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Inland Transport Committee

Working Party on the Transport of Dangerous Goods

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Reports of informal working groups

29 August 2018

Report of the Informal Working Group on the drafting of definitions for the terms “RISK” and “HAZARD/DANGER” in the context of the RID/ADR/ADN

Transmitted by the Government of Romania and the International Union of Railways (UIC) on behalf of the informal working group

Introduction

1. The informal working group on the drafting of definitions for the terms “risk” and “hazard/danger” in the context of the RID/ADR/ADN met from 11 to 13 June 2018 at the headquarters of the Ministry of Infrastructure and Water Management of the Netherlands, in the Hague, according to the mandate of the RID/ADR/ADN Joint Meeting (para. 58-61), under the chairmanship of Mr. Mihai Cuciureanu (Romania) and Mr. Jean-Georges Heintz (International Union of Railways - UIC).
2. The informal working group brought together experts representing contracting parties/member states, international organisations and industry as mentioned in the enclosed list of participants.
3. In order for the group to work effectively, Romania and UIC prepared the following documents that were distributed to participants:
 - Mandate of the informal working group - excerpt from the Joint Meeting Report - March 2018;
 - Draft agenda;
 - Informal document INF.4/Add.1 prepared by Romania, UIC and IRU for the September 2017 RID/ADR/ADN Joint Meeting with updated proposals for the specific cases where changes needed to be made regarding the use of the terms "danger/hazard" and "risk".
4. After the approval of the agenda an introductory discussion began on the mandate of the informal working group.
5. It has been decided to initiate the work with the analysis of the proposals on the prepared table *bearing in mind the provisions of 1.1.2.6.2 Hazard vs. Risk of GHS*. Even if there are no definitions yet, the group felt that there was a clear logical distinction between the terms hazard/danger on one hand and risk on the other hand, allowing the work to proceed without proposing text to be added to section 1.2.1 for the time being. The analysis of the definitions has been left for the second part of the work of the Group.

FIRST PART OF THE WORK

6. The table provided in INF.10/Add.1 contains updated proposals of amendments and their justification. In order to clarify the proposals of the working group, they were organised as follows:

(a) Several new entries have been added to the table. This led to a renumbering of the entries. The new entries are related to:

- 1 amendment to the sub-sections 1.1.3.5 (exemptions) and
- 13 extra amendments to 5.4.3.4 (instructions in writing according to RID/ADR/ADN).

For the Instructions in writing the proposed amendments in DE, EN and FR are reflected in INF.10/Add.2. The amendments to the Instructions in writing were considered exhaustive by the working group, and no further need of amendment is to be envisaged.

This is a different approach than in the other cases of RID/ADR/ADN because the table otherwise dealt with differences between EN, FR and DE linguistic versions of the RID/ADR/ADN.

(b) The 96 entries of the table (from 0 to 95) are sorted depending on the source of the text, as follows:

RID/ADR/ADN	29 + <u>7</u> entries,
RID/ADR	10 + <u>6</u> entries,
RID	7 entries,
ADR	11 entries, and
ADN	26 entries.

Text originating in the UN Model Regulations is marked “UNMR“ on a white background in the second column.

The problems stemming from the text of UN Model Regulations can be summarised as follows:

- 7 entries of RID/ADR/ADN (chapter 1.10 of RID/ADR/ADN - 1.4 of UNMR) and
- 6 entries of RID/ADR (chapters 4.1, 6.1, 6.5, 6.7 and 6.10 of RID/ADR).

The 7 proposals of amendments in chapter 1.10 of RID/ADR/ADN (10 to 16) concern the French text only, the English texts of UN Model Regulations remain unchanged.

The 6 proposals of amendments in RID/ADR: 21 (4.1.8.1), 48 (6.1.4.18.2), 49 (6.1.5.3.1), 50 (6.5.3.1.5), 51 (6.7.2.5.12) and 61 (6.10.3.4 RID/ADR - 6.8.3.2.1 of UNMR) offer solutions to align the text of RID/ADR/ADN with UNMR or propose rewording of the provisions in order to avoid using the terms danger/hazard or risk.

Item 1 – avoid the use of *danger, hazard and risk*

7. The proposed amendments 6, 17-20, 26, 27-38, 40-42, 43-44, 48, 52-54, 56, 60-61, 63, 70-73, 76, 79, 81-82 and 95 offer solutions by avoiding the use of the terms *danger, hazard and risk*, as the case may be, in EN, FR and DE, as required by the mandate of the Group.

8. The proposed amendment 4 clarifies the text of paragraph 1.3.2.3 in RID/ADR/ADN given that the current phrase in English uses all 3 terms: danger, hazard and risk at the same time.

Item 2 – replace “risk” with “likelihood” or “possibility”

9. The proposed amendments: 50 (the text come from UNMR), 55 and 57 offer the solution of replacing the term “risk”/“risque” by “likelihood”/“probabilité” as *specified* also in the 1.1.2.6.2 GHS . In ADR 2017, the word “likelihood” is already used in 6 places and the adverb “likely” is used in 31 places. For an uniform treatment the proposed amendments 58, 59 offer the solution of replacing the word “possibility“ by “likelihood“ in EN and DE and “risque“ by “probabilité“ in FR.

10. The proposed amendment 74 offers the particular solution to replace "risk" by "possibility" – which is also used several times in the regulations.

Item 3 – replace “additional risk” with “subsidiary hazard”

11. The proposed amendments 22 (4.3.2.2.1 (a) of RID/ADR) and 66-68 (ADN: 7.1.4.4.4, b, al. 4, 5 and 6) consist in a significant improvement of the provisions, replacing “*additional risk*” by “*subsidiary hazard*”.

Item 4 – replace “risk” by “hazard”

12. The proposed amendments 65 (7.1.4.3.4 of ADN) and 76 (7.5.2.2 of RID/ADR), for the replacement of “*risk*” by “*hazard*”, were supported by the expert of the Explosives Working Group of the SCETDG.

Texts which do not need to be amended

13. There are no proposals for amendments on the entries: 1, 5, 69, 80, 83-88 and 90-92. The arguments were presented in para.6 of the initial informal document INF.4 of the September 2017 session of the Joint Meeting. Several occurrences of the terms originate in other regulations than those specific to the transport of dangerous goods.

Two cases have been identified:

- the entry 83 at 9.2.4.3 of ADR where the title of UN Regulation No. 34 appears (Uniform provisions concerning the approval of vehicles with regard to the prevention of *fire risks*) and

- ADN text where the concept of “explosionsgefährdeten Bereichen” or “begrenzte Explosionsgefahr” in the DE version, “zones presenting an explosion risk” or “limited explosion risk” in the EN version or “zones à risque d’explosion” or “risque limité d’explosion” in the FR version respectively have a similar meaning¹.

In order to maintain coherence with these regulations, it is proposed not to modify the text.

14. We summarize the number of proposals contained in the table depending on language, as follows:

- to German – 60 (50 + 10*), - to English – 56 (53 + 3*), - to French – 79 (66 + 13*).

* the number of proposals related to UNMR changes.

¹ For example, these concepts match those of Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

Consistency with the UN Model Regulations

15. The analysis of the text of RID/ADR/ADN must go beyond the table presented above, because there are also some other cases to be treated. The other occurrences in RID/ADR/ADN seem to come mainly from the UN Model Regulations as the case of French term “*risque*” in chapter 1.10 coming from chapter 1.4 of UNMR.

Under these circumstances, we highlight several situations:

- the new amendments to the 20th edition of UN Model Regulations will be adopted in December by the Committee and will bring new provisions in RID/ADR/ADN which should be treated in the same way by the *Ad hoc Working Group on the Harmonization of RID/ADR/ADN with the UN Recommendations on the Transport of Dangerous Goods*;
- the UN Model Regulations itself needs to be checked and amended accordingly.

SECOND PART OF THE WORK

16. The work on definitions began in the second part of the meeting and it focused on the two options proposed in the report of the group at the last session of the Joint Meeting. The proposals were considered individually.

17. For the analysis of the term “*risk*” the European Union Agency for Railways (ERA) provided an updated definition which reflects the final draft of the Glossary of the Risk Management Framework for Inland Transport of Dangerous Goods (i.e. the version applicable under the Voluntary Implementation Scheme 2018-2020);

18. We recall that the proposed definitions of the terms “*danger/hazard*” and “*risk*” had been developed in the context of RID/ADR/ADN, considering the relationship with the Globally Harmonized System of Classification and Labelling of Chemicals - GHS, international standards relating to risk (vocabulary, evaluation and assessment methods), the Glossary for the Guideline drawn up as part of the work of the TDG workshops ⁽¹⁾ and Commission Implementing Regulation (EU) No. 402/2013 of the European Commission on the common safety method for risk evaluation and assessment.

19. After a long discussion, the informal working group concluded that:

- the difference between the two options for the definition of the term HAZARD/DANGER is not so significant and a consensus may be reached,
- in the case of the definition of the term RISK, the discussions are still divergent, and there is no foreseeable consensus in the near future and
- it was premature to discuss this now since the work is not finished. The table only contains instances where the language versions differed, but the correct application of the terms hazard/danger and risk in other instances has not been carried out.

Proposals

20. In consequence, the informal working group presents to the Joint Meeting the following proposals:

(a) to adopt the amendments proposed in INF.10/Add.1 corresponding to the above Items 1-4 (for RID/ADR/ADN 2021 editions), as follows:

Regulation	DE	EN	FR
RID/ADR/ADN	4, 26-38, 40-44	4, 7-9, 24-46	0, 4, 7-9, 20, 26-46
RID/ADR	22, 23, 52, 54, 62, 64, 75	22, 52-54, 63, 76	22, 23, 52-54, 62-64, 75, 76
RID	55-60	55-60	55-60, 77
ADR	72, 73, 78-82, 89, 93, 95	81, 82, 89, 93, 95	72, 73, 78, 79, 81, 82, 89, 93-95
ADN	2, 3, 6, 66-68, 70, 71, 74	6, 47, 65-68, 70, 71, 74	2, 6, 17-19, 65-68, 70, 71, 74
Total	50 amendments	53 amendments	66 amendments

It is possible that further revisions be needed to the proposal above as a consequence of the analysis of the whole text, in order to accommodate certain inconsistencies stemming from different sections in the regulations, and which might not be only of differences between the language versions. Thus, the proposals adopted can be kept in square brackets until the final decision.

(b) to endorse the submission of an informal document to the SCETDG to introduce the group's work and to present the proposals of amendments for the UN Model Regulations texts – 13 amendments = 7+6 (10 to 16 – in French; 21 and 51 - French; 48-50 and 61 - different versions). These proposals may produce consequential amendments in other UN official languages (Arabic, Chinese, Russian or Spanish) and German.

(c) for the arguments presented in the above para. 13, there are no changes for the following positions of the attached table: 1, 5, 69, 80, 83-88 and 90-92.

21. The table in INF.10/Add.1 contains only those parts of RID/ADR/ADN where differences exist in using the terms "danger/hazard" and "risk" in the different language versions. If the above proposals are adopted by the Joint Meeting an analysis of other parts of RID/ADR/ADN where the different language versions use the same term ("danger/hazard" or "risk") could be necessary. In these cases, it could also be envisaged to avoid the use the words "danger/hazard" and "risk".

22. The working group welcomes all further suggestions of improvement of its work of finding solutions to the current situation and wishes to invite all experts to get involved in its additional future works.

LIST OF PARTICIPANTS

INFORMAL WORKING GROUP ON THE DEFINITIONS OF “RISK” AND “HAZARD/DANGER” IN THE CONTEXT OF RID/ADR/ADN

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2nd Meeting - 11-13 June 2018

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² Attended only two days of the meeting - 11 and 12 of June.

³ Attended only the first day of the meeting - 11 of June.

⁴ Registration as member of the IWG for correspondence purpose.