerning the *Notified bodies* and the *Accredited in-house bodies* are included.

Proposal

Sweden proposes therefore that the requirements relating to the *Notified bodies* and the *Accredited in-house bodies* from the Decision No 768/2008/EC should be considered for inclusion into RID/ADR 2011 by the proposed Working Group.

*Article R17****Requirements relating to notified bodies (In RID/ADR Xa bodies)***

1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.
2. A conformity assessment body shall be established under national law and have legal personality.
3. A conformity assessment body shall be a third-party body independent of the organisation or the product it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the products which they assess, nor the authorised representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of such products for personal purposes.

A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of those products, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.
6. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it by ... [reference to relevant part of the legislation] and in relation to which it has been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure and each kind or category of products in relation to which it has been notified, a conformity assessment body shall have at its disposal the necessary:

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures. It shall have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;
- (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

It shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out conformity assessment activities shall have the following:

- (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
- (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;
- (c) appropriate knowledge and understanding of the essential requirements, of the applicable harmonised standards and of the relevant provisions of Community harmonisation legislation and of its implementing regulations;
- (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

8. The impartiality of the conformity assessment bodies, their top level management and of the assessment personnel shall be guaranteed.

The remuneration of the top level management and assessment personnel of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

9. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.

10. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out their tasks under ... [reference to the relevant

part of the legislation] or any provision of national law giving effect to it, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.

11. Conformity assessment bodies shall participate in, or ensure that their assessment personnel are informed of, the relevant standardisation activities and the activities of the notified body coordination group established under the relevant Community harmonisation legislation and apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

Article R21

Accredited in-house bodies (In RID/ADR Xb bodies)

1. An accredited in-house body may be used to carry out conformity assessment activities for the undertaking of which it forms a part for the purpose of implementing the procedures set out in [Annex II — modules A1, A2, C1 or C2]. That body shall constitute a separate and distinct part of the undertaking and shall not participate in the design, production, supply, installation, use or maintenance of the products it assesses.

2. An accredited in-house body shall meet the following requirements:

(a) it shall be accredited in accordance with Regulation (EC) No 765/2008;

(b) the body and its personnel shall be organisationally identifiable and have reporting methods within the undertaking of which they form a part which ensure their impartiality and demonstrate it to the relevant national accreditation body;

(c) neither the body nor its personnel shall be responsible for the design, manufacture, supply, installation, operation or maintenance of the products they assess nor shall they engage in any activity that might conflict with their independence of judgment or integrity in relation to their assessment activities;

(d) the body shall supply its services exclusively to the undertaking of which it forms a part.

3. An accredited in-house body shall not be notified to the Member States or the Commission, but information concerning its accreditation shall be given by the undertaking of which it forms a part or by the national accreditation body to the notifying authority at the request of that authority.
