

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

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Item 2 of the provisional agenda

Tanks

Comments on document ECE/TRANS/WP.15/AC.1/2021/23/Rev.1: transitional measures in relation to the recognition of inspection bodies

Transmitted by the Government of Switzerland

Summary

Executive summary: In this document, Switzerland presents its interpretation of the two transitional measures proposed in annex V of document ECE/TRANS/WP.15/AC.1/2021/23/Rev.1 (amendments proposed by the informal working group on inspection and certification of tanks). The interpretation of these new texts raise a number of questions.

Action to be taken: The Working Group on Tanks is invited to consider the explanations and questions raised in this document and to propose improvements or corrections where necessary. Annex II of the explanatory document ECE/TRANS/WP.15/AC.1/2021/34 will be supplemented accordingly.

Related documents: ECE/TRANS/WP.15/AC.1/2021/23/Rev.1 (United Kingdom)
ECE/TRANS/WP.15/AC.1/2021/34 (Switzerland)

Introduction

1. Annex II of the explanatory document ECE/TRANS/WP.15/AC.1/2021/34 still needs to be supplemented with some explanations concerning the two transitional measures proposed by the informal working group on inspection and certification of tanks.
2. In this context, the two transitional measures proposed in annex V of document ECE/TRANS/WP.15/AC.1/2021/23/Rev.1 raise some additional questions.
3. This document presents an interpretation of the new texts. It should make it possible to answer the questions raised and, in particular, to clarify the wording of the text 1.8.6.2.4.3.
4. Depending on the views that will be exchanged in the Working Group on Tanks, questions raised in this document and their answers will be used to supplement Annex II of the explanatory document.

1) Transitional measure 1.6.3.x

5. Reminder: "1.6.3.x Procedures and mutual recognition used by the competent authority for the approval of experts performing activities concerning tanks-wagons / Procedures used by the competent authority for the approval of experts performing activities concerning fixed tanks (tank vehicles) and demountable tanks intended for the carriage of substances other than those for which TA4 and TT9 of 6.8.4 apply which conform to the requirements of Chapter 6.8 in force up to 31 December 20[22] but which do not conform to the requirements of Chapter 6.8 applicable to inspection bodies from 1 January 20[23] may continue to be used until 31 December 20[32].

Note: The term 'expert' has been replaced by the term 'inspection body'."

A. Interpretation of measure 1.6.3.x (resp. 1.6.4.x) with regard to the recognition of inspection bodies

6. For RID, the requirements for the mutual recognition for experts performing tests on the tanks of tank-wagons, referred to in 6.8.2.4.6 of the 2021 edition, shall remain applicable until 31 December 2032.

→ Continuation of the mutual recognition of experts in the COTIF Member States: a tank-wagon registered in one COTIF Member State can be inspected in another COTIF Member State by an expert recognized in that other Member State.

7. For ADR, the national procedures for the approval of experts carrying out control activities may continue to be used until 31 December 2032 at the latest.

→ No mutual recognition of experts in the Contracting Parties to ADR.

8. Until 31 December 2022, the procedures used by the competent authority for approving experts carrying out inspection activities can only be found in RID. From 1 January 2023, these requirements will be set out in 1.8.6 for both RID and ADR.

Question: In view of the above, it appears that *the "procedures and mutual recognition used by the competent authority for the approval of experts performing activities concerning tank-wagons"* are indeed in accordance with the requirements of current Chapter 6.8. However, should the last sentence of 1.6.3.x not refer to the new requirements of **1.8.6** applicable to inspection bodies as from 1 January 20[23] (instead of Chapter 6.8)?

B. New texts for the recognition of inspection bodies

9. Recognition of inspection bodies is possible as long as they meet the new requirements of 1.8.6 RID/ADR and are duly approved by their competent authorities, which shall then include them in the list referred to in 1.8.6.2.4.2.

10. In this context, the recognition referred to in 6.8.1.5 shall mean, for inspection bodies meeting the new requirements of 1.8.6 RID/ADR, the recognition of test reports, certificates and approvals issued as well as the conformity marks affixed by these inspection bodies in the course of their activities in connection with the performance of conformity assessments and checks according to the procedures referred to in 1.8.7 RID/ADR applicable as from 1 January 2023. As a reminder:

(a) RID Contracting States/Contracting Parties to ADR shall publish their national procedures for the assessment, approval and monitoring of inspection bodies and any changes thereto.

(b) An inspection body shall meet the approval requirements of section 1.8.6. Therefore, the inspection body shall first be accredited according to EN ISO/IEC 17020:2012 (except Article 8.1.3). It shall then be approved by its competent authority to carry out inspection activities such as: conformity assessments, periodic inspections, intermediate inspections, exceptional checks, entry into service verifications and supervision of the in-house inspection service.

(c) The competent authority of the RID Contracting State/ADR Contracting Party shall publish an updated list of all the inspection bodies it has approved with their fields of activity, at the latest by 31 December 2032 (see 1.8.6.2.4.2).

11. The published lists form the core of the new system. In particular, they shall allow competent authorities in other countries to recognize inspection bodies approved elsewhere, and thus enable them to engage the services of these inspection bodies without going through the whole approval process again.

12. For any inspection body approved by a competent authority of an RID Contracting State/Contracting Party to ADR, the mere fact that it is included in the list published by its own competent authority shall be sufficient for the documents issued to be recognized by the competent authorities of the other RID Contracting States/Contracting Parties to ADR. Although reciprocal recognition was one of the objectives of the work of the "London informal working group", the term "reciprocal recognition" is not mentioned as such in the new texts, as it is today, for example, in RID 6.8.2.4.6.

C. Clarifications regarding the recognition of an inspection body

13. Reminder from Note 1 to 1.8.6: "*For the purpose of this section, the term 'recognized inspection body' means an approved inspection body recognized by another competent authority.*".

14. What does "recognized inspection body" mean in the paragraphs of the new subsection 6.8.1.5?

15. The recognition of an inspection body can be of two levels.

An accredited inspection body, duly approved and included in a corresponding list by the competent authority of the country where it is based and operates:

a) General recognition: ... shall have the documents it has issued recognized by all the competent authorities of the other RID Contracting States/Contracting Parties to ADR. In this case, this recognition is limited to the certificates, attestations and approvals issued by this body. The other competent authorities are required to recognize documents issued by an inspection body included in a list of approved bodies in accordance with 1.8.6.2.4.2. The inspection body need not be included in any other list than that of its competent authority.

b) Specific recognition: ... may be recognized by the competent authority of another RID Contracting Party/ADR Contracting Party to carry out activities on its behalf on its national territory. In this case, the competent authority concerned and the inspection body must conclude a recognition agreement/contract based on the national law of the country of this competent authority. The competent authority does not need to go through its entire approval process and will only rely on the list published by the competent authority of the country that first approved the body. The competent authority shall add this inspection body, the scope of work for which it is recognized and the competent authority that has approved it to its list of approved bodies referred to in 1.8.6.2.4.2.

16. In our view, 1.8.6.2.4.2 should indicate (as in RID 6.8.2.4.6) that once an inspection body has been approved and included in the list, the documents it has issued are recognized by the other competent authorities (see proposal in paragraph 22).

D. Note on the second paragraph of new 1.8.6.2.4.3

17. Reminder from 1.8.6.2.4.3: "*An inspection body approved by a competent authority may be recognized by another competent authority.*"

The competent authority shall add this inspection body, the scope of activities for which it is recognized, and the competent authority that approved the inspection body, to the list mentioned in 1.8.6.2.4.2 and inform the secretariat of OTIF/UNECE. If the approval is withdrawn or suspended the recognition is no longer valid."

18. As demonstrated above, the recognition of an inspection body or of the certificates and attestations issued by that body is automatic and does not require its inclusion in the list referred to in 1.8.6.2.4.2 by a competent authority other than the one which approved it. Otherwise the list published by each competent authority would have an identical content. It would contain, on the one hand, the approved inspection bodies of the country in question and, on the other hand, the foreign inspection bodies approved by the other competent authorities of the RID Contracting States/ADR Contracting Parties which are also recognized because they are included in the list published by their competent authority.

19. What 1.8.6.2.4.3 means is that on the basis of its national law a competent authority may at any time, in particular in the case where this country does not have inspection bodies, authorize a foreign inspection body approved by another competent authority to carry out activities related to the performance of conformity assessments and inspections on its own territory. Only in that case the competent authority shall add the foreign recognized inspection body to the list referred to in 1.8.6.2.4.2.

20. The answer to the question in paragraph 14, i.e. what is meant by "... to engage a single inspection body approved or recognized by the competent authority of the country of manufacture or the first country of registration ..." in 6.8.1.5, corresponds to the description made in paragraph 19.

21. In our opinion, 1.8.6.2.4.3 should clearly state that the addition of foreign inspection bodies already approved by another competent authority in the list of a country concerns only those that will act on behalf of this country on its national territory! (See proposal under paragraph 23).

Proposals

22. Add a new sentence at the end of 1.8.6.2.4.2:

"Other competent authorities are required to recognize/accept documents issued by a inspection body included in this list."

23. Amend the second paragraph of 1.8.6.2.4.3:

"An inspection body approved by a competent authority may be recognized by another competent authority.

Where a competent authority wishes to engage the services of an inspection body already approved to carry out activities related to conformity assessments and inspections on its behalf within its territory, then that competent authority shall add this inspection body, the scope of activities for which it is recognized, and the competent authority that approved the inspection body, to the list mentioned in 1.8.6.2.4.2 and inform the secretariat of OTIF/UNECE. If the approval is withdrawn or suspended the recognition is no longer valid."

2) Transitional measure 1.6.3.y

24. Reminder: "**1.6.3.y** *Type approval certificates issued for tank-wagons/ fixed tanks (tank-vehicles) and demountable tanks intended for the carriage of substances other than those to which TA4 and TT9 of 6.8.4 apply, issued before 1 July 20[23] in compliance with Chapter 6.8, which do not comply with 1.8.7 applicable from 1 January 20[23] may continue to be used until the end of their validity.*"

A. Interpretation of measure 1.6.3.y (respectively 1.6.4.y):

25. Type approval certificates issued after **30 June 2023** for tank-wagons/ fixed tanks (tank-vehicles) and demountable tanks shall conform to the procedures of 1.8.7 applicable as from **1 January 2023**.

26. Nevertheless, by 1 July 2023, it is likely that many competent authorities of RID Contracting States/ADR Contracting Parties will not yet be ready with their national procedures for the assessment, approval and monitoring of inspection bodies. It is also important to remember that the procedure for the accreditation for an inspection body lasts at best at least 6 months, but can extend up to 18 months.

27. This means that for a period which may be shorter or longer, but which may last until the end of December 2032, there will be few inspection bodies which will meet the requirements of 1.8.6 for the application of the new procedures of 1.8.7 applicable to inspection bodies as from **1 January 2023**.

28. The current proposals for amendments do not take this into account and this situation should be remedied.

29. However, it should be borne in mind that currently quite a number of inspection bodies notified according to Directive 2010/35/EU on transportable pressure equipment (Class 2) already fulfil the approval requirements of section 1.8.6. Most, if not all, of these inspection bodies also perform inspection activities on tanks of Classes 3 to 9. Therefore, their competent authorities should not have too much difficulty in approving them quickly.

B. Questions

30. Based on the fact that on 1 July 2023 not all inspection bodies will yet meet the new requirements of 1.8.6, what will be the impact on:

- Recognition from 1 July 2023 of type approvals issued on the basis of type examinations carried out in accordance with the new procedures of 1.8.7 but by inspection bodies which do not meet the requirements of 1.8.6?

Reminder of NOTE 2 (RID) / 3 (ADR): *"In this Chapter 6.8, "inspection body" means a body conforming to 1.8.6";*

- Tanks that
 - will be built on the basis of these type approvals ?
 - have undergone an initial inspection by an inspection body which does not yet fully meet the requirements of 1.8.6?

31. Are the new procedures in 6.8.1.5 fully applicable?

- For example, for the type examination of a tank (see 6.8.1.5.1), the manufacturer shall engage a single inspection body approved or recognized by the competent authority of either the country of manufacture or the first country of registration of the first tank manufactured according to take responsibility for the type examination.

32. Should transitional measures 1.6.3.y / 1.6.4.y mention this?

33. The new procedures in 6.8.1.5 should not be applicable until an inspection body meets the requirements of 1.8.6 applicable as from 1 January 2023. A date could be defined from which the new procedures of 6.8.1.5 would be applicable (2025, 2027?).