Subject: Operator/Keeper

Proposal transmitted by Belgium

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


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.
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":

   **4.3.2.1.7** The tank record shall be retained by the owner or the keeper 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. Should a change of owner or keeper occur during the life of the tank the tank record shall be transferred to the new owner or operator.

   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. 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.
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;

**ANNEX**

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<tr>
<td>Operator of a tank-wagon: any enterprise in whose name the tank-wagon is registered or approved for transport.</td>
<td>&quot;Keeper&quot; 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.</td>
<td>The keeper of the vehicle is considered as the holder of the registration within the meaning of Art. 33.3 of the Interoperability Directive.</td>
<td>“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;</td>
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