

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTER-
NATIONAL CARRIAGE BY RAIL**

OTIF/RID/CE/2012/7

26 March 2012

Original: French

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

Subject: Operator/Keeper

Proposal transmitted by Belgium

Summary: Clarify the use of the term "tank-wagon operator".

Related document: Document OTIF/RID/CE/2011-A (report of the 50th session of the RID Committee of Experts), paragraph 87.

Introduction

1. At the 50th session of the RID Committee of Experts, several delegations pointed out that in RID, the term "tank-wagon operator" should be replaced by the term "tank-wagon keeper" in order to align with European legislation.
2. Belgium said it would be prepared to submit a document along these lines (see paragraph 87 of report OTIF/RID/CE/2011-A).

Overview of the legislation

3. A table showing the various definitions of "keeper" and "operator" is attached in the annex.

For reasons of cost, only a limited number of copies of this document have been made. Delegates are asked to bring their own copies of documents to meetings. OTIF only has a small number of copies available.

4. After analysing the legislation, Belgium is of the view that the definition of "operator of a tank-wagon" in RID 1.2.1 corresponds to the definition of "keeper" in European legislation and in Appendix G (ATMF) to COTIF.
5. There are two possible options:
 - Either change the term "operator of a tank-wagon" to "keeper of a tank-wagon", or
 - Explain that the 2 terms are equivalent in a footnote.
6. Belgium also wonders whether the definition of "operator" and/or "keeper" should be extended to include battery-wagons and MEGCs. If so, this would have to be proposed to the Joint Meeting.

Proposal 1 (alternative 1)

7. In 1.2.1, split the definition of "*operator of a tank-container, portable tank or tank-wagon*" as follows:

"Operator of a tank-container or portable tank ~~or tank-wagon~~" means any *enterprise* in whose name the *tank-container or portable tank ~~or tank-wagon~~* is registered or approved for transport;

NOTE: For tank-wagons, see "*Keeper of a wagon*."

8. Add a new definition to 1.2.1 as follows:

"Keeper of a wagon" means the person or entity that, being the owner of a wagon or having the right to dispose of it, exploits a wagon as a means of transport and who is registered as such in the vehicle register referred to in Article 13 of Appendix G to COTIF (ATMF) and in Article 33 of Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community;"

9. Consequential amendments:

- In 1.4.3.5, replace "operator" with:

"keeper".

- Present 4.3.2.1.7 in 2 columns. In the left-hand column, replace "owner or the operator" with "keeper":

<p>4.3.2.1.7 The tank record shall be retained by the owner or <u>the keeper</u> who shall be able to provide this documentation at the request of the competent authority. The tank record shall be maintained throughout the life of the tank and retained for 15 months after the tank is taken out of service.</p> <p>Should a change of owner or <u>keeper</u> occur during the life of the tank the tank record shall be transferred to the new <u>keeper</u>.</p>	<p>The tank record shall be retained by the owner or the operator who shall be able to provide this documentation at the request of the competent authority. The tank record shall be maintained throughout the life of the tank and retained for 15 months after the tank is taken out of service.</p> <p>Should a change of owner or operator occur during the life of the tank the tank record shall be transferred to the new owner or operator.</p>
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Copies of the tank record or all necessary documents shall be made available to the expert for tests, inspections and checks on tanks in accordance with 6.8.2.4.5 or 6.8.3.4.16, on the occasion of period inspections or exceptional checks."

- In the left-hand column of 6.8.2.5.2, replace "name of operator" with:
"name of keeper".
- In the left-hand column of 6.8.3.5.11, replace "name of operator" with:
"name of keeper".

Proposal 2 (alternative 2)

10. Add a footnote to the definition of "*Operator of a tank-container, portable tank or tank-wagon*":

"***Operator of a tank-container, portable tank or tank-wagon***" means any *enterprise* in whose name the *tank-container, portable tank or tank-wagon* is registered or approved for transport;

* In the case of a tank-wagon the term "operator" is equivalent to the term "keeper" as defined in Article 2, n) of Appendix G to COTIF (ATMF) and in Article 3s of the Rail Safety Directive (Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings, and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification) and in Article 2s of Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community."

ANNEX

RID	Safety Directive 2004/49/EC (amended by Directive 2008/110/EC), Art.3 s) and Interoperability Directive 2008/57/EC, Art. 2 s)	Decision NVR 2007/756/EC, point 3.2.3 – draft guide on the application of Regulation (EU) 445/2011 , point 3.2.2.2	Appendix G to COTIF (ATMF), Art. 2 n)
Operator of a tank-wagon: any enterprise in whose name the tan-wagon is registered or approved for transport.	"Keeper" means the person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the national vehicle register (NVR) referred to in Article 33 of Directive 2008/57/EC on the interoperability of the rail system.	The keeper of the vehicle is considered as the holder of the registration within the meaning of Art. 33.3 of the Interoperability Directive.	"Keeper" means the person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the vehicle register referred to in Article 13;