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Item 5 (b) of the provisional agenda

Proposals for amendments to annexes A and B of ADR: miscellaneous proposals

Chapter 8.5 Additional requirements on supervision in S1(6), S16 and S21

Submitted by the Government of Sweden*

Summary

Executive summary:	Clarify the provisions on supervision in S1(6), S16 and S21 in Chapter 8.5.
Action to be taken:	Consider and take a decision on the proposals.
Related documents:	Informal document INF.7 from the 103 rd session of the Working Party (WP.15), ECE/TRANS/WP.15/239 (report from the 103 rd session), paras. 61-65, Informal document INF.16 from the 104 th session, ECE/TRANS/WP.15/242 (report from the 104 th session), paras. 55-57, Informal document INF.14 from the 105 th session of WP.15, ECE/TRANS/WP.15/244 (report from the 105 th session), paras. 65-68. ECE/TRANS/WP.15/2019/12 and informal document INF.19 from the 106 th session of WP.15, ECE/TRANS/WP.15/246 (report of the 106 th session), para. 38.

Introduction

1. During the previous four sessions of WP.15, Sweden has raised concerns in relation to the supervision of vehicles according to Chapter 8.5. During this work, Sweden has also sent out a survey concerning the situation within the Contracting Parties of ADR to create a good basis for clarification of the provisions in S1(6), S16 and S21 in Chapter 8.5.

* In accordance with the programme of work of the Inland Transport Committee for 2018–2019 (ECE/TRANS/2018/21/Add.1, cluster 9, 9.1).

Background

2. At the last session of the Working Party, Sweden presented a proposal which gained a lot of support. The report from that session states the following:

“Several delegations that took the floor considered it appropriate to refer to Chapter 1.10 in the provisions on supervision contained in the additional requirements in S1 (6), S16 and S21. However, given the differences in scope between the requirements in S1 (6), S16 and S21 and 1.10.3, the Working Party preferred to postpone discussion on the matter to a next session. That would enable the ongoing work in the Sub-Committee of Experts on the Transport of Dangerous Goods on the list of high consequence dangerous goods to be considered.”

3. During that session, the fact that divisions 1.3 and 1.4 is currently not high consequence dangerous goods according to section 1.10.3 caused some reluctance. Sweden would therefore like to explain a bit further the reasoning behind this part in our proposal. As for the rest of the proposal, the Working Party has already dealt with during previous sessions and noted general acceptance (see under “Related documents” in the summary above).

4. During some meetings with the Sub-Committee of Experts on the Transport of Dangerous Goods, the United Kingdom lead discussions concerning relevant limits for Class 1 as high consequence dangerous goods. However, in our dialogue with the United Kingdom we have been informed that, even though it was their intention to return to the issue, this work will not be continued in the near future due to resource constraints.

5. Nevertheless, we cannot see that the solution proposed in this document is dependent on an amendment in section 1.10.3. The work with 1.10.3 (Chapter 1.4 in the UN Model Regulations) can move forward in parallel, and if limits are changed these would automatically also be applicable to the S-provisions if these were to refer to the security plan in sub-section 1.10.3.2.

6. It should be kept in mind that all substances and articles in class 1, including divisions 1.3 and 1.4, have been allocated to S1 in Chapter 8.5. Consequently, all substances and articles listed in S1(6), are subject to the provisions on supervision in Chapter 8.4 according to the first paragraph in S1(6). This is a requirement that remains unchanged in our proposal.

7. We would also like to underline that S1(7), “Locking of vehicles” applies to all substances and articles in class 1 (including divisions 1.3 and 1.4):

“Doors and rigid covers in the load compartments of EX/II vehicles and all openings in the load compartments of EX/III vehicles carrying substances and articles of Class 1 shall be locked during transport, except for the periods of loading and unloading.”

8. The main reason with our proposal is to clarify, in all three provisions, what is required in addition to the requirement on supervision in chapter 8.4. Today, this additional requirement is not possible to comply with which means that it does not improve or contribute to a higher security level. For this reason, Sweden cannot see any motive to keep this text – not for any substance or article. However, a reference to the security plan would promote the security level considerably, since it would enable the actors to comply with the provisions.

Summary

9. Previous discussions together with the result from the questionnaire, indicate that it would be problematic to define what is meant with the term “supervision” by specifying fixed measures in S1(6), S16 and S21. For this reason, we believe that a provision that could be adapted to the unique circumstances of a transport would be a more suitable solution.

10. Based on the discussions and the facts that have emerged during this work together with the aforementioned reasoning, Sweden suggests that a reference to the security plan in sub-section 1.10.3.2 is inserted in relevant parts of the S-provisions in Chapter 8.5.

Proposals

Proposal 1

11. Amend the text in the additional provision S1(6) in chapter 8.5 as follows (changes underlined):

“S1(6) *Supervision of vehicles*

The requirements of Chapter 8.4 shall be applicable only when substances and articles of Class 1 having a total net mass of explosive substance above the limits set below are carried in a vehicle:

Division 1.1:	0 kg
Division 1.2:	0 kg
Division 1.3, compatibility group C:	0 kg
Division 1.3, other than compatibility group C:	50 kg
Division 1.4, other than those listed below:	50 kg
Division 1.5:	0 kg
Division 1.6:	50 kg
Substances and articles of Division 1.4 belonging to UN numbers 0104, 0237,0255, 0267, 0289, 0361, 0365, 0366, 0440, 0441, 0455, 0456 and 0500:	0 kg

For mixed loads the lowest limit applicable to any of the substances or articles carried shall be used for the load as a whole.

In addition, these substances and articles, when subject to the provisions in Section 1.10.3, shall be supervised in accordance with the security plan in 1.10.3.2 at all times in order to prevent any malicious act and to alert the driver and the competent authorities in the event of loss or fire.

Empty uncleaned packagings are exempted.”

Proposal 2

12. Amend the text in the additional provision S16 in chapter 8.5 as follows (changes stricken through/underlined):

“S16: The provisions of Chapter 8.4 concerning the supervision of vehicles shall apply when the total mass of these substances in the vehicle exceeds 500 kg.

In addition, vehicles carrying more than 500 kg of these substances shall, when subject to the provisions in Section 1.10.3, ~~be subject supervised in accordance with the security plan 1.10.3.2~~ at all times to supervision to prevent any malicious act and to alert the driver and competent authorities in the event of loss or fire.”

Proposal 3

13. Amend the text in the additional provision S21 in chapter 8.5 as follows (changes stricken through/underlined):

“S21: The provisions of Chapter 8.4 concerning the supervision of vehicles shall apply to all material, in whatever mass. ~~In addition, these goods shall be subject at all times to supervision to prevent any malicious act and to alert the driver and the competent authorities in the event of loss or fire.~~ However, the provisions of Chapter 8.4 need not be applied where:

- (a) The loaded compartment is locked or the packages carried are otherwise protected against illicit unloading; and
- (b) The dose rate does not exceed 5 µSv/h at any accessible point on the outer surface of the vehicle.

In addition, these goods shall, when subject to the provisions in Section 1.10.3, be supervised in accordance with the security plan in sub-section 1.10.3.2 at all times to prevent any malicious act and to alert the driver and the competent authorities in the event of loss or fire.”

Justification

14. Chapter 1.10 deals with provisions concerning security. Work has been carried out, and is continuously ongoing, to evaluate which substances and articles that should be considered as high consequence dangerous goods and for which specific measures should be taken to minimise the risk of theft or misuse. Introducing a reference in chapter 8.5 to the security plan in chapter 1.10 would therefore make these provisions more consistent.

15. During our work with this matter, Sweden had a number of meetings with stakeholders within the explosives sector. This exchange of experiences clearly indicates that these companies generally have a very high awareness concerning both safety and security for several reasons – not only because of the characteristics of the goods and mandatory provisions, but also to protect high economic values and the company’s reputation. Consulting a professional and serious carrier is therefore of great importance.

16. Lastly, it should be kept in mind that each country, in addition, always has the possibility to introduce (or maintain) national provisions on security.
