

OTIF/RID/CE/GTP/2018/9

6 April 2018

Original: German

RID: 9th Session of the RID Committee of Experts' standing working group
(Berne, 28 - 30 May 2018)

Subject: Continued use of tank-wagons for the carriage of gases of Class 2 in accordance with the transitional provisions in RID 1.6.3.3.2 to 1.6.3.3.5

Information and question from Switzerland

1. At the 8th Session of the RID Committee of Experts' standing working group in November 2017, the representative of Austria presented the result of targeted checks carried out on gas tank-wagons. Serious defects were found on the closing devices of more than 10% of the gas tank-wagons that were checked. Owing to the safety risk of these tank-wagons, the representative of Austria called for the duration of the transitional provisions of RID 1.6.3.3.4 and 1.6.3.3.5 to be limited to 31 December 2021. ([OTIF/RID/CE/GTP/2017/14](#), [OTIF/RID/CE/GTP/2017/INF 24](#)).
2. The proposal submitted was not adopted. However, it was agreed that the measures taken at national level and by the international associations would be presented at the 9th session of the standing working group in order that a decision could be taken on how to proceed (see paragraphs 34 to 39 of report [OTIF/RID/CE/GTP 2017-A](#)).
3. In this context, this document from Switzerland provides information on the measures that have been taken. Switzerland also wishes to draw attention to an ambiguity in the interpretation of the provisions and requests the RID Committee of Experts' standing working group for clarification.
4. At Switzerland's request, after the 8th session of the standing working group, Rail Cargo Austria AG provided it with additional detailed information on the defects detected and the wagons concerned. On the basis of this information, the following measures were taken.

5. The Swiss Federal Office for Transport (BAV) wrote to the **keepers** and entities in charge of maintenance (**ECM**) of gas tank-wagons registered in Switzerland's national vehicle register. It informed them of the defects found in Austria and drew their attention to the report of the standing working group. It asked them to provide a list of those gas tank-wagons whose shell was built before 1 October 1978 and to confirm that their conformity with the provisions of RID had been checked. The results of this survey are not available at this time and will be presented orally at the meeting.
6. BAV also wrote to the **fillers** and **consignees/unloaders** of liquefied gas tank-wagons in Switzerland. It asked them to notify any defects on gas tank-wagons whose shells were built before 1 October 1978 if these defects were detected before filling or upon delivery in the period between April and the end of December 2018. No particular findings are available as yet.
7. SBB, the Swiss **railway infrastructure manager**, has evaluated the data collected by the train control devices. SBB ascertained that the defective wagons in Austria did not run on the SBB network between December 2017 and February 2018. It also informed its freight train inspectors of the potential irregularities and risks in connection with old gas tank-wagons.
8. **BAV** also informed those of its staff who inspect freight trains in Switzerland. No particular findings are available as yet.

Question of interpretation

9. In the course of these enquiries, the question arose as to the reassessment of conformity in accordance with Directive 2010/35/EU on transportable pressure equipment (TPED). Switzerland established that the participants at international level interpret the provisions differently to some extent.
10. The following statements in the TPED cause confusion:

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION – (...) having regard to the following:

(14) Where existing transportable pressure equipment not previously assessed for conformity with Directive 1999/36/EC is to benefit from free movement and free use, it should¹ be subject to reassessment of conformity.

HAVE ADOPTED THIS DIRECTIVE:

Article 1 – Scope

(3) This Directive shall not apply to transportable pressure equipment which was placed on the market before the date of implementation of Directive 1999/36/EC and which has not been subject to a reassessment of conformity.

11. Recital (14) is not made binding in any Article of the TPED. Based on Article 1, para. (3) of the TPED, it is therefore mostly assumed that for transportable pressure equipment placed on the market before 1999:
 - no reassessment of conformity is necessary and
 - this equipment may move freely in the RID area, including in the European Union, provided they satisfy the requirements of RID.

¹ Here there are differences in the various language versions, see e.g. the Spanish version (“must” instead of “should”): *Para que los equipos a presión transportables existentes que no hayan sido previamente evaluados para su conformidad con la Directiva 1999/36/CE disfruten de libre circulación y libre utilización, **deben** someterse a una reevaluación de la conformidad.*

12. According to the agreement between the Swiss Confederation and the European Community on the mutual recognition of conformity assessments², Switzerland applies the TPED. The Swiss Dangerous Goods Means of Containment Regulations³ prescribe that *transportable pressure equipment which was placed on the market before its entry into force on 1 January 2013 and which has not been subject to a reassessment of conformity may continue to be used for:*
 - a. *transport in Switzerland;*
 - b. *transport between Switzerland and RID Contracting States and ADR Contracting Parties, provided these States or Parties are not members of the European Union.*
13. Based on the interpretation set out in section 11, this national provision would have to be adapted so that reassessment of conformity would only be required for transportable pressure equipment placed on the market between 1999 and 2013.
14. Switzerland therefore **requests** the RID Committee of Experts' standing working group and in particular the representative of the European Union to confirm whether the following **interpretation** is correct:

→ **Transportable pressure equipment which was placed on the market before 1999 and which complies with the requirements of RID may also move freely in the European Union without reassessment of conformity in accordance with the TPED.**
15. Consideration should be given to whether the TPED should be made clearer the next time it is revised.

² SR 0.946.526.81, see <https://www.admin.ch/opc/de/classified-compilation/19994644/index.html>.

³ "Verordnung über das Inverkehrbringen und die Marktüberwachung von Gefahrgutumschließungen, GGUV, SR 930.111.4", Article 27, see <https://www.admin.ch/opc/de/classified-compilation/20121692/>.