

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR
INTERNATIONAL CARRIAGE BY RAIL**

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**RID: 51st session of the Committee of Experts on the Transport of Dangerous Goods
(Berne, 30 and 31 May 2012)**

**Subject: Report by the working group on the safety obligations of participants
(Rome, 12 and 13 April 2012)**

**Comments by the International Union of Railways (UIC) on informal document INF.14 from
Italy**

Introduction

1. Following proposals by Sweden (OTIF/RID/CE/2011/1 – Representative sample checks in 1.4.2.2.1 compared to UIC Leaflet 471-3 O) and CEFIC (OTIF/RID/CE/2011/11 – Drip leaks) and an informal document from Italy (INF.9 – Safety checks on tanks), at its 50th session (Malmö, 21-25 November 2011) the RID Committee of Experts decided to set up a working group to clarify the safety obligations of participants (see OTIF/RID/CE/2011A paragraphs 26-31 and 64-71).
2. The report on the meeting of that working group and the proposed amendments to RID are set out in informal document INF.14 from Italy.

Assessment of the working group's proposal

3. UIC objects to the proposal due to the following considerations.
4. The informal document was communicated too late for UIC to be able to examine the working group's proposals and their consequences for its members.

For cost reasons the present document was only printed in limited numbers. Delegates are therefore kindly requested to bring to the meetings the copy of the document sent to them. OTIF only has a small number of spare copies available.

5. The proposal is based in a misinterpretation of the initial context. This is perhaps due to the fact that the presentation only focused on the method of the samples whereas the purpose and the procedure of the quality assurance system was not described.
6. The sample checks prescribed in UIC Leaflet 471-3 O serve to assess the quality of individual checks conducted by the carrier at the point of departure¹. They are performed according to the relation RU – RU by the carrier at the end of the transport route¹ (For example: If the transport volume Trenitalia – DB Schenker Rail Deutschland is 20 000 dangerous goods wagons per year, according to appendix G of the UIC-Leaflet 471-3 O DB Schenker Rail Deutschland would have to check 315 dangerous goods wagons per year in order to get a representative result of the quality of the checks carried out by Trenitalia.)
7. Additional sample checks by transit carriers¹ (in the example SBB Cargo, Rail Cargo Austria) are not foreseen. The quality assurance system is described in appendices D-H of UIC-Leaflet 471-3 O.
8. Initial reactions of certain UIC members to the proposed wording for section 1.4.2.2.1 of RID have shown that it leads to different interpretations and contradictions.
9. For example this extract: "If the carriage is taken over by a subsequent carrier, the checks may be carried out by means of representative checks." and the rationale behind it are unclear.
10. The checks to be conducted by the carrier as prescribed in 1.4.2.2.1 of RID concern dangerous goods consignments and are performed at the point of departure, i.e. when the consignment is taken over from the consignor. The checks contains legal considerations involving dangerous goods.
11. The "checks and tests before departure" as per section 4.2.3.3.1 of the TSI for "Operation and traffic management subsystems" mentioned by the ERA representative concern the train and are performed on the basis of the RU's regulations ("The railway undertaking must define ...") before every train departure. The "checks and tests" concern matters of safety in operations and remain unaffected.
12. The proposal contradicts the objectives of the RID/ADR structural reform. One of the highly significant objectives is to distribute the obligations of the participants correctly and in accordance with practices, with clear mutual boundaries, in order to prevent overlapping responsibilities. Generally making the carrier have to conduct individual checks at the point of departure would fly in the face of this basic principle. Carriers would be made the "overriding responsible party", as they would have to check that the behaviour of prior responsible parties complied with dangerous goods regulations, thus becoming liable for any defects caused by prime responsible parties (consignors, loaders, fillers).
13. In addition, as part of the structural reform it was recognised that the checks carried out by participants were effective throughout the transport chain, especially as the load and receptacle did not change during carriage.
14. Concerning the obligations of carriers, a clarification was made in paragraph 20 of the report on the 11th meeting of the RID Committee of Experts' working group on restructuring RID, held in Würzburg on 18-22 May 1998 (OCTI/RID/GT-III/1998/25 of 9 June 1998):

"Section (1) clarifies for the rail carrier that a check has to be conducted at the point of departure, not upon every handover to another rail carrier".

¹ Railway undertaking included in the list in Appendix A to UIC Leaflet 471-3 O.

15. The proposal would lead to additional costs and delays in carriage. Individual checks at the point of departure and sample checks during carriage would take more time, thus leading to additional costs, increased transport time, adaptation of timetables, etc.; in turn this would lead to a competitive disadvantage vis-à-vis other modes of transport. It would also contradict the recitals of Directive 2008/68/EU, which counts among its aims the smooth functioning of the domestic transport market.
16. The proposal would lead to competitive distortion vis-à-vis the road sector. The working group did not take into account current differences in 1.4.2.2.1 of RID/ADR:

ADR: "The carrier has to ascertain where appropriate ...".
RID: "The carrier has to ascertain by means of representative checks ...".
17. These differences would be further exacerbated if the proposal were to be approved, thus putting the railways at an even greater competitive disadvantage in sharp contrast with the significantly higher number of complaints and accidents involving the road sector.
18. In the future rail carriers would have to conduct individual checks when handovers were carried out at the point of departure and additional sample checks during carriage. In the road sector however, 1.4.2.2.1 (a)-(g) of ADR would still only have to be checked "where appropriate". ADR contains no clarification as to the meaning of "where appropriate" and no best practices concerning 1.4.2.2.1 (a)-(g).
19. The proposal would lead to competitive distortion among EU railway undertakings (RUs). RUs predominantly operating in countries where the authorities conduct checks and enforce sanctions in case of infringement would stand at a disadvantage compared to RUs operating predominantly in countries without checks by the authorities (no EU regulation on dangerous goods checks in rail transport). Moreover the above mentioned problems of interpretation would increase the risk of different application of the rules by the national competent authorities.

Proposed further steps

20. UIC recommends discussing the matter again more intensively, including at the RID/ADR/ADN Joint Meeting.
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