

## 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 2018

Item 2 of the provisional agenda

##### Tanks

8 August 2018

### Amendment of Section 1.2.1 Definitions

#### Transmitted by International tank Container Organisation (ITCO)

##### *Summary*

**Executive summary:** It is proposed to amend Section 1.2.1 in respect of Definition of a “Tank-container/portable tank operator”.

The proposed amendment defines the separate responsibilities of the two entities “tank container/portable tank operator” and the “tank container/portable tank registered owner”.

The subject was raised at the working group on tanks at the 12-16 March meeting and mentioned in the report item 16 paragraph 43 wherein ITCO were invited to consider an amendment to the definition.

**Action to be taken:** Amend Section 1.2.1.

### Introduction

It is proposed to amend Section 1.2.1 Definitions in respect of the entry “Tank-container/portable tank operator”.

The proposed amendment defines the separate responsibilities of the two entities “tank container/portable tank operator” and “tank container/portable tank registered owner. The obligations of the two entities are provided in 1.4 Safety obligations of participants and Chapter 4.3 User provisions.

The registered owner of a tank-container/portable tank is often a financial entity such as a leasing company or bank and takes no part in the tank operators obligations. The tank is leased or otherwise made available by legally enforceable contract between the registered owner and the tank container/portable operator.

The operator is the entity that is the user of the tank as required by Chapter 4.3 Use of fixed tanks, tank-containers and tank swap bodies, and is responsible for its proper use, maintenance, inspection and transport in accordance with the regulations.

RID and ADR 6.8.2.5.2 acknowledges the distinction between the two entities by requiring: “the following particulars shall be inscribed on the tank-container: Names of owner and of operator”.

Authorities undertaking routine controls in the Port of Rotterdam raised the subject of the defined and obligated responsible party and the legal issues that could result from interpretation the current definition.

The subject was discussed at the Joint RID-ADR tank working group, spring 2018 session, (Report, Item 16, para. 43) The report invited consideration of an amendment to the definition, bearing in mind that marking the name of the owner and the operator on the tank-container and portable tank is required.

It is proposed to clarify the definition of both the registered owner and the operator by amending RID and ADR 1.2.1 Definitions. The amended definition will lead to clarity of the provisions of Chapter 1.4, Safety obligations of the participants.

ADR Section 1.2.1 Definitions:

- “Tank-container/portable tank operator” means any enterprise in whose name the tank-container/portable tank is registered.
- RID Section 1.2.1 Definitions combines:
  - Operator of a tank container, portable tank or tank-wagon means any enterprise in whose name the tank-container, portable tank or tank–wagon is registered or approved for transport.
  - RID and ADR 6.8.2.5.2 acknowledges the distinction between the two entities by requiring: “the following particulars shall be inscribed on the tank-container: Names of owner and of operator”.
  - RID-ADR 6.7.2.20.1 (a) (i) and 6.7.2.20.2 and acknowledges the distinction between the two entities by requiring the marking:
    - Owner’s registration number and Name of the operator.
    - UN Model Regulations do not provide a definition of either the registered owner or the operator but acknowledges the distinction between the two entities by requiring:
      - 6.7.2.20.1(a) markings to display the owner’s registration number
      - 6.7.2.20.2, name of the operator.

The regulations acknowledge the difference between the name of the owner in whose name the tank is registered, which might be a financial owner such as a leasing company or other financial investment entity, and the operator and user of the tank.

## **Proposal**

The proposal is to amend the definition to reflect the use of the terms within the regulations.

## **ADR**

Amend Section 1.2.1 Definition:

- “Tank-container/portable tank ~~operator~~-owner” means any enterprise in whose name the tank-container/portable tank is registered.

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- “Tank-container/portable tank operator” means any enterprise in whose name the tank-container/portable tank is used and operated ~~registered~~.

## **RID**

Amend Section 1.2.1 Definition:

- Owner ~~Operator~~ of a tank container, portable tank or tank-wagon means any enterprise in whose name the tank-container, portable tank or tank-wagon is registered or approved for transport.
- Operator of a tank container, portable tank or tank-wagon means any enterprise in whose name the tank-container, portable tank or tank-wagon is used and operated ~~registered or approved for transport~~.

## **Justification**

Safe operation of the tank-container/portable tank in accordance with Chapter 4.3 User provisions, requires that obligations of the participants are defined and readily identified by the authorities.

The registered owner of many tank-containers/portable tanks are financial entities in whose name the tank is registered but are remote from the tank-container/portable tank and are not able or qualified to control its safe use and operation.

Such financial entities contract the tank-container/portable tank to another party who operate the tank and contractually assume all obligations of a tank user/ operator as defined in RID-ADR 1.4.3.4.

The current 1.2.1 definition of the registered owner and the operator are combined and lead to uncertainty with regard to the obligations of the respective parties defined in 1.4.3.4 and 4.3.

The proposed amendment to the definition clarifies the distinction between a tank-container/portable tank registered owner and the operator.

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