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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

Geneva, 17–21 September 2012

Item 5 (b) of the provisional agenda

#### Proposals for amendments to RID/ADR/ADN:

#### New proposals

### Special provision 363

Transmitted by the Government of Switzerland<sup>1, 2</sup>

#### *Summary*

<b>Executive summary:</b>	Amend special provision 363 to take into account the decisions made in May 2012 by WP.15 and the RID Committee of Experts according to which the special provision is applicable to vehicles and to any type of liquid fuel, including motor fuel.
<b>Action to be taken:</b>	Delete the reference to 1.1.3.3 in the introductory sentence of special provision 363.
<b>Reference documents:</b>	Informal document INF.24 from the ninety-second session of WP.15, ECE/TRANS/WP.15/215 (report of WP.15 on its ninety-second session).

<sup>1</sup> In accordance with the programme of work of the Inland Transport Committee for 2010–2014 (ECE/TRANS/208, para.106, ECE/TRANS/2010/8, programme activity 02.7 (c)).

<sup>2</sup> Circulated by the Intergovernmental Organisation for International Carriage by Rail (OTIF) under the symbol OTIF/RID/RC/2012/27.

## Introduction

1. As described below, we believe that subsection 1.1.3.3 and special provision 363 as worded for entry into force for ADR, RID and ADN on 1 January 2013 will lead to an interpretation and application at variance with the expressed intent of the experts. We are hereby proposing wording that is more faithful to their intentions, and that simplifies the understanding and application of the provision.
2. The question of whether special provision 363 was applicable to the liquid fuels mentioned in 1.1.3.3 was raised in informal document INF.24, from the May 2012 meeting of WP.15. The Working Party at that time agreed that the scope of exemptions provided under special provision 363 extended to all types of liquid fuels, meaning that the motor fuels covered by 1.1.3.3 too could benefit under the special provision (see paragraph 47 of the report of WP.15 of May 2012, ECE/TRANS/WP.15/215).
3. The Working Party also confirmed the interpretation of the current texts, according to which vehicles carrying liquid fuels not meeting the conditions for exemption under 1.1.3.3 could be exempted under the special provision (see paragraph 37 of report ECE/TRANS/WP.15/215).
4. WP.15 therefore adopted an amendment to special provision 363, letter (c), making it possible to apply the exemption to machinery and equipment permanently fixed to vehicles. The amendment was also taken up by the RID Committee of Experts at its session in May.
5. However, the introductory sentence of special provision 363 was not amended. It reads as follows: "This entry also applies to liquid fuels, other than those exempted according to 1.1.3.3 (RID)/paragraphs (a) or (b) of 1.1.3.3 (ADR) ...".
6. This sentence can lead to conclusions at variance with the expressed intent of WP.15 and the RID Committee of Experts, as it may be understood to mean that the fuels or even the vehicles cannot benefit from the exemption under special provision 363. In fact, any vehicle can always benefit from the exemption under 1.1.3.3 (RID)/1.1.3.3 (b) (ADR), as it can always be carried as a load. As WP.15 and the Committee of Experts have confirmed, no exclusion was intended.
7. To prevent misinterpretation, we believe that the simplest solution would be to delete the reference to 1.1.3.3/1.1.3.3 (a) and (b). Indeed, there can be no confusion between the two types of exemption. The motor fuel destined for the vehicle's propulsion mentioned in 1.1.3.3 can in no case be confused with the liquid fuel intended to run a machine or equipment that is an integral part of the vehicle, as mentioned in special provision 363. From the standpoint of users who can benefit from the exemption under 1.1.3.3, there is no particular advantage in meeting the additional requirements included in special provision 363. In the unlikely event that a vehicle is labelled in conformity with special provision 363 despite the fact that it may benefit from the exemption under 1.1.3.3, such a situation would have no adverse effect on safety; quite the contrary. There is no reason to exclude under special provision 363 transport that can also benefit from the exemption under 1.1.3.3.
8. Users will have the choice of whether or not to observe the approval and labelling requirements of special provision 363 for road vehicles carrying fuel for the operation of permanently fixed machines in quantities not exceeding 1,500 litres. Both exemptions may be applied in parallel without any safety risk.
9. We propose deleting any reference to 1.1.3.3 in special provision 363.

## Proposal

10. The introduction to special provision 363 should read as follows:

“363 This entry also applies to liquid fuels, ~~other than those exempted according to paragraph 1.1.3.3 (RID)/paragraphs (a) or (b) of 1.1.3.3 (ADR)~~, above the quantity specified in column (7a) of Table A of Chapter 3.2, in means of containment integral to equipment or machinery (e.g. generators, compressors, heating units, etc.) as part of their original design type ...”.

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