
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

Bern, 20-24 March 2023

Item 5 (b) of the provisional agenda

Proposals for amendments to RID/ADR/ADN: new proposals

14 February 2023

Amendment to 1.1.3.1 of RID/ADR/ADN

Transmitted by the Government of the Netherlands

Introduction

1. It regularly happens that unattended drug waste is found in public areas and that fireworks and cartridges and cylinders with nitrous gas are seized by police while performing their duties in the Netherlands. Besides this, dangerous goods are also found and seized by government officers in public areas.
2. However, these dangerous goods must be recovered and contained as quickly as possible by these officers to ensure public safety and to protect the general public or to limit environmental damage. It is therefore necessary that these dangerous goods should be removed immediately to an appropriate safe place.
3. The officers are well instructed to perform these actions and to move these dangerous goods on road in a safely way from the place of seizure or location of unattended encounter to the nearest appropriate safe place (e.g., police station or intermediate temporary storage depot).

Considerations

4. These unattended found or seized dangerous goods are within the scope of ADR and they should be carried according to the requirements of ADR.
5. In accordance with European Union (EU) Directive 2008/68/EC, the domestic transport of dangerous goods should comply with the transport requirements of ADR.
6. However, the current practice is that it is not possible to transport these dangerous goods according to ADR, because in most cases the correct classification is not known or is missing and the packagings in which the dangerous goods are found or seized are non-compliant with ADR.
7. Furthermore, it is practically not possible to find appropriate solutions for the classification and the packaging on site where these dangerous goods are seized or found, but at the same time there are substantial grounds to remove the dangerous goods from the public area as soon as possible.
8. The dangerous goods under consideration are transported by the officers or, if it is necessary, by specialized transport enterprises under supervision of these officers to the nearest safe location with the purpose of intermediate temporary storage for further investigation, processing or destruction.
9. Ensuing transport of these dangerous goods in the transport chain from the nearest safe location to a permanent storage location or to an enterprise for destruction always has to comply with all ADR requirements and is carried out in accordance with ADR by specialized transport enterprises.

10. Transport to the nearest safe location of these dangerous goods that were found unattended or seized takes place only on Dutch territory, and national work instructions are available to officers to carry out this transport safely. For this domestic transport the Dutch Government or other competent authorities may require additional provisions, such as working instructions, in accordance with domestic law.

11. Transport of the dangerous goods from the location of seizure or location where found unattended to the nearest safe location cannot be carried out in accordance with EU Directive 2008/68/EC because the transport is not compliant with ADR.

12. To allow these kinds of transport, EU member states need to request the European Commission for a derogation from Directive 2008/68/EC to be notified to the European Commission.

13. However, this course of action involves administrative burdens and increases the regulatory burden, while the afore mentioned transport is limited in scope and nature, and can be carried out safely.

Way forward

14. If this specific transport is explicitly exempted in ADR, there would be no need for a derogation. Also, other similar derogations in other EU member states will become redundant through a solution via ADR.

15. It is therefore recommended to consider excluding this specific transport from ADR under a new entry in 1.1.3.1 or under 1.1.3.1 (d), because such transport is predominantly by road.

16. However, 1.1.3.1(d) ADR is mainly harmonized with 1.1.3.1(d) RID/ADN. The Joint Meeting is requested to give its view to add a new exemption under 1.1.3.1 in ADR as well as in RID/ADN (proposal option 1) or to amend 1.1.3.1 (d) ADR (proposal option 2a) and to decide whether it makes sense to harmonize this provision from ADR with RID/ADN (proposal option 2b).

17. If the Joint Meeting's view is that harmonization of ADR with RID/ADN should be omitted, it will be highly appreciated if the Joint Meeting can give a substantive assessment of the proposals before these are submitted to WP.15 for the May 2023 session.

Proposal

18. The relevant part from provision 1.1.3.1 in ADR 2023 or in RID/ADN 2023 which is related to this issue is given below and the new wordings in the proposals are underlined.

19. Insert a new 1.1.3.1 (g) into ADR 2023 [and RID/ADN 2023] as given in option 1:

Option 1:

“1.1.3.1 (g) The carriage undertaken by the competent authority for the civil service with legal investigative tasks [duties] or under their supervision, insofar as such carriage is necessary in relation to perform their legal tasks [duties], in particular carriage undertaken to recover and contain the dangerous goods which have been found unattended or have been seized and move them [from the place where they are found or seized] to the nearest appropriate safe place;

NOTE: additional provisions in accordance with domestic law may be required with regard to the safe transport of dangerous goods from the place where they are found or seized to the nearest appropriate safe place.”

20. Amend 1.1.3.1 (d) in ADR, RID and ADN as given in options 2(a) and 2(b) below:

Option 2 (a):

21. For 1.1.3.1 (d) ADR 2023:

“1.1.3.1 (d) The carriage undertaken by the competent authorities for the emergency response and civil service with legal investigative tasks [duties] or under their supervision, insofar as such carriage is necessary in relation to the emergency response or to performing their legal tasks [duties], in particular carriage undertaken:

- by breakdown vehicles carrying vehicles which have been involved in accidents or have broken down and contain dangerous goods; or
- to contain and recover the dangerous goods involved in an incident or accident and move them to the nearest appropriate safe place; or
- to recover and contain the dangerous goods which have been found unattended or have been seized and move them [from the place where they are found or seized] to the nearest appropriate safe place;

NOTE: additional provisions in accordance with domestic law may be required with regard to the safe transport of dangerous goods from the place where they are found or seized to the nearest appropriate safe place.”

Option 2 (b):

22. For 1.1.3.1. (d) RID/ADN 2023:

“1.1.3.1 (d) The carriage undertaken by the competent authorities for the emergency response and civil service with legal investigative tasks [duties], or under their supervision, insofar as such carriage is necessary in relation to the emergency response or to performing their legal tasks [duties], in particular carriage undertaken:

- to [contain and]* recover [the]* dangerous goods involved in an incident or accident and move them to the nearest appropriate safe place; or
- to recover and contain the dangerous goods which have been found unattended or have been seized and move them [from the place where they are found or seized] to the nearest appropriate safe place;

NOTE: additional provisions in accordance with domestic law may be required with regard to the safe transport of dangerous goods from the place where they are found or seized to the nearest appropriate safe place.”

* only applicable for RID.

Request

23. The Dutch delegation is interested to hear the opinions of other delegations on these proposals and invites the Joint Meeting to act, as it deems appropriate.

Justification

24. This proposal enables the continuation of the domestic transport and ensures the safe transport of dangerous goods when they are found unattended or are seized by police and customs officers (civil servants). It also reduces unnecessary administrative and regulatory burdens and is within the scope of United Nations Sustainable Development Goal 11 (Sustainable Transport).