
Economic and Social Council

Inland Transport Committee

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Working Party on the Transport of Dangerous Goods

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Joint Meeting of Experts on the Regulations annexed to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN) (ADN Safety Committee)

Forty-second session

Geneva, 21-25 August 2023

Item 5 of the provisional agenda

Reports of Informal Working Groups

Further contribution to the report of the Correspondence group on fumigated cargo (ECE/TRANS/WP.15/AC.2/2023/39)

Transmitted by Grain and Feed Trade Association (Gafta)

Introduction

1. In relation to the paper ECE/TRANS/WP.15/AC.2/2023/39 concerning the transport of fumigated cargo, Gafta has consulted with its members and with representatives from other interested associations in the trade of agricultural commodities, namely, the European Association of Grain Trade Associations (Coceral) the European Association of Storekeepers (UNISTOCK) and the International Maritime Fumigation Organisation (IMFO), on the current report of the Correspondence group.
2. Gafta has collated the feedback for the consideration of the ADN Safety Committee and the members of the Correspondence group.

I. Measurements of toxic gases at unloading

3. The current report includes the following clause:

"(e) Immediately before unloading the Fumigated Cargo from the cargo holds of the vessel, the remaining concentration of the toxic gases and vapours resulting from previously used fumigants shall be measured under the responsibility of the [consignor] [principal] by [a qualified] [an approved] expert. The [consignor] [principal] shall inform the unloader in advance in a traceable form about the result."
4. Clarification is needed on to the following:
 - (i) Who is to take this measurement?
 - (ii) When is this measurement to be taken?
 - (iii) Who is responsible for the measurement? What is the process of measurement (equipment, trained personnel, location of measurement etc)
 - (iv) What measurement is considered "safe" or "unsafe"?
5. This has been discussed within the Correspondence Group, but a clearer explanation is required to ensure that this step is carried out effectively and safely.
6. Points for consideration:

- (i) Are readings always necessary at the end of an inland voyage before discharge? For goods which have been loaded from a sea-going vessel under fumigation, the discharge from the sea-going vessel is only allowed after clearance from a fumigator (expert). Therefore, in this case, it is felt unnecessary to take further readings.
- (ii) However, it is also understood that goods could be loaded to barges from rail cars, silos, road trucks where this level of clearance is not always available or carried out.
- (iii) In the commercial chain there is currently no obligation to hand over information about fumigation, and when the chain consists of two, three or more chain links, this information – fumigation by the first seller or loader – could be lost, when the cargo reaches the place where it is loaded into an inland barge.
- (iv) The opinion of Gafta (and stakeholders referenced above) is that these types of measurement should only be carried out by suitably trained ‘experts’ or professional fumigators, such as those on the Gafta Approved Register of Fumigators. However, there is concern that such experts are not widely available, particularly at inland ports, and this is a practical issue which needs further consideration by the Correspondence Group to ensure transportation and trade is not unduly disrupted.
- (v) According to the EU Biocidal Products Regulation, expertise is only required for the controlling measurement. For Germany, for example, mandatory expertise was still required until the introduction of the new Hazardous Substances Regulation. This requirement has been abolished with the new Hazardous Substances Regulation, in line with the EU Biocidal Products Regulation. Corresponding technical regulations are currently being developed in Germany and will take this into account. It can be assumed that individual national regulations within the EU will regulate it in a comparable manner.

II. Chapter 3.3, Special Provision 804 (a) and (c)

- "(a) The [consignor] [principal] must ensure that residues of [tablets or sachets], if used for fumigation, are removed from lots intended for loading and disposed of properly.
- (c) This has to be confirmed by the [consignor] [principal] in a traceable form. He has to inform the carrier in advance in a traceable form that the cargo offered for transport was previously fumigated and cleared by way of a clearance measurement. The information shall be kept on board during the journey."

7. According to current national and European regulations, neither the sender nor the owner is responsible for the release of fumigated cargo. The responsibility lies with the competent user of the biocidal product. Ventilation, measurement, and release are essential steps in fumigation and are already regulated in the approval requirements for the products by the "trained professional user with additional qualifications," i.e., the knowledgeable fumigator. It is not possible to transfer these legally binding obligations to third parties through formulations in the ADN.

8. As an example, for sea-going fumigation, the ‘competent user’ who applies the fumigant at loading is not present during discharge. Therefore, someone has to be responsible for discharge operations. Within the Gafta Standard we state that this is usually the receiver or buyer of the goods, with the responsibility assigned in the contract (agreed by the seller and buyer). So how would we address with within the ADN for goods which may not have been traded on a Gafta contract, e.g, goods arriving for inland transportation by rail, truck or from a fumigated silo?

III. Phosphine Occupational Exposure Limits

9. The United Nations International Labour Organisation (UN ILO) has recently reduced the Occupational Exposure Limits for phosphine from 0.1ppm to 0.05ppm: ILO UN website.
10. Some countries have already adopted or are in the process of adopting relevant national standards.
11. Therefore, we would recommend considering this tendency of decreasing the phosphine TLV in p. 8, Chapter 3.3, (b) of the proposed draft paper instead of correcting it shortly after approval.

IV. German Version — Definition

Section 1.2.1 Definitions

12. The term "*begaste Ladung*" (fumigated cargo) is often misunderstood from the user's perspective, at least in the German-speaking area. Linguistically, it is unclear whether "*begaste Ladung*" refers to cargo that is currently "under gas" or whether it has already been fumigated, ventilated, and then released.
 13. Therefore, legal texts often use a different nomenclature. In legal texts, "*begaste Ladung*" or "*begastes Gut*" or "*Begasungsgut*" are used when referring to actively fumigated cargo, and "*ehemals/vormals begaste Ladung*" is used for cargo that has been fumigated and then released.
 14. It is proposed that the term "*ehemals/vormals begaste Ladung*" is used in the ADN.
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