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Item 2 of the provisional agenda

Tanks

Inspection and certification of tanks: explanations on the amendments planned for entry into force on 1 January 2023 - Revision of ECE/TRANS/WP.15/AC.1/2021/34

Transmitted by the Government of Switzerland*, **, ***

* A/76/6 (Sect.20), para. 20.76.

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Summary

Executive summary: At the March 2021 session of the Joint Meeting, Switzerland proposed to draft an explanatory document on the forthcoming amendments in the field of the inspection and certification of tanks. A first draft taking into account the comments of the informal working group on the inspection and certification of tanks was published as document ECE/TRANS/WP.15/AC.1/2021/34.

At the September 2021 session, the Joint Meeting welcomed document ECE/TRANS/WP.15/AC.1/2021/34 and agreed to keep it as a guidance document and to make the document or a revised version available on the websites of OTIF and UNECE.

The explanatory document has been completed to take account of the results of the discussions held in September 2021. In particular, Annex I with the part relating to the areas of activity of the control bodies and Annex II relating to transitional measures have been completed (see informal document INF.38 of the September 2021 session of the Joint Meeting).

Action to be taken: The Joint Meeting is invited to consider the revised explanatory document and indicate if further improvement is necessary. If this is not the case, the document could be published on the websites of OTIF and UNECE once the amendments to RID/ADR are formally approved.

Related documents: Informal document INF.33 of the March 2021 session, ECE/TRANS/WP.15/AC.1/160, para. 13, Informal document INF.38 of the September 2021 session, ECE/TRANS/WP.15/AC.1/162, para. 8.

Introduction

1. Since 2015, the informal working group on the inspection and certification of tanks (London IWG) has been working on a project to modify the administrative procedures and controls for tank inspection and approval. The aim is to have common requirements on the approval and the supervision of inspection bodies with a view to their mutual recognition. This can be achieved by harmonizing the procedures for the inspection and approval of tanks intended for the carriage of Class 2 gases, currently prevailing in the European Economic Area (EEA), and those intended for the carriage of Classes 3 to 9 substances, prevailing throughout the area of application of RID/ADR.

2. The work of the London IWG is completed. The amendments to sections 1.8.6, 1.8.7 and Chapter 6.8, including the consequential amendments to Chapter 6.2 of RID/ADR, were presented in document ECE/TRANS/WP.15/AC.1/2021/23/Rev.1 and adopted at the autumn 2021 session of the RID/ADR/ADN Joint Meeting. All the texts adopted for entry into force on 1 January 2023 are published in documents OTIF/RID/NOT/2023 and ECE/TRANS/WP.15/256. It therefore appears useful to have an explanatory document on the origin and the objectives of the amendments.

3. This document firstly describes the initial situation with regard to the inspection and approval of tanks (the current system), then recalls the problems identified in this system and the need to establish a new regulation. It then explains the objectives of this new regulation and its characteristics, in particular the common requirements for the approval and the surveillance of inspection bodies with the view to mutual recognition of the controls fulfilled by those. The annexes to the document provide detailed explanations on the amendments and

the events that led to the establishment of the London IWG. It also sets out the fundamental principles adopted by the group and the outlines of its mandate as adopted by the Joint Meeting.

4. This document is intended for a wide audience including not only authorities and inspection bodies, but also maintenance or repair workshops and all those involved in the transport of dangerous goods according to the RID/ADR regulations. By providing an overview, it aims to ensure that the new regulation in force as from 2023 is better understood by all stakeholders.

Initial situation

5. This section summarises the background and current practice in the territory of the RID/ADR Contracting States concerning the area of activity of inspection bodies and the mutual recognition:

- The current texts of RID/ADR do not explicitly regulate the question of the area of activity of inspection bodies and a legal basis is needed to allow bodies approved by their competent authorities to carry out extra-territorial inspection activities. Only 6.8.2.4.6 RID contains requirements relating to mutual recognition. This paragraph refers to the expert approved to carry out tests and inspections on the tanks of tank-wagons. This text can be read as follows: an inspection must be carried out by an approved expert. This may be any expert from any country without any restriction.
- The results of the questionnaire sent by the United Kingdom to the participants for the first meeting of the London IWG and the subsequent discussions showed that different practices exist. Some countries allow inspection bodies to operate in other countries, while others have restricted this possibility, either as a condition of approval or through national legislation. Currently, the RID/ADR does not regulate how to approve and supervise the national and extra-territorial activities of an inspection body.
- As RID/ADR does not address the activities of inspection bodies abroad, it appears useful to refer to other regulations, such as Directive 2010/35/EU on transportable pressure equipment (TPED, for pressure receptacles and tanks for the carriage of Class 2 gases). The objective of this directive is to create a common market in which products and notified inspection bodies can circulate freely on the basis of reciprocal recognition. This objective regarding notified bodies is stated in recital (18) of the TPED:

"(18) It is necessary to lay down common rules for the mutual recognition of notified bodies which ensure compliance with Directive 2008/68/EC and this Directive. Those common rules will have the effect of eliminating unnecessary costs and administrative procedures related to the approval of the equipment and of eliminating technical barriers to trade."

- It is only since the introduction of sections 1.8.6 and 1.8.7 in the 2011 edition of RID/ADR that the procedures of TPED have been definitively integrated. These procedures deal with the administrative controls for carrying out the conformity assessments, periodic inspections, intermediate inspections and exceptional checks of pressure receptacles and tanks for the carriage of Class 2 gases, as referred to in 1.8.7. However, Chapter 6.8 had not been thoroughly revised.
- The systematic application of the principle of mutual recognition prevailing at the EEA level with the TPED is based in particular on the accreditation according to EN ISO/IEC 17020 of inspection bodies including their designation, an exchange of experience between notified bodies and market surveillance. This system allows complete freedom of service for inspection bodies within the EEA. With regard to market surveillance, it is also important to note that it applies only to products and

not to bodies. Moreover, each Member State decides what it wants to monitor on its territory.

- Although TPED is not applicable in all RID/ADR Contracting States, its key principles can be used to draft mutual recognition provisions in RID/ADR.
- RID 6.8.2.4.6 already includes the principle of a periodic inspection authorization in other countries, but does not allow a competent authority or inspection body of one state to operate freely in any other state. This would otherwise contravene the principle of territoriality prevailing in the scope of application of RID/ADR (see also Annex VI).
- The TPED includes market surveillance with the possibility for states to share information on non-conformities and activities of notified bodies. As RID/ADR does not include such a system, further regulations will have to be drafted to address this issue.
- It appears that the full reciprocal recognition of inspection bodies (free movement of services) as in force in the EEA with the TPED is currently considered to go too far for RID/ADR.

Need for a new regulation

6. The need for a new regulation was raised as early as 2008 in the Joint Meeting and has been discussed extensively over the following years. The history of these discussions is presented in Annex III. It stems from two main issues:

Different practices of Contracting States regarding the use of foreign type approvals

7. The procedures for conformity assessment and inspections (including the monitoring of manufacture) in accordance with 1.8.6 and 1.8.7 apply exclusively to pressure receptacles and tanks for the carriage of Class 2 gases. Tanks intended for the carriage of substances of other classes are not covered by these provisions. For a tank manufacturer this means that different approval paths must be followed with different parties involved. For example:

- (a) For tanks of Class 2
 - Harmonized procedures,
 - Mutual recognition of inspection bodies and the free placing of tanks on the market within the EEA through the TPED.
- (b) Whereas for tanks of other classes
 - National procedures,
 - No mutual recognition of inspection bodies, no free placing on the market (neither in the EEA). Some competent authorities require a new type approval for any tank imported into their territory.

This can lead, for example, to difficulties at the manufacturing level as each inspection body or authority can have different requirements.

The result is that a tank intended for the transport of substances of classes other than Class 2, built in accordance with the requirements of RID/ADR according to a "national approach", cannot be freely placed on the market.

8. With the development of a new system (adaptation of the procedures for approval and inspection of tanks, approval and supervision of inspection bodies) and appropriate national implementation, the procedures applicable to tanks intended for the carriage of Class 2 substances and those for other classes could be aligned. This would have the advantages of:

- Having clear responsibilities,

- Using similar procedures for tanks of Class 2 and for tanks of other classes,
- Avoiding a safety deficit, as the hazard potential of Class 2 substances has always been historically considered higher. The harmonized approach also creates more transparency. It would also align the safety level of tanks intended for the transport of substances of other classes.

Deficiencies in the certification and construction of imported tanks

9. The competent authority of the United Kingdom highlighted in 2014 deficiencies in the construction and certification of certain tanks imported into the United Kingdom. This issue is unfortunately not specific to the United Kingdom. Other Contracting States have experienced similar difficulties.

10. The globalization of trade and industry does not spare the tank construction market. Despite the presence of a sufficient number of manufacturers on the European continent, transport companies are not hesitating to have their tanks built and imported from ever more distant countries. This can lead to difficulties when the competent authority of the country into which a new tank is to be imported recognizes without further verification the type approval issued by the competent authority and the certificate of the initial inspection carried out in situ by the inspection body of the country of construction.

11. In fact, when a competent authority decides to place its full trust in the foreign inspection body that carried out the initial inspection and does not require any further verification, it is only possible to detect manufacturing defects during the first visit to the interior of the tank. Since the first periodic inspection is carried out six years after the initial inspection for ADR tanks, it is too late for the tank owner to claim a guarantee, as this usually expires after five years.

Objectives of the new regulation

12. The main objectives of the new regulation for the introduction of a harmonized system of inspection and certification of tanks, valid for substances of all classes, are based on the conclusions of the "Würzburg" informal working group (see ECE/TRANS/WP.15/AC.1/2015/13):

Target 1: common requirements for the appointment and supervision of inspection bodies.

Action 1: change section "1.8.6".

Target 2: tanks initially approved by one competent authority may undergo initial and periodic inspection in a second country (by a body appointed by the second country).

Action 2: complete action 1, add a provision similar to 6.8.2.4.6 RID.

Target 3: establish an RID/ADR wide list of recognized inspection bodies.

Action 3: ask the secretariat (OTIF/UNECE) to gather info and publish on their website.

Target 4: for manufacture of tanks with a foreign tank approval, limit the national requirements to a document review of the existing type approval by a national competent authority or appointed inspection body.

Action 4: add new text to 6.8.1.5.

Target 5: remove national requirement for duplicating existing tank approvals when importing a tank-vehicle

Action 5: add new text to 6.8.2.3

Target 6: Retain the existing requirements for tanks intended for the carriage of gases of Class 2.

Action 6: the amendments to sections 1.8.6 and 1.8.7 will be limited to a minimum.

Characteristics of the new regulation

13. The main feature is the introduction of an alternative to Directive 2010/35/EU on transportable pressure equipment (TPED) in the scope of application of RID/ADR, without a market surveillance, for tanks of classes other than Class 2.

14. The systematic application of the principle of mutual recognition prevailing at EEA level with the TPED is based in particular on the accreditation of the inspection bodies according to EN ISO/IEC 17020, including their designation, an exchange of experience between notified bodies and market surveillance. This system allows complete freedom for the services of the inspection bodies within the EEA, in contrast to the principle of territoriality prevailing in the scope of application of RID/ADR for tanks carrying substances of classes other than Class 2.

With regard to market surveillance, it is important to note that it only applies to products and not to bodies. Moreover, each State decides what it wants to survey on its territory.

15. The TPED remains in force and there is no question of calling its texts into question. Only the necessary adjustments for the system for tanks carrying substances of classes other than Class 2 are made, taking care not to create deviations from the current requirements applicable to the TPED.

16. The area of application of the new regulation (RID/ADR, nearly 60 Contracting States) will extend far beyond the EEA (30 Members States). The RID/ADR regulation is not equipped with a legal framework such as Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products, which prevails for TPED.

17. The new regulation for the activities of inspection bodies in relation to the conformity assessment procedures referred to in 1.8.7 RID/ADR is based on accreditation. Accreditation is indeed the most appropriate tool to achieve the final goal of mutual recognition of inspection bodies. Also because of its specific competences, a national accreditation service is best placed to ensure that the criteria of independence and impartiality are fulfilled by the inspection body.

18. EN ISO/IEC 17020 "Conformity assessment - Requirements for the operation of various types of bodies performing inspection" is used as a requirements document for accreditation. This standard was written to promote confidence in the ability of bodies to carry out an inspection task impartially; the categorisation of inspection bodies as type A, B or C is essentially a measure of their independence. An inspection body must be independent in view of the conditions under which it provides its services. Depending on these conditions, it shall meet the minimum requirements stipulated in Annex A of the standard.

19. Therefore, and as already implemented at TPED level, an inspection body performing third party inspections shall meet the type A requirements as stipulated in Annex A.1 of EN ISO/IEC 17020:2012 (except clause 8.1.3). Type A requirements are the only ones that can guarantee the independence of the inspection bodies and thus enable their mutual recognition. Without mutual recognition of inspection bodies, the system cannot work.

Several RID/ADR Contracting States already require their inspection bodies to be duly accredited to provide conformity assessment services for tanks carrying substances of classes other than Class 2.

20. The harmonization of the approval and inspection procedures for tanks intended for the carriage of Class 2 gases and those intended for the carriage of other substances will enable:

- To improve the procedures for the designation and supervision of inspection bodies by the competent authorities on the basis of common criteria, with a view to the mutual recognition of these bodies and the inspections carried out by these.
- To improve the construction and requirements for the inspection of tanks. For example: When a type approval is issued by a national competent authority or an approved inspection body, the authorities of the other Contracting States are to

accept it. Therefore, when a tank built on the basis of such an approval is imported, there is no need to issue a new approval and the national requirements are limited to a documentary examination of the type approval of the country of construction.

- The initial inspection of tanks constructed in accordance with this type approval should be carried out by an inspection body approved by the competent authority of the country in which the tank is to be registered, or in the country of construction if the competent authority of the country in which the tank is to be registered agrees.
- The competent authority of the country in which the tank will be registered may require an "entry into service verification" if it has not carried out the initial inspection of the tank itself. As RID/ADR does not include a legislative framework for market surveillance as in the TPED, this verification will provide a minimum of cross-checking surveillance between Contracting States.
- Tanks with a type approval will be registered in different Contracting States and this type of cross-checking will improve harmonization and allow the market to be monitored continuously.
- The competent authorities of the Contracting States will publish a list of the inspection bodies they have approved, indicating their scope of activity. A reference to these lists will be made on the UNECE and OTIF websites.

Annex I

Detailed explanation on the amendments

1. The proposed amendments to sections 1.8.6 and 1.8.7 and to Chapter 6.8 are contained in Annexes I, III and IV of document ECE/TRANS/WP.15/AC.1/2021/23/Rev.1. Consequential amendments to Chapter 6.2 and transitional measures are contained in Annexes II and V of the same document. The consolidated lists of amendments approved by the RID Committee of Experts and the Working Party on the Transport of Dangerous Goods are published as documents OTIF/RID/NOT/2023 and ECE/TRANS/WP.15/256.

2. The harmonization of the approval and inspection procedures applicable to tanks intended for the carriage of substances of classes other than Class 2 with those applicable to tanks intended for the carriage of gases of Class 2 required the amendment of following sections:

Section 1.8.6 - Administrative controls for activities described in 1.8.7 and 1.8.8

3. Section 1.8.6 has been amended so that the proved principle of mutual recognition, which is already partially in force in RID for experts (6.8.2.4.6), can be applied to inspection bodies.

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

5. The published lists form the core of the new system. In particular, they allow competent authorities to recognize inspection bodies approved elsewhere by another competent authority, and thus enable them to make use of the services of such inspection bodies without having to go through the whole approval process.

6. For any inspection body approved by a competent authority of an RID Contracting State or Contracting Party to ADR, the mere fact that it is included in the list published by its competent authority shall be sufficient for the documents issued by it to be recognized by the competent authorities of other RID Contracting States or Contracting Parties to ADR. The other competent authorities are obliged to accept documents issued by an inspection body included in these lists.

7. In this context, the recognitions referred to in the new sub-section 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, authorizations issued and marks of conformity affixed by these inspection bodies in the course of their activities relating to the performance of conformity assessments and inspections in accordance with the procedures referred to in 1.8.7 RID/ADR applicable as from 1 January 2023.

8. The main changes for the recognition of inspection bodies are as follows:

- *1.8.6.2.1-2 Principle of mutual recognition of inspection bodies:* From now on, the requirements of 1.8.6 are deemed to be fulfilled for inspection bodies if the body is accredited in accordance with the Type A requirements of EN ISO/IEC 17020:2012 (except for Article 8.1.3).

In developing the new requirements for the designation of inspection bodies, care was taken not to jeopardise the reciprocal recognition arrangements between RID/ADR Contracting States, such as those already in place under Directive 2010/35/EU on transportable pressure equipment (TPED).

- *1.8.6.2.4.2 List of approved inspection bodies at RID/ADR level:* In order to enable the recognition of inspection bodies by other competent authorities, the competent authority of each RID/ADR Contracting State shall publish an updated list of all inspection bodies it has approved with their fields of activity, including temporarily

approved inspection bodies. A reference to this list shall be made on the OTIF/UNECE website.

The purpose of a list of bodies designated by their competent authorities is to confirm that the bodies listed are capable of carrying out the activities for which they are approved in any other RID/ADR Contracting State and that the certificates issued are valid throughout the RID/ADR area.

This list is without prejudice to any national requirements for the competent authority of each RID/ADR Contracting State to issue a certificate detailing the technical fields and competencies of their approved inspection bodies. This has the advantage of removing any doubts that other competent authorities may have.

- *1.8.6.2.4.3 An inspection body may be recognized by another competent authority:* This text offers the possibility to any competent authority of a RID/ADR Contracting State, in particular in the case where the State concerned does not have inspection bodies, to ensure, on the basis of its national law, the services of an inspection body already approved by another competent authority to carry out activities related to the performance of conformity assessments and inspections on its behalf (on its territory or elsewhere). Further details related to the type of inspection is provided in sub-section 6.8.1.5.

Section 1.8.7 Procedures for conformity assessment, type approval certificate issue and inspections

9. Section 1.8.7 as such has not undergone any major changes. The different paragraphs have been examined in detail and adapted accordingly, mainly on the basis of the experiences made at TPED level. The terminology used has also been checked. The main changes are as follows:

- *"Manufacturer"*: It was necessary to introduce in a note at the beginning of the section what was meant by "manufacturer".
- *1.8.7.5 - Entry into service verification*: This new paragraph has been introduced to define more precisely the scope of activities of the inspection bodies carrying out this type of verification. As described in 6.8.1.5.5, the country in which the tank is to be registered may occasionally carry out an "Entry into service verification" if it has not carried out the initial inspection of the tank itself. As the RID/ADR regulation does not have a legislative framework for market surveillance as it is the case for the TPED, this verification will provide a minimum surveillance ensuring cross-checking between Contracting States.
- *1.8.7.7.3 - The certificate of authorization of an in-house inspection service (IS)*: Details on the minimum information for the issuing of the certificate of authorization of an IS by the inspection body have been introduced.
- *1.8.7.8.1 and 1.8.7.8.2 - Documents*: The documents to be provided by the manufacturer to the inspection body for the type examination and the issuance of the type approval certificate have been separated.
- *Deletion of the reference to the standard EN 12972*: Since there will be no more distinction between tanks of Class 2 and those of other classes, this reference could be deleted as it is already mentioned in 6.8.2.6.

6.8.1.5 Procedures for conformity assessment, type approval and inspections

10. With regard to the proposed amendments to Chapter 6.8, the main change concerns the introduction of a new sub-section 6.8.1.5, the provisions of which indicate how to apply the procedures referred to in 1.8.7 RID/ADR. That is:

- 6.8.1.5.1 Type examination according to 1.8.7.2.1
- 6.8.1.5.2 Type approval certificate issue according to 1.8.7.2.2

- 6.8.1.5.3 Supervision of manufacture according to 1.8.7.3
- 6.8.1.5.4 Initial inspection and tests according to 1.8.7.4
- 6.8.1.5.5 Entry into service verification according to 1.8.7.5
- 6.8.1.5.6 Intermediate, periodic or exceptional inspection according to 1.8.7.6

11. The performance of inspections by inspection bodies outside of the State in which they are approved (areas of activity) led to many discussions. While some delegations were in favour of complete freedom to provide services, as granted in the TPED for tanks for the carriage of gases, other delegations referred to national sovereignty and the problem that the competent authority that approved a body would have difficulties to check whether this body would still meet the conditions for its agreement when operating abroad. Other delegations were of the opinion that inspections and tests of a tank performed abroad by a body recognized in that country was only possible with the agreement of the competent authority of the country of registration. In particular, it was noted that:

- The questionnaire returned by the competent authorities during the first meetings of the informal working group showed that there were very different approaches in the RID/ADR Contracting States.
- A competent authority does not have the right to practice abroad. States exercise sovereignty over their territory and only approved materials can be circulate in foreign territories.

12. In order to facilitate understanding, it was envisaged that the different combinations of inspection body intervention defined in sub-section 6.8.1.5 would be represented in a summary table. Unfortunately, it was not possible to revise and finalise the table in a working group. The draft summary table is available in informal document INF.17 of the September 2021 session of the Joint Meeting.

13. It is also important to note that RID and ADR are agreements under international law which are based on the principle of territoriality. In the present context, this means, among other things, that authorities determined by national law are competent for enforcement and that they are only entitled to act in a sovereign manner within their territory.

14. As mentioned at the beginning of the document in the part related to the initial situation, it appears that the full reciprocal recognition of inspection bodies (free movement of services) as in force in the EEA with the TPED is currently considered to go too far for RID/ADR.

15. In view of the above, it was initially decided to take a step-by-step approach and to limit the areas of activity of the inspection bodies to those clearly defined in each of the provisions of 6.8.1.5.1 to 6.8.1.5.6.

16. The recognition of an inspection body can be of two levels. An accredited inspection body, duly approved and included in the list referred to in RID/ADR 1.8.6.2.4.2 by the competent authority of the country in which it is based to operate:

- (a) *General recognition*: ... shall have the certificates, attestations and authorizations it has issued recognized by all the competent authorities of the other RID Contracting States/Contracting Parties to ADR. The inspection body need not be included in any list other than that of its competent authority.
- (b) *Specific recognition*: ... may be recognized by the competent authority of another RID Contracting State/Contracting Party to ADR to carry out activities on its behalf on its national territory or elsewhere (in particular in the case where the State concerned does not have inspection bodies). In this case, the competent authority concerned shall issue a legal act formalising this recognition based on its national law. This competent authority then does not need to go through its own 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 activity for which it is recognized, and the competent authority that approved it, to its list of approved bodies referred to in 1.8.6.2.4.2.

17. Where the paragraphs in sub-section 6.8.1.5 specify the use of "a recognized inspection body", "recognized body" means a body as described in paragraph 16 (b) above.

18. The other main changes are as follows:

- *Adaptation of the provisions on type approval in 6.8.2.3, in particular deletion of the wording of 6.8.2.3.3:* as there will no longer be any difference between tanks of Class 2 and those of other classes, the text can be deleted as it duplicated the equivalent text in 1.8.7.2.2. The new text corresponds to the former 6.8.2.3.2.
- It was necessary to adapt some terms used in Chapter 6.8 to better fit the new situation (e.g. replacement of "expert" by "competent authority").

Annex II

Transitional measures

1. The introduction of the new system requires transitional measures. From the various discussions, it became clear that the difficulties in adopting the proposals originated from different perspectives, including reciprocal recognition of work done by the inspection bodies, differences between RID and ADR, and uncertainties and consequences of the introduction of the new system. However, it was recalled that the aim was still to establish a system of robust reciprocal recognition of inspection bodies.

2. Concern was also raised on a fair introduction of the system as the Joint Meeting's working group on tanks noted that RID/ADR Contracting States were at different stages of accreditation of inspection bodies and experts. These different stages would lead to some countries benefiting immediately from the system, while others still have a long way to go to develop and align their national systems with the new system. It was suggested that to ensure a fair introduction of the new system, consideration should be given to refining the transitional measures to provide a step by step implementation of the new tasks, recognizing that 1.8.6.2.4.3 can be applied.

3. In view of the current context and the differences in the RID/ADR Contracting States, a period of **ten years** has been chosen. The transitional measures proposed in Annex V of document ECE/TRANS/WP.15/AC.1/2021/23/Rev.1 have been approved and bear the numbers:

- RID/ADR 1.6.3.54 and 1.6.4.57 for the provisions relating to the recognition of inspection bodies; and
- RID/ADR 1.6.3.55 and 1.6.4.58 for the provisions relating to type approval certificates issued after 30 June 2023.

4. For the scope of ADR, it was also decided to take a cautious approach and to start gradually with the provisions concerning type examinations and initial inspections and tests of tank-vehicles. As a result, two notes were added in the relevant paragraphs:

- ADR 6.8.1.5.1 Type examination according to 1.8.7.2.1

NOTE: Until **31 December 2028**, the type examination shall be performed by an inspection body approved or recognized by the country of registration.

- ADR 6.8.1.5.4 Initial inspections and tests according to 1.8.7.4

NOTE: Until **31 December 2032**, the initial inspection shall be performed by an inspection body approved or recognized by the country of registration.

5. The transitional measure RID/ADR 1.6.3.54 concerning the recognition of inspection bodies was supplemented in RID by the measure 1.6.3.58 concerning the procedures of the competent authorities for the approval of experts, the performance of inspections of tank-wagons and the mutual recognition of such inspections in accordance with the requirements of RID 6.8.2.4.6 in force up to 31 December 2022. These procedures may continue to be applied until **31 December 2032**. They are only applicable in the context of RID and do not concern ADR.

Annex III

History of discussions on the need for a new regulation

1. 6.8.2.4.6 introduced in the 2005 edition of RID contains provisions relating to the mutual recognition of approved national experts, who can thus perform tank-wagon inspection activities in other countries (see Annex VI). This is not the case within ADR, which means that there is a difference in treatment between tanks used in accordance with RID and ADR.

2. In spring 2008, in informal document INF.6 of the RID/ADR/ADN Joint Meeting, the International Union of Wagon Keepers (UIP) requested that the approval and inspection procedures applicable to tanks intended for the carriage of substances of Classes 3 to 9 be harmonized with those applicable to tanks intended for the carriage of Class 2 gases, taking into account the European approach.

3. The procedures for the application and transposition of the Directive 2010/35/EU on transportable pressure equipment (TPED) have been definitively integrated into the 2011 edition of RID/ADR through sections 1.8.6 and 1.8.7. These procedures deal in particular with the administrative checks for performing conformity assessments, periodic inspections, intermediate inspections and exceptional checks of pressure receptacles and tanks for the carriage of Class 2 gases, referred to in 1.8.7. However, Chapter 6.8 had not been fully revised.

4. In 2013, UIP again took up the issue with informal document INF.30 of the spring session and document ECE/TRANS/WP.15/AC.1/2013/48, with a view to aligning the system of approval and inspection procedures for tanks intended for the carriage of Class 2 gases and tanks intended for the carriage of substances of other classes. The approach adopted in the UIP proposals:

- Regulated the harmonization of the procedures for the approval and inspection of tanks;
- Brought the parts on approval and inspection in 1.8.7 in line with those in 6.8.2.3 and 6.8.2.4;
- Regulated the adaptation of the procedure for the approval and supervision of approved inspection bodies;
- Defined the terminology and responsibilities of inspection bodies;
- Replaced the term "expert".

The Joint Meeting was of the opinion that the procedures of 1.8.6 and 1.8.7 RID/ADR applicable to TPED in the European Union (EU) had proved themselves. Therefore, the adaptation of the procedures for tanks intended for the carriage of substances of classes 3 to 9 was a logical continuation and allowed the harmonization of European approval procedures. In addition, there was no risk of unequal treatment in terms of safety, as the hazard potential of tanks intended for the carriage of Class 2 gases and the resulting level of safety was clearly higher than that of tanks intended for the carriage substances of other classes.

However, the Joint Meeting had stated that the principles of TPED could not be applied as such to tanks for the carriage of substances of classes other than Class 2 in the context of RID/ADR because there was no general administrative structure or rules on market surveillance applicable to all Contracting States. Some experts had argued that the purpose of RID/ADR was to facilitate international transport and that questions relating to placing on the market were not within its competence. It was therefore considered preferable that this issue be discussed in advance in the appropriate EU bodies.

5. In 2014, the informal "Würzburg" working group on the approval of tanks in accordance with the practice of the EU Member States considered it important to improve the situation by incorporating solutions to the problems of inspections and approval of tanks into the RID/ADR (ECE/TRANS/WP.15/AC.1/2015/13).

6. In 2014 and 2015, the competent authority of the United Kingdom informed the Joint Meeting of apparent deficiencies in the construction and certification of tanks imported into the United Kingdom through a comprehensive technical briefing on issues related to incorrectly constructed and approved road tank vehicles (informal document INF.16 submitted to the spring session 2014 of the Joint Meeting, document ECE/TRANS/WP.15/AC.1/2015/22 and informal document INF.18 submitted to the spring session 2015 of the Joint Meeting). These issues have led to an extensive national research programme involving highly specialised technical institutions at a cost of around £1.5 million (informal document INF.51 submitted to the spring session 2015 of the Joint Meeting). Specific issues relating to the designation of inspection bodies, their extraterritorial activities as well as monitoring and control procedures had also been raised. And at the national level, additional vehicle certification procedures have been established accordingly.

7. This situation has led the competent authority of the United Kingdom to review its procedures for designating and monitoring the activities of approved inspection bodies. In doing so, it has paid particular attention to the extraterritorial activities of these bodies. Compliance with the revised guidelines, combined with more rigorous monitoring of activities and increased control of the issuance of approval certificates by the United Kingdom through a centralised database, should prevent a recurrence of the situation. Given the origin of the non-compliant tanks and the extraterritorial activity of the inspection bodies in question, the competent authority of the United Kingdom had deduced that this problem was not limited to its territory.

8. The Joint Meeting's Working Group on Tanks supported the initiative of the United Kingdom to establish an informal working group to further study the issue. The general comments submitted to the Working Group were as follows (ECE/TRANS/WP.15/AC.1/138/Add.1):

- There are special considerations that need to be taken into account in the approval process and practices vary from country to country;
- It has become difficult to harmonize inspection procedures. It is therefore desirable that a central body takes over this task for all inspection bodies;
- Many inspection bodies have international activities and offices in several countries, which makes it difficult to monitor their activities;
- Uniformity of approval certificates would be welcomed by the industry and would facilitate effective enforcement;
- The Würzburg Working Group document (ECE/TRANS/WP.15/AC.1/2015/13) contains many of the same or closely related considerations. It is therefore necessary to consider all these issues together.

9. The Working Group on Tanks had agreed on the following tasks for the mandate of the informal working group, which should be taken into account in parallel with the tasks mentioned in the first series of actions set by the Würzburg working group. The outline of the mandate of the group had been recalled in informal document INF.12 submitted to the spring session 2019 of the Joint Meeting and is being reproduced in annex V of this document.

10. The informal working group on the inspection and certification of tanks met for the first time in June 2015 under the chairmanship of the United Kingdom, therefore its name "the London Working Group". The fundamental principles adopted by the informal working group as a basis for its proposals for amendments are reproduced in annex IV.

11. The results of the meetings of the London Working Group were systematically the subject of a report for presentation to the Joint Meeting.

Annex IV

Principles for the development of the new regulation

The fundamental principles agreed by the informal working group as the basis for the development of the proposed amendments to sections 1.8.6, 1.8.7 and related sections of Chapter 6.8, with a view to the procedures undertaken and the administrative controls for the approvals and inspections set out in Chapters 6.2 and 6.8, are recalled below. They were originally contained in document ECE/TRANS/WP.15/AC.1/2017/22.

- (a) The term “competent authority” defined in RID/ADR as being the authority or authorities or any other body or bodies designated as such in each State and in each specific case in accordance with national law allows a contraction of the term “competent authority or a body designated by that authority” to be replaced by “competent authority”;
- (b) A new sub-section is included in Chapter 6.8 to indicate how conformity assessment, type approval and inspections procedures should be applied, while administrative procedures and controls are described in 1.8.6 and 1.8.7 respectively;
- (c) For the type examination the manufacturer shall engage a single inspection body recognized by the competent authority of either the country of manufacture or the first country of registration of the first tank of that type manufactured. This competent authority shall be the only one able to issue the type approval certificate;
- (d) For the supervision of manufacture and the initial inspection of tanks, the manufacturer shall engage a single inspection body recognized either by the competent authority of the country of registration, or the country of manufacture;
- (e) When tanks are assembled from components manufactured in different locations the inspection body responsible for assessing the complete tank shall verify that all its components conform to the requirements of RID/ADR irrespective of where they have been manufactured;
- (f) Under certain circumstances, an entry into service inspection that is proportional to the condition of the tank, to ensure that the requirements of RID/ADR are fulfilled, may be required:
 - i. When the initial inspection certificate is issued by an inspection body that is not recognized by the competent authority of the country of registration, in which case an entry into service inspection may be required by the competent authority of the country of registration;
 - ii. Where the registration of a tank transfers from one Contracting State to another, the competent authority of the Contracting State to which the tank is transferred may require an entry into service inspection. In that case the owner/operator of the tank shall engage a single inspection body recognized by the competent authority of the country of registration to perform this entry into service inspection;
- (g) To encourage the recognition by other Contracting States of appointed inspection bodies by a competent authority, a system of notification to, and listing by, the UNECE/OTIF secretariats should be developed that includes the names of inspection bodies and the scope of the work they are allowed to perform.

Annex V

Outline of the mandate for the informal working group on the inspection and certification of tanks

1. The agreed mandate set for the informal working group by the Joint Meeting consisted of the following items:
 - (a) Evaluate the arrangements for appointment of inspection bodies;
 - (b) Evaluate monitoring mechanisms (e.g. through a centralised database) for inspection bodies and supervision of extra-territorial activities, as well as follow-up of the activities carried out in name of the competent authority;
 - (c) Review of inspection procedures;
 - (d) Review of the relevant provisions in chapter 6.8 and referenced standards, in particular provisions concerning initial and exceptional inspections;
 - (e) Evaluate possible improvements for maintaining the tank records; and
 - (f) Establish a list of RID/ADR inspection bodies.
2. The Joint Meeting also decided that these points needed to be combined with the relevant work identified in the Würzburg Working Group:
 - (a) Establish common requirements for the appointment of inspection bodies;
 - (b) Consider adding a provision similar to RID 6.8.2.4.6 recognizing the principle of mutual recognition;
 - (c) Consider establishing an RID/ADR wide list of recognized inspection bodies by asking the secretariat (OTIF/UNECE) to gather info and publish on their website;
 - (d) Consider adding new text to 6.8.2.3 to cover the manufacture of tanks with a foreign tank approval, limiting the national requirements to a document review of the existing type approval by a national competent authority or appointed inspection body – unless there are specific technical national provisions (e.g. assessment of capability to operate at -40°C);
 - (e) Consider adding new text to ADR 9.7.2 (where there is a cross reference with 6.8) to remove the national requirement for duplicating existing tank approvals when importing a tank-vehicle; and
 - (f) Consider harmonizing practice concerning use of national technical codes and modifying 6.2.5 and 6.8.2.7.

Annex VI

Reminder of the principle of territoriality according to RID 6.8.2.4.6

Reminder of paragraph 42 of the final report of the 42nd session of the RID Committee of Experts (A 81-03/501.2006), as completed by document OTIF/RID/CE/EE/2006/4 from Germany at OTIF's exchange of experience in Leipzig on 29 and 30 August 2006:

"Following this discussion, the RID Committee of Experts decided not to amend the current text. Based on the existing legal situation, the RID Committee of Experts assumed the following situation:

- (a) *A tank-wagon used in a COTIF Member State may be tested by an expert recognized in that State.*
- (b) *A tank-wagon used in a COTIF Member State may be tested in another COTIF Member State by an expert recognized there.*
- (c) *However, under the existing lay, it is not possible for a tank-wagon used in a COTIF Member State to be tested in another COTIF Member State by an expert recognized by a third Member State.*

In COTIF States in which this is tolerated, external inspections also take place by recognized experts, in which the tank-wagon is approved."

Principle of territoriality

Sovereignty over its own territory (excerpt from document OTIF/RID/CE/EE/2006/4)

