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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

Geneva, 19-29 September 2023

Item 5 (a) of the provisional agenda

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

Last mile delivery

Submitted by the Council on Safe Transportation of Hazardous Articles (COSTHA)*, **

Summary

- Executive summary:** During the COVID-19 pandemic, retail deliveries, including grocery deliveries, have significantly increased. As a result, customer orders are frequently carried out by a delivery service that utilizes either the operator's own vehicle or a delivery service vehicle. The increase in the use of these services creates questions as to whether the requirements of the dangerous goods regulations apply when transported by a commercial employee in a similar manner to the traditional consumer retail experience.
- Action to be taken:** Introduce an exemption in RID/ADR/ADN for the last mile delivery, by the retailer, of dangerous goods packaged for retail sale under specific conditions.
- Related documents:**
- RID/ADR/ADN Joint Meeting – spring 2022 session (informal document INF.32(COSTHA))
 - Sub-Committee of Experts on TDG – sixtieth session (ST/SG/AC.10/C.3/2022/28 (COSTHA))
 - RID/ADR/ADN Joint Meeting – autumn 2022 session (ECE/TRANS/WP.15/AC.1/2022/27 (COSTHA), informal document INF.16 (FEA), informal document INF.28 (France) and informal document INF.29 (RECHARGE))
 - RID/ADR/ADN Joint Meeting – spring 2023 session (ECE/TRANS/WP.15/AC.1/2023/22 (COSTHA), informal document INF.20 (France) & informal document INF.31 (FEA))

* A/77/6 (Sect.20), para. 20.76

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Introduction

1. The challenges posed by direct-to-customer delivery systems which may contain dangerous goods remain even after the COVID-19 pandemic. During that time, retail deliveries of goods, including grocery deliveries, have significantly increased. Common examples of dangerous goods sold (in store or online) and being delivered from groceries, retail stores, or online shops, include flammable gases and liquids, organic peroxides, corrosive substances, and small lithium batteries.
2. The delivery of these "online" purchases is frequently carried out by services that use the operator's vehicle (i.e., Instacart, Peapod, Whole Foods Market in the United States of America), and the increase in the use of these services creates questions as to whether the requirements of the dangerous goods regulations apply when used by a commercial employee in a manner similar to that of the traditional consumer retail experience. Currently, neither RID nor ADR nor ADN provides any exceptions for this practice.
3. At the March 2022 session of the Joint Meeting, COSTHA presented informal document INF.32 to gather input for a future proposal. Many delegations provided initial comments on the issue, which allowed COSTHA to present a working document at the autumn 2022 session (ECE/TRANS/WP.15/AC.1/2022/27) containing two proposal options at the September 2022 session of the Joint Meeting. COSTHA is grateful to the many delegations who provided comments which were very helpful for the preparation of this document, which allowed the submittal of an updated working document at the spring 2023 session of the Joint Meeting (ECE/TRANS/WP.15/AC.1/2023/22).
4. As previously discussed, COSTHA also brought the issue to the attention of the Sub-Committee of Experts on the Transport of Dangerous Goods (TDG Sub-Committee) for discussion during its sixtieth session that took place in Geneva (June 27 – July 6, 2022) (see: ST/SG/AC.10/C.3/2022/28). COSTHA explained to the TDG Sub-Committee that the delivery systems introduced by grocery, retail, and online stores due to COVID-19 are mostly used for shorter distances, and that "off the shelf" products are placed in shopping bags, thus losing both their original (i.e., suitable) outer packaging and hazard communication. Comments from that discussion were heard and shared with the Joint Meeting working document ECE/TRANS/WP.15/AC.1/2023/22.

Justification

5. During the traditional retail experience, consumers buy these dangerous goods products and use either bags or the product's own packaging to facilitate their handling/transport to their vehicles and homes. The products in retail packaging are never repackaged per ADR for additional safety or marked in accordance with the dangerous goods regulations. When carrying these products out of retail stores, an individual person is not subject to the various regulations as per 1.1.3.1(a) of ADR. However, the regulations do apply to delivery companies and services.
6. The growth of types of operations, especially in the magnitudes currently happening, was not anticipated when the regulations were originally developed. Applying the current regulatory requirements to these operations seems impractical and of little benefit to the overall transportation system. Last mile deliveries to the end consumer that originate from retail locations do not typically utilize any packaging beyond the retail packaging in place on the store shelf, and are generally limited to short distances, and the goods being carried are not subjected to the forces typically encountered in freight transportation where performance-oriented packaging is needed for safety reasons. Instead, the goods are often placed in bags or directly into an individual's vehicle (such as onto a seat or in the trunk), and marking is not currently being done for these bags (regardless of whether the bags are considered a "suitable outer packaging" or "overpack").
7. Based on the differences in operations, these last mile delivery services to end consumer do not seem to require the same level of safety equivalent to more traditional transportation operations. If these operations were to be considered subject to the dangerous

goods regulations, there could be a significant, negative impact to the sustainability and environmental efforts to reduce packaging globally.

Proposal

8. COSTHA requests consideration to expressly exclude dangerous goods from the regulations during last mile delivery operations to end customers. The intent of the proposals below is to limit the amount of additional packaging and marking that does not add to the safety for the shipper or carrier and is not necessary for the end consumer. A similar exception to the regulations is provided within 1.1.3.1 (a) of the RID/ADR/ADN where transportation by a private individual with certain limitations is excepted from regulations. Excluding the operations described above could be accomplished with an additional exception within that subsection such as provided below:

"1.1.3.1 Exemption related to the nature of the transport operation

The provisions laid down in RID/ADR/ADN do not apply to:

...

- (g) the carriage of dangerous goods by or on behalf of a consignor which consigns the goods directly to the final consumer (business to end consumer), where the consignment is packaged for retail sale (online, in a brick-and-mortar storefront, through direct sales, or direct mail) and intended for the personal or domestic use of the consignee (i.e. end consumer or recipient), if:
 - The dangerous goods are not assigned to transport categories 0 or 1 in 1.1.3.6.3;
 - Measures have been taken and closures have been inspected before packing to prevent leakage of contents in normal conditions of carriage;
 - The maximum quantity of dangerous goods contained in each inner packaging does not exceed 5 kilograms or litres (*or the quantity allowed in Column 7(a) of Table A in Chapter 3.2 for limited quantities*).
 - The total quantity of gases of Class 2 carried in the wagon or container/transport unit, except for aerosols (UN 1950) and gas cartridges (UN 2037), does not exceed 50 kilograms or litres;
 - The total quantity of all dangerous goods, including gases of Class 2 carried in the wagon or container/transport unit does not exceed 333 kilograms or litres;
 - The dangerous goods are packed:
 - (i) in inner packagings derived from packages conforming with the provisions on excepted quantities in accordance with Chapter 3.5; or
 - (ii) in inner packagings derived from packages conforming with the provisions on limited quantities in accordance with Chapter 3.4; or
 - (iii) in inner packagings derived from combination packagings conforming to Chapter 4.1; or
 - (iv) in single packagings conforming to Chapter 6.1; or
 - (v) in accordance with the requirements of special provision 188 (in the case of carriage of lithium batteries);
 - The dangerous goods are secured in the wagon or container/vehicle in a manner that will prevent movement.

Shipments (returns) from the original consignee back to the original consignor are also included under these provisions."

Additional questions

9. COSTHA received comments from members asking whether the proposed exception should take segregation of dangerous goods into consideration and would like the Joint Meeting's opinion on the matter.
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