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Item 5 (a) of the provisional agenda

Proposals for amendments to RID/ADR/AND: pending issues

Adequate use of the terms defined in section 1.2.1 of RID/ADR/ADN

Submitted by the Government of Romania^{1,2}

Summary

Executive summary: Proposal of the Romanian delegation to start the work of revising the section 1.2.1 in ADR, in order to eliminate the existent inconsistencies.

Measures to be taken: Organise an informal working group to improve the use of terms defined in section 1.2.1 of RID/ADR/ADN legal instruments.

Related documents: ECE/TRANS/WP.15/AC.1/2009/9, ECE/TRANS/WP.15/AC.1/114, paras. 25-34, INF.36, ECE/TRANS/WP.15/AC.1/118, para. 4

Introduction

1. The Government of Romania presented at the March 2010 session of the RID/ADR/ADN Joint Meeting an informal document INF.36, in order to point out that there are several inconsistencies within the definitions in 1.2.1 and there are also some problems in the use of the terms in 1.2.1 all over RID/ADR/ADN.

¹ In accordance with the programme of work of the Inland Transport Committee for 2006-2010 (ECE/TRANS/166/Add.1, programme activity 02.7 (c)).

² Circulated by the Intergovernmental Organisation for International Carriage by Rail (OTIF) under the symbol OTIF/RID/RC/2010/40.

2. As the Joint Meeting did not have the time to analyse the informal document, the Romanian delegation prepared this revised document to be discussed at the current session.
3. The present document consists of the formal proposal and is supplemented by three annexes which are reproduced in informal document INF.3, as follows:
 - Annex I: Comparative table of definitions in 1.2.1 – English/German/French/Russian/Spanish/Italian.
 - Annex II: Table regarding the use of the term “closure” in English, French, Russian
 - Annex III: Excerpts in which “closure” or its equivalents are used - English, French, Russian.
4. Reference to the definitions in 1.2.1 (Annex I) in the current formal proposal is made by using the number of the definition between brackets.
5. In order to acknowledge the importance of our proposal to organise an informal working group meant to improve the use of the terminology defined in 1.2.1 all over RID/ADR/ADN, the Government of Romania presents to the Joint meeting only a part of the terms that we consider to have an inappropriate use:
 - (a) Operator (EN) – Exploitant (FR) (4; 140)
 - (b) Closure (EN) - fermeture (FR) – затвор (RU) (20)
 - (c) Overpack (EN) – suremballage (FR) – Пакет (RU) (140 ; 105)
 - (d) Without intermediate reloading (EN) – sans rupture de charge (FR) -без промежуточной перегрузки грузов (RU) breakage of load (EN) – sans rupture de charge (FR) - без промежуточной перегрузки грузов (RU) (11 ; 34 ; 45)
 - (e) An inseparable unit (EN) (27 ; 28)

I. Operator (EN) – Exploitant (FR) (4;140)

6. In the fourth definition in 1.2.1 – that of the “Applicant” (4) the term “operator” is used in the following sentence:

“In the case of periodic testing and exceptional checks, applicant means the testing facility, the operator or their authorised representative in a country Contracting Party.”.

7. The French original of RID/ADR/ADN presents the equivalent term “l’opérateur” and so does the Russian original “оператора”. As a result of the use of the same term in the three different official languages, you will easily observe the use of the exactly same term in Romanian – “operatorul”, Spanish – “el operador” and Italian – “il operatore”. It is obvious that in each of the six languages there was a more or less similar word which has as an etymological root the Latin word “operatorem, de operari”. The term was easy to translate as such, as for most European languages it sounds familiar.
8. Nevertheless, while working on the table in the annex we were surprised to notice that in the definition of the “Tank-container/portable tank operator” (140) that its French equivalent is “Exploitant d’un conteneur /citerne ou d’une citerne mobile”. Though we kept in mind the fact that these definitions of the “Applicant” and of the “Tank-container/portable tank operator” might have been written in different stages of the development of RID/ADR/ADN, we could not help to notice the fact that the other non official versions of RID/ADR/ADN followed either the English version – in Romanian we

used “operator”, or the French version – which was the case of the Spanish version – “Exploador” and of the Italian version – “Gestore”.

9. It is possible though (we did not have the time to check it out) that the definition was originally drafted for RID, as one of the online Larousse dictionaries defines it as follows:

exploitant, exploitante nom:

- Personne qui met en valeur une exploitation agricole,
- Propriétaire d'une salle de spectacle cinématographique,
- Agent ou dirigeant du service de l'exploitation ferroviaire.³

10. A previous printed edition of the “Petit Larousse” (1966) refers to the “Personne qui met en valeur un bien productif de richesse: *les exploitants agricoles.*”.

11. We do not pretend to have used the best of the dictionaries, but we still think that this might lead to different interpretation of ADR.

Proposal

12. In this case, we think that there are two possible solutions that should be carefully considered:

13. Replace the word “opérateur” in the definition of the “demandeur” with “Exploitant”; or

14. Replace the word “Exploitant” in the definition of the “Exploitant d’un conteneur /citerne ou d’une citerne mobile” with “opérateur”

15. That is why we think that in the future some principles could be established with regard to the use of terms in RID/ADR/ADN.

16. Our proposal is that the choice of equivalent terms with the same etymology to be made for all official languages, in order to ease translation of RID/ADR/ADN in the other Contracting Parties.

17. Another important principle is the use of the term defined in 1.2.1 all over RID/ADR/ADN.

18. We would kindly ask the Joint Meeting to see if we have followed this principle in RID/ADR/ADN.

II. Closure (En) - Fermeture (Fr) – Затвор (Ru) (20)

19. The term “closure” is 20th definition in the 1.2.1.

20. “Closure” means a *device* which closes an opening in a *receptacle.*”.

21. The definitions of “receptacle” (definitions 117, 118) use other terms though:

22. “Receptacle (Class 1) includes boxes, bottles, cans, drums, jars and tubes, including any *means of closure* used in the *inner or intermediate packaging.*”.

23. “Receptacle” means a containment vessel for receiving and holding substances or articles, including any *means of closing.* This definition does not apply to *shells.*”.

³ <http://www.larousse.fr/dictionnaires/francais/exploitant>.

24. The puzzle grows if we consider the definition of “Shell”:
25. “*Shell*” means the sheathing containing the substance (including the openings and *their closures*). ”.
26. Wasn’t “closure” meant to be used for “receptacles” only? Is there a real need to use the word “device” with the adjectives “closing” or “closure” as long as “closure” is defined as a “device” in 1.2.1? (See the Annexes II and III – EN, FR, RU)

Proposal

27. Revise the terminology used all over RID/ADR/ADN with regard to the word closure.

III. Overpack (EN) – Suremballage (FR) – Пакет (RU)

28. Another misfortunate example, which breaks the rule of explicit and coherent wording, is the series of consequent definitions of outer packaging (and overpack).
29. “Outer packaging” means the outer protection of the composite or combination packaging together with any absorbent materials, cushioning and any other components necessary to contain and protect inner receptacles or inner packaging;
30. “Overpack” means an enclosure used (by a single consignor of Class 7) to contain one or more packages, consolidated into a single unit easier to handle and stow during carriage.
31. Examples of overpacks:
- (...)
- (b) An outer protective packaging such as a box or a crate.”.
32. Was the word “protective” still necessary after the definition of “outer packaging” which was defined as “the outer protection”?

Proposal

33. Remove the word “protective” from point b) in the definition of the “overpack”. The deletion of the French and Russian equivalents of “protective” must be deleted also.

IV. Without intermediate reloading (EN) – Sans rupture de charge (FR) - Без промежуточной перегрузки грузов (RU)

Breakage of load (EN) – Sans rupture de charge (FR) - Без промежуточной перегрузки грузов (RU)

34. Further on, we would like to ask the Joint Meeting to observe the different English versions for the terms “Sans rupture de charge” in French.

In the definition of the “Bulk container” (11), third indent:

- “- specially designed to facilitate the carriage of goods by one or more modes of carriage without intermediate reloading”

35. In the definition of “Container” (34), second indent:

- “- specially designed to facilitate the carriage of goods, by one or more means of transport, without breakage of load”

36. In the definition of the “demountable tank” (45) we find out that it “is not designed for the carriage of goods without breakage of load”.

37. The same French set phrase has two English equivalents. Is there a real need for this to happen? The translations into the non-official languages of RID/ADR/ADN might, eventually, differ.

Proposal

38. In the definition of “bulk container”, replace the phrase “without intermediate reloading” with “without breakage of load”.

V. An inseparable unit (EN) (27 ; 28)

39. Another problem is that of the use of the term “an inseparable unit”, in the definitions of “Composite packaging (plastics material)”, “Composite packaging (glass, porcelain, stoneware)”, instead of “single packaging”, the term used in 4.1.4.1 (see P001, P002, P010, P403, P410, P501, P502, P503, P504).

Proposal

40. In the definitions of “Composite packaging (plastics material)” (27) and “Composite packaging (glass, porcelain, stoneware)” (28), replace “an inseparable unit” with “single packaging”.

41. There is a series of problems in the use of the terminology in 1.2.1 that we can not present here due to the lack of time.

42. The Government of Romania insists that it is advisable to make up a working group in order to deal with the problem of the wording used in RID/ADR/ADN, and in particular in 1.2.1. We strongly believe that the definitions in 1.2.1 represent the basis of the RID/ADR/ADN system and that is why, there is a need of clarification of these definitions. They are the first step towards the rethinking of ADR terminology which is supposed to:

- Be more user friendly, allowing an easier access to the intricate terminology that anyone interested in using ADR has to acquire,
- Ease translation process for non-native speakers of the RID/ADR/ADN,
- Clarify the logical and juridical structure of the RID/ADR/ADN.

43. If the Joint Meeting agrees to start such a working group, Romania will gladly offer to be the host of the first meeting on the subject and to support all the activities in this field.