

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on the Transport of Dangerous Goods (Seventy-seventh session, agenda item 3, Geneva, 25-28 October 2004)

INTERPRETATION OF ADR 2005

Carriage prior to or following maritime or air carriage

Sub-section 1.1.4.2

Note by the secretariat

The secretariat reproduced below comments on the interpretation of 1.1.4.2 which were submitted at the September 2005 session of the RID/ADR/ADN Joint Meeting (as INF.18), but which could not be considered due to lack of time. Although most questions raised are relevant for RID/ADR/ADN, they are related to problems which occur mainly at the road/seaport or road/airport interface. In addition, for documentation, 1.1.4.2.2 does not exist in RID, and therefore it seems that the questions raised by the secretariat concerning 1.1.4.2.2 are relevant for ADR and ADN only.

Therefore the Working Party may wish to consider the questions of interpretation below.

General

1. The secretariat has received several requests concerning the interpretation of sub-section 1.1.4.2 of RID/ADR/ADN (as amended 2005). These requests lead to a number of fundamental questions as regards the reasoning behind this subsection and its interpretation.
2. The secretariat notes that this subsection (ex marginal 2007) was originally intended to solve the problem of different labelling requirements in the IMDG Code/ICAO Technical Instructions (based on the UN Recommendations) and those of RID/ADR (not completely harmonized with the UN Recommendations). This was however on the assumption that the packing requirements of the IMDG Code and the ICAO Technical Instructions offered at least an equivalent degree of safety.
3. Following the introduction of package marking requirements and limited quantity provisions in RID/ADR which were not fully in line with the IMDG Code and the ICAO TI, the scope of marginal 2007 was extended, on the basis of proposals submitted in 1995 by Germany and CEFIC (TRANS/WP.15/AC.1/R.841, -/R.924 and -/R.934), to packages not meeting the packing/marketing/labelling requirements of RID/ADR but meeting those of the ICAO TI or the IMDG Code, as well as to containers and tank-containers not meeting the placarding requirements of RID/ADR.
4. Since then, a new provision (1.1.4.2.2) was included in RID/ADR to allow the use of documents conforming to the ICAO Technical Instructions or the IMDG Code, with the restriction, as from 1 January 2005, that if additional information is required in RID/ADR, it should also be entered in that document.

5. The questions received by the secretariat show that the interpretation of 1.1.4.2 is not always very clear. These questions are summarized through the examples given below, with a proposed interpretation by the secretariat that the Joint Meeting may wish to confirm or modify as deemed necessary.

Documentation

6. Through various special provisions (e.g. SP617, 623, 640) and through specific paragraphs of Chapter 5.4 (5.4.1.1.6.3, 5.4.1.1.7, 5.4.1.1.10.1, 5.4.1.1.11, 5.4.1.1.14, 5.4.1.2.1, 5.4.1.2.2, 5.4.1.2.3, 5.4.1.2.3.3, 5.4.1.2.3.4), RID/ADR request additional information which is not required for air/maritime transport. The question has been asked whether according to 1.1.4.2.2 of RID/ADR 2005, this information has also to be entered for carriage prior to or following air or maritime carriage.

Proposed interpretation:

The answer to this question is **yes**, this was the purpose of the 2005 amendment to 1.1.4.2.2.

7. Special provision 274, in RID/ADR, applies to a much wider range of entries (nearly all collective entries) than in the UN Recommendations, the ICAO T.I or the IMDG Code, where it applies only to a selected number of N.O.S. entries. Examples of entries where SP274 is applied in RID/ADR but not in the UN Recommendations, IMDG Code and ICAO TI are:

UN 2445 ALKYL LITHIUMS
UN 1851 MEDICINES, LIQUID, TOXIC, N.O.S
UN 1740 HYDROGENDIFLUORIDES, N.O.S.

The question has been asked whether, in such cases, when an air or maritime document is used, which does not include the technical name in addition to the proper shipping name, the technical name would have to be added.

Proposed interpretation:

According to 1.1.4.2.2 in RID/ADR 2005, this is additional information and the answer is **yes**.

The secretariat notes however that this inconsistency with the UN Recommendations constitutes a serious obstacle to multimodal transport and a significant burden for freight forwarders, and recommends that the Joint Meeting should consider harmonization with the UN Recommendations or otherwise propose amendments to the UN Model Regulations.

Marking of packages

8. Certain RID/ADR special provisions (e.g. 633) require additional markings on packages which are not required for other modes of transport. The question has been asked whether such marking was required prior to or following maritime/air carriage.

Proposed interpretation: The answer is “**no**” because these additional markings are not required by the IMDG Code or the ICAO Technical Instructions and packages marked in accordance by the IMDG Code or the ICAO TI are accepted under RID/ADR prior to or following air/maritime carriage.

Limited quantities

9. The question has been asked whether dangerous goods carried in accordance with the limited quantities provisions of the IMDG Code or the ICAO Technical Instructions are accepted under ADR/RID, as limited quantities (i.e. fully exempted from other RID/ADR provisions), prior to or following maritime/air carriage.

Proposed interpretation: Yes, for air transport provided that the packages are marked in accordance with Chapter 4 (section 4.5) of Part 3 of the ICAO Technical Instructions.

Yes, for maritime transport, provided that the packages are marked in accordance with 3.4.5.1 of the IMDG Code.

No for maritime transport if, by virtue of 3.4.7 of the IMDG Code, packages are not marked (unless of course the carriage of such goods is fully exempted from ADR/RID in accordance with the provisions of 1.1.3.1, 1.1.3.2 or 1.1.3.3 of RID/ADR). In such a case, the conditions of 1.1.4.2.1 (a) would not be met.

ICAO Excepted quantities

10. The question has been asked whether dangerous goods carried in accordance with the excepted quantity provisions of the ICAO Technical Instructions (Part 1, Chapter 2, section 2.4) may be carried under RID/ADR prior to or following air carriage.

Proposed interpretation: Yes, according to 1.1.4.2.1 of RID/ADR, i.e. provided that the dangerous goods are packed in accordance with the relevant requirements of the ICAO TI and the packages are marked “Dangerous Goods in excepted quantities” and with the other details required by 2.4.6 of this Part 1, Chapter 2 of the ICAO TI.

Nevertheless, the dangerous goods have to be declared, in the transport document, in accordance with chapter 5.4 of RID/ADR (i.e. with the UN No., proper shipping name, class, etc.) and all other relevant RID/ADR provisions, other than packing, marking and labelling requirements, apply.

ICAO Consumer commodities

11. The question has been asked whether dangerous goods classified as “Consumer commodities, ID number 8000, class 9” for air transport, although they should normally be classified under a UN number in classes 1 to 9 of RID/ADR, may also be carried in the same conditions prior to or following air carriage.

Proposed interpretation: Yes, in accordance with 1.1.4.2.1 of RID/ADR, i.e. provided they are packed in accordance with the relevant provisions of the ICAO TI, and that the package is marked “Consumer commodities, ID 8000” and bear a class 9 label.

Nevertheless, all other provisions of RID/ADR other than the packing/marketing/labeling provisions, apply, and the goods have to be declared in the transport document in accordance with the provisions of Chapter 5.4, i.e. including the UN number, proper shipping name and class.

12. The same applies whenever the classification of the dangerous goods in the IMDG Code or the ICAO TI differs from that of RID/ADR.

Dangerous goods subject to RID/ADR but not subject to the IMDG Code or the ICAO Technical Instructions

13. According to the last sentence of 1.1.4.2.1, the “derogation does not apply in the case of goods classified as dangerous goods in classes 1 to 8 of ADR and considered as non-dangerous goods according to the applicable requirements of the IMDG Code or the ICAO Technical Instructions”.

14. For the secretariat this sentence is misleading, because if goods are not dangerous according to the IMDG Code or the ICAO Technical Instructions, the conditions of paragraphs a), b) and c) cannot be met and therefore the derogation cannot apply. It has perhaps the merit to clarify the situation for

goods of classes 1 to 8 but may lead to different interpretations for goods of class 9, in particular for transport of aquatic pollutants prior to or following air transport.

15. The secretariat notes that all class 9 UN numbers of RID/ADR are subject to the IMDG Code and the ICAO Technical Instructions, and therefore class 9 RID/ADR dangerous goods are also subject to the IMDG Code and the ICAO Technical Instructions.

16. The question has been asked whether, on the basis of this sentence, a substance meeting the aquatic pollutant criteria of RID/ADR but not listed as marine pollutant in the IMDG Code may be exempted from RID/ADR prior to or following maritime carriage.

Proposed interpretation: **No**, because the marine pollutant criteria of MARPOL Annex III/IMDG Code are the same as those of 2.3.5.6 of RID/ADR, and the fact that a marine pollutant is not listed by name in the IMDG Code is not sufficient to exclude it from the scope of the IMDG Code when it is known that the substance meets the criteria or even when it is suspected that it meets the criteria (refer to 2.10.2.6 of the IMDG Code). For carriage prior to or following air transport, although there are no criteria for environmentally hazardous substances in the ICAO TI, special provision A97 of the ICAO TI specifies that substances classified as UN 3017 or UN 3082 by the regulations of other modes of transport may be carried by air under these entries. Therefore, when meeting the criteria of RID/ADR, such substances should be carried as UN 3077 or UN 3082 prior to or following air transport.

17. Proposal by the secretariat: In view of the above, the secretariat suggests to amend the last sentence of 1.1.4.2.1 by replacing “classes 1 to 8” with “classes 1 to 9”.
