



Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals

Sub-Committee of Experts on the Transport of Dangerous Goods

Fifty-fourth session

Geneva, 26 November–4 December 2018

Item 2 (d) of the provisional agenda

**Recommendations made by the Sub-Committee on its fifty-first,
fifty-second and fifty-third sessions and pending issues:
electric storage systems**

Scope of the exemption in 1.1.1.2

Transmitted by the expert from Switzerland¹

Summary

Executive summary:	The French version of 1.1.1.2 (c), adopted in square brackets, must have the same scope as the English version. There should be no difference between the term in French in 1.1.1.2 (a) (currently “engins de transport”) and the term in “note” 3 of 1.1.1.2 (currently “moyen de transport”) and these terms should not be in conflict with the term “engin de transport”, used in 1.1.1.2 (c). Additional provisions concerning lithium batteries in 1.1.1.2 (c) should not be applicable to cargo transport units that, in the French version, are already fully exempted by 1.1.1.2 (a). In 1.1.1.2 (a) and note 3 of 1.1.1.2, the terms “conveyance” and “moyen de transport” should be used in the English and French texts, respectively. In order to prevent additional requirements that are impossible to implement from being imposed on users of means of transport that are not involved in the transport of dangerous goods, the text of 1.1.1.2 (c) should be moved to the definitions of package, overpack and cargo transport unit in 1.2.1.
Action to be taken:	Amend 1.1.1.2
Reference documents:	ST/SG/AC.10/C.3/2018/40, ST/SG/AC.10/C.3/2017/13, ST/SG/AC.10/C.3/102 and /Add.1, ST/SG/AC.10/C.3/104 and ST/SG/AC.10/C.3/106.

¹ In accordance with the programme of work of the Sub-Committee for 2017–2018 approved by the Committee at its eighth session (see ST/SG/AC.10/C.3/100, paragraph 98 and ST/SG/AC.10/44, para. 14).



Introduction

1. At its fifty-first session, the Sub-Committee adopted the following text in square brackets in relation to lithium battery powered cargo tracking devices and data loggers.

“[1.1.1.2 Amend paragraph (c) to read as follows:

(c) Lithium battery powered cargo tracking devices or data loggers attached to packages, overpacks or cargo transport units if they meet the following:

- (i) Each cell or battery meets the applicable provisions of 2.9.4;
- (ii) The batteries and cells are afforded protection by an outer casing of adequate strength and design or by the device in which they are contained to prevent damage under normal conditions of transport.]

(Reference document: ST/SG/AC.10/C.3/102/Add.1, annexe II)”

2. Paragraph 1.1.1.2 (a) of the French version provides for a general exemption for *engins de transport* (means of transport), which is inconsistent with the requirement introduced in 1.1.1.2 (c).

3. In the English version of 1.1.1.2 (a), the term used is “means of transport”. Although not defined in the regulations, this term is used in various places in the Model Regulations and none of these uses corresponds to the definition of “*engin de transport*”. In fact, the term “means of transport” is rarely found in the Model Regulations. We have found the following definitions, none of which corresponds to the term “*engin de transport*”/“cargo transport unit”:

“*Mode de transport*” in the following cases:

In paragraph 1.2.1, in the following definitions:

“Bulk container”

“A bulk container is: ... - specially designed to facilitate the transport of goods by one or more **means of transport** without intermediate reloading”

(Note: the French version uses the term “*mode de transport*”, which corresponds to “transport mode” in English)

“Carrier means any person, organization or government undertaking the transport of dangerous goods by any **means of transport**.”

“**Moyen de transport**”

In 1.5.1.4 on radioactive materials, in the sense of “conveyance” in English.

“1.5.1.4 These Regulations do not apply to any of the following:

(a) Radioactive material that is an integral part of the **means of transport**;”

“*Enceinte de rétention/containment system*”:

– in 2.8.1.1

“2.8.1.1 *Corrosive substances* are substances which, by chemical action, will cause irreversible damage to the skin, or, in the case of leakage, will materially damage, or even destroy, other goods or the **means of transport**.”

– In paragraph 4 under the heading **PRINCIPLES UNDERLYING THE REGULATION OF THE TRANSPORT OF DANGEROUS GOODS** in the introductory part of the Model Regulations

“4. Transport of dangerous goods is regulated in order to prevent, as far as possible, accidents to persons or property and damage to the environment, **the means of transport** employed or to other goods.”

4. Given that none of the examples of the term “means of transport” used in the Model Regulations refers to an “*engin de transport*/cargo transport unit”, and that there is no

definition of the term “means of transport” in the Regulations, it must be concluded that the English term “means of transport” cannot refer to a cargo transport unit, i. e., the term “means of transport” and the exemption in 1.1.1.2 (a) do not refer to a road transport tank, freight vehicle, railway transport tank, freight wagon, multimodal freight container, portable tank or multiple-element gas container (MEGC). This term is found only in the English version of the Model Regulations.

5. Irrespective of the question of which objects are covered by the exemption in 1.1.1.2 (a) of the English version, it can be concluded that it is possible, in English, to exempt “means of transport” under 1.1.1.2 (a), and also “cargo transport units” (“*engins de transport*”, in French) under 1.1.1.2 (c), and yet to subject them to additional requirements in respect of the lithium cells and batteries installed in them. In fact, in English, the addition of the exemption under 1.1.1.2 (c) would be essential since, in English, “cargo transport units” (road transport tanks, freight vehicles, railway transport tanks, freight wagons, multimodal freight containers, portable tanks or multiple-element gas containers) have not hitherto been exempt. The same exemption cannot be made in French because the term “*engin de transport*” appears both in 1.1.1.2 (a) and 1.1.1.2 (c), making the reference to “*engins de transport*” in 1.1.1.2 (c) superfluous as they are already exempt under 1.1.1.2 (a). It is not logical to subject them to requirements for lithium cells and batteries a few lines lower down in the text. This issue is addressed again below. It may be noted in passing that, in the French version, in contrast to the English version, “*engins de transport*”/“cargo transport units” have always been exempt under 1.1.1.2 (a).

6. At the fifty-third session, the expert from the Netherlands pointed out in document ST/SG/AC.10/C.3/2018/40 that the English term “means of transport”, in 1.1.1.2 (a), is not consistent with the French translation “*engin de transport*”.

7. The Sub-Committee, however, confirmed that the term “means of transport” was the appropriate term and invited the expert from the Netherlands to work with other interested delegations to find an appropriate translation for the French version.

8. In the summer of 2018, the expert from the Netherlands presented a detailed comparison of the language versions to interested representatives. It showed that the English term “means of transport” has been translated by four different French terms: “*engin de transport*”, “*moyen de transport*”, “*modes de transport*” and “*matériel de transport*”. The Netherlands therefore proposed replacing the term “*engin de transport*”, in 1.1.1.2 (a), with the term “*matériel de transport*”.

9. The term “*matériel de transport*” is translated as “means of transport” in paragraph 4, under the heading **PRINCIPLES UNDERLYING THE REGULATION OF THE TRANSPORT OF DANGEROUS GOODS**, which forms part of the introduction to the Model Regulations, but is translated into English as “transport equipment” in NOTE 1 of chapter 1.1 of Part IV: test methods concerning transport equipment of the Manual of Tests and Criteria, and therefore also in the Manual itself. There are therefore two different English terms for the French term “*matériel de transport*”: “means of transport” and “transport equipment”.

10. The use of the French term “*matériel de transport*”, in 1.1.1.2 (a) suggests that the exemption applies only to portable tanks and multiple-element gas containers, which equipment is covered by Part IV of the Manual of Tests and Criteria, which is certainly not the intended scope of 1.1.1.2 (a). It does not seem appropriate to limit the scope of 1.1.1.2 (a) in this way.

11. The proposal to replace the English term “means of transport” with the term “conveyance”, made by the expert from Switzerland at the fifty-third session, was not accepted by the Sub-Committee on the grounds that this term is used only in the context of radioactive material (this argument is incorrect because the term in question can also be found in 7.1.1.11, which concerns flexible bulk containers). It was also rejected on the grounds that the holds, compartments or decks of vessels (terms which appear in the definition of “conveyance”/“*moyen de transport*”) are not items of equipment that use dangerous goods during transport. This last argument seems weak because it is easy to imagine that the hold, compartment or deck of a ship could be fitted with specialized equipment containing dangerous goods that are necessary for that equipment to operate during transport, such as

refrigeration units or equipment required by operating regulations (e.g. fire extinguishers). How can such equipment be exempted on vessels if 1.1.1.2 (a) does not cover such cases?

12. In the Model Regulations, the English term “means of transport” is not used to refer to the holds, compartments or decks of vessels. This term should therefore be changed to ensure that such equipment (which can be found on all vessels, even if they do not perform any transport) is not subject to the provisions of the Model Regulations.

13. In the light of the above, the term used in French in note 3 of 1.1.1.2 (“*moyen de transport*”, or “conveyance” in the English version) seems perfectly appropriate.

14. In conclusion, aside from the argument that the term “conveyance” is supposedly used only for radioactive goods, which is contradicted by the fact that it is also used in connection with flexible bulk containers in 7.1.1.11, we believe that using the term “*moyen de transport*”/“conveyance” in 1.1.1.2 (a), and in note 3 to 1.1.1.2 (a), can only be of benefit to users of means of transport, irrespective of whether or not they carry out transport.

Proposal 1

15. Replace “means of transport” with “conveyance” in 1.1.1.2 (a) and Note 3 of 1.1.1.2 of the English text.

16. Replace “*engin de transport*” with “*moyen de transport*” in 1.1.1.2 (a) of the French text.

(The appropriate term “*moyen de transport*” is already used in note 3 of 1.1.1.2 of the French text)

17. If this proposal is adopted, the terms contained in 1.1.1.2 (c) should then be considered: both languages use the term “*engin de transport*/cargo transport unit”, which is the term used in the French version of 1.1.1.2 (a) before the amendment proposed in paragraph 16 above. As stated above, an element cannot be fully exempted in 1.1.1.2 (a) and then, a few lines below, in 1.1.1.2 (c), be subjected to additional requirements. The proposed amendment to paragraphs 15 and 16 does not fully resolve this contradiction because most of the objects encapsulated by the concept “*engin de transport*” are also covered by the concept “means of transport”/“conveyance”, although other elements are not.

18. In order to definitively resolve this contradiction, the exemption set out in 1.1.1.2 must be considered to apply not only to the transport of dangerous goods but also to any means of transport and the equipment used to propel it, irrespective of whether dangerous goods are being transported or a journey is being undertaken for reasons other than the transport of goods. The Model Regulations cannot impose requirements on users of means of transport, packages and overpacks that do not transport dangerous goods. However, the text adopted in 1.1.1.2 (c) subjects these non-specialist users to requirements they cannot possibly be aware of. Therefore, the requirement under 1.1.1.2 for lithium cells and batteries to comply with 2.9.4 is beyond the scope of the Model Regulations. This problem would be avoided if the text adopted in 1.1.1.2 (c) were placed in a part of the Model Regulations that contained requirements for objects likely to be equipped with cargo tracking devices and data loggers (packages, overpacks and transport units) used in the transport of dangerous goods. If there are problems with this equipment in other types of transport, they should not be addressed through the Model Regulations as not all users of means of transport are required to be familiar with these Regulations.

19. We propose that the text in question be placed in 1.2.1, in the definitions of package, overpack and transport unit, rather than in 1.1.1.2 (c). Thus, only carriers that transport dangerous goods will be subject to the requirement for lithium cells and batteries to comply with 2.9.4. Other forms of transport or carriage of packages, overpacks or cargo transport units, or means of transport that do not contain dangerous goods, are exempt under 1.1.1.2, as amended in paragraphs 15 and 16 and not including (c), which was proposed and adopted in square brackets in report ST/SG/AC.10/C.3/102/Add.1.

Proposal 2

20. Delete the text contained in 1.1.1.2 (c) in document ST/SG/AC.10/C.3/102/Add.1 and add the following text to 1.2.1, at the end of the definitions of package, overpack and transport unit:

“Lithium battery powered cargo tracking devices or data loggers attached to packages, overpacks or cargo transport units must meet the following conditions:

- (i) Each cell or battery meets the applicable provisions of 2.9.4;
 - (ii) The batteries and cells are afforded protection by an outer casing of adequate strength and design or by the device in which they are contained to prevent damage under normal conditions of transport.”
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