

REUNIÃO DO COMITÉ DO TRANSPORTE DE MERCADORIAS PERIGOSAS DA COMISSÃO EUROPEIA (Comité TDG)

Bruxelas, 17.6.2013

Reprodução da ata provisória da reunião, elaborada pelo respetivo secretariado, e em que se assinalam a **amarelo** as intervenções apresentadas pelo delegado português, que se encontram corretamente refletidas no texto.

O delegado português
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EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Directorate C - Innovative & sustainable mobility
C.4 - Road safety

Brussels, 20/06/2013
MOVE/C4/RF,TA,SC D(2013)

COMMITTEE ON THE TRANSPORT OF DANGEROUS GOODS DRAFT MINUTES OF THE MEETING ON 17.6.2013 IN BRUSSELS

Adoption of the Agenda and minutes of the previous meeting

The agenda was adopted with four additional points under Any Other Business. DE had indicated by email that they wish to address the question of telematics in dangerous goods transport, during the meeting they also wished to revisit the draft regulation on registration of carriers of radioactive substance. SE wanted to have information on the loss of good repute in the context of Regulation (EC) 1071/2009. Finally AT indicated that they have difficulties in interpreting dangerous goods training certificates issued by BG.

The minutes of the previous meeting were adopted.

Preparation and coordination in the context of international meetings on the transport of dangerous goods

a) Participation to preparatory meetings

The Chairman underlined the importance of preparatory meetings to allow an open discussion between the Member States. He encouraged that experts from Member States should participate actively to avoid misunderstandings at the international meetings.

The representatives of the Member States agreed with the importance of preparation and encouraged the Commission to propose such a timing and location that the experts could participate without needing to extend their travelling. The evening of the first meeting day was generally accepted as the best compromise.

PT, FR suggested that the preparatory meetings should not be on the day before the main meeting to keep travelling costs down. LU added that there is a need for good preparation by all parties and shared the view of FR that only a limited number of points can be addressed.

b) Preparations for the next meeting of UN-ECE WP.15

The Commission had prepared a draft document relating to changes in vehicle type-approval legislation in the EU. These changes have an impact also on the application of the *European Agreement Concerning the International Carriage of Dangerous Goods by Road* and the experts from Member States were invited to provide their comments to the Commission on the draft by 19 July 2013. The Commission would consolidate the comments and present a Working Document for the next session of the UN-ECE Working Party 15.

While Member States (BE, AT, FR) largely agreed with the substance, remarks and questions were related to timing and procedures. BE wished that the comments are circulated and **PT** insisted that also the Permanent Representations should be informed. The Commission agreed on both points and indicated that the preparatory meetings should be the final occasion to streamline the proposals, and Member States should bring in their comments by EU internal work before the international meetings take place, instead of submitting possibly diverging information documents at UN-ECE. In reply to a question made by BE, the Commission indicated that following the institutional changes in December 2009, entry into force of the Lisbon Treaty, it has participated to the international meetings as the representative of the European Union. Thus the Commission can present documents in the name of the European Union, which has an observer status at the UN-ECE.

Members States are invited to make their observations and suggestions by 19 July 2013. The Commission will circulate these remarks and incorporate them in a Working Document to be submitted before 12 August 2013 to the UN-ECE secretariat. Where necessary, final refinement can be agreed at the preparatory meeting for WP.15.

Exchange of information between authorities on driver qualifications

Following the discussion at the previous meeting of the committee relating to falsified certificates, the Commission made a presentation on a system used for cooperation between administrations relating to questions on driving licenses. The legal basis is established in Directive 2006/126/EC on driving licenses. A system called RESPER has been established to facilitate the exchange of information when a replacement license needs to be issued. The issues relating to legal base, protection of private information and resources necessary to deploy and maintain the system were addressed. Member States are responsible for maintaining the system and for its updating.

In the exchange of views many Member States acknowledged the benefits of having a similar system for dangerous goods training certificates and expressed interest in studying the matter further. However, while no major technical obstacles were identified, issues related to the legal context and need of resources were raised.

FR described its system for issuing the certificates, and announced its willingness to cooperate, once rules on access and other legal issues have been clearly defined. PT and IT recalled the work already done within UN-ECE and which will be finalized at next WP.15 towards common ADR training certificate, which will be valid also in the 21 Contracting Parties outside the EU. These third countries should be taken into account in electronic exchange of information. PT drew the attention not only to the falsification of the identity on the certificate but also to the validity of the training itself to avoid a "tourism for training certificates". PT suggested cooperation through the RESPER system to enhance the ADR training certificate.

LU pointed out that the purpose of ADR training certificate is not limited to provide information to the public administrations but also to inform other stakeholders. LU proposed therefore to set up a second system, linked to RESPER, for the exchange of data but open to a larger range of stakeholders and aimed at quickly providing a limited set of information.

NL suggested distinguishing two different issues for which the electronic exchange of information could be made available: the validity of the certificate and appropriateness of the training for the carriage involved. IE announced that it has developed a smartphone application for its enforcement bodies. IE also listed other concrete problems which might arise during roadside checks.

BE described the solution adopted for issuing its training certificates, which is based on a system provided with additional information that allows enforcement bodies to verify their validity. BE pointed also out the lack of a legal framework such as the one adopted for the exchange of data on driving license. BE continued indicating that several principles of the EU legislation on driving license are already being applied in the dangerous goods context. It might therefore be possible to use the RESPER system as the tool for exchange of information of dangerous goods, taking into consideration the lower volume of data involved (there are around 7 000 certificates issued annually in BE).

IT wished that the exchange of information could be used more generally to avoid fraud. SE explained that 15 000 ADR training certificates are yearly issued by its competent authorities which are responsible also for the driving licenses, and that the training examination has been reviewed when frauds have been detected. Fraud detection could be extended to the vehicle certificate. SE stated it is supporting the idea of a data exchange system, but the nature of the data and how it is collected should be clarified.

UK declared its general support to the exchange of information on driving certificates but wished to draw the attention on the need for resources. Furthermore, the common model adopted at UN-ECE for training certificates should be respected more rigorously. AT underlined that the ADR training certificate can be sometimes issued in another country than the driving license, especially in case of foreign workers.

Notification of national rules regarding the railway system

The work on this topic started at the previous meeting of the committee. In the meantime the Task Force on National Safety Rules had finalised its work and published the report, available at www.era.europa.eu

The European Railway Agency (ERA) explained in more detail the procedures relating to the establishment and notification of national measures relating to railways. Special national contact points for Notif-IT database relating to the transport of dangerous goods by rail should be established where necessary. The members of the committee were invited to confirm such contact points together with the members of the Railway Interoperability and Safety committee (RISC) by the end of September 2013 and whenever the contact points change.

The Rule Management Tool (RMT) has been developed to take consistent decisions relating to the revision and notification of national rules. As a first step the Member States are encouraged to notify existing national rules regarding TDG by rail by mid-2014. Rule content and notification should be coordinated among the dangerous goods experts and National Safety Authorities (NSA). To further promote this work, ERA will organise dissemination workshops at Member States. There will also be a common session planned at ERA premises in February 2014.

AT, FR pointed out that in the sector of dangerous goods it is difficult to apply rules that are stricter than those provided by the international agreements and EU legislation. National derogations and multilateral agreements result in less stringent provisions while at the same time allowing the application of full rules. More stringent rules can be applied to operations, use of certain structures, itineraries and journey times. FR added that the role of national rules in the dangerous goods sector may be different, they are not areas that would be eventually covered by common rules, but they remain as a choice for national competent authority to manage their risks.

NL pointed also out that the application of the Seveso Directive may involve certain problems. NL has published all its national rules on its website. BE indicated that it has integrated national rules notification in its system, but not fully according to the model presented by ERA. ERA confirmed in reply to the question by BE that rules applied by the infrastructure manager to railway undertakings should be analysed as potential national rules needing notification. FR asked what should be considered as "national rule" (i.e. everything not issued at EU level, including "local rules", or only rules valid at the level of a whole country?). ERA emphasised that, in general, are considered as "national rules" to be notified the rules establishing binding requirements for a Railway Undertaking in a Member State, regardless how the rule was established (by the Infrastructure Manager or by the national authorities, via a decree or an agreement, valid on a local level / line / location only etc.). All rules should be managed in a uniform and transparent way.

UIC underlined that transport of dangerous goods is a part of railway freight transport in general and thus the provisions on freight transport are obviously also applicable to the transport of dangerous goods. UIC wished that more details relating to the national rules should be made available.

ERA highlighted that the notification procedure aims at transparency, interoperability and non-discrimination. The situation is still not ideal and improvement in this area is needed. National rules were originally intended to complement EU rules where voids still exist and thus they should gradually disappear with the development of EU legislation, in particular technical specifications for interoperability (TSI) and common safety methods (CSM). Finally, ERA underlined that to ensure safety on railways a clear distinction of responsibilities is needed and the operators themselves have a crucial role to play by properly applying their safety management systems (SMS).

Reporting according to Directive 95/50/EC

Pursuant to Article 9(2) the Commission must prepare at least every three years a report to the European Parliament and the Council on the application of Directive 95/50/EC. The Commission made a preliminary presentation on the results of checks carried out in Member States, which is available on the Circabc system. The report is planned to be finalised by the end of the year.

The main initial conclusions are that despite a marked reduction of checks over the last years the number of infringements noted has remained largely constant. While the statistical information cannot allow determining the causes, it is likely that this is the result of more targeted checks.

PT and BE asked for more information on the sources on data on general trends on road safety and transport of dangerous goods. The Commission replied that the data is from EUROSTAT and the CARE databases. FR pointed out that national traffic accidents statistics show similar conclusions to those presented by the Commission, albeit slightly less optimistic. One of the possible reasons is the basis for calculation, which can be transport movements or tonne-kilometres. FR added that over the last 12 years statistics report yearly between 10 and 12 deaths due to accidents involving vehicles carrying dangerous goods. Nevertheless only two deaths were directly linked to the transport of the substances themselves, while the remaining fatalities are due to mass and speed of the heavy goods vehicle involved.

Any other business

a) Study on coherence of railway and dangerous goods legislation in the EU

The Commission has contracted a study on railway legislation in the EU and its interaction and coherence with legislation developed at the Intergovernmental Organisation for International Carriage by Rail (OTIF) for the sector of dangerous goods. The Commission informed the members of the Committee that the study has been made available on the website of the Commission.

b) Study on risk acceptance criteria

The Commission informed about a study relating to the use of risk acceptance criteria in Member States launched in March 2013. Experts working on the transport of dangerous goods will be contacted by the consultant carrying out the study. A workshop on the results of risk assessment criteria will be organized.

The presentation is available on the Circabc system.

FR recalled that a preliminary discussion on the scope of this study took place at the last Joint Meeting of the RID Committee of Experts and the Working Party on the Transport of Dangerous Goods. FR stressed the need of enhancing the cooperation at international level between EU and UN-ECE bodies and welcomed the organisation of a workshop about risk assessment.

LU wanted to make sure that the members of the committee are involved or consulted by their national administrations before the information on risk acceptance criteria is provided to the consultant. IE indicated a problem in the distribution lists of the consultant, the Health and Safety Authority has not been contacted.

NL recalled that a study on risk assessment criteria was carried out in 2004-2008, within the OTIF context and limited to the railway sector. NL and SE asked for a clarification about the purpose of the study, notably whether it is to elaborate guidelines, recommendations or mandatory rules. FR highlighted the fact that the choice of a risk calculation method creates a large variety in the results, and the choice of individual parameters may be crucial for the outcome.

c) Safe parking for trucks and commercial vehicles

The Commission summarised the state of play on a delegated action relating to *Intelligent Transport Systems* (ITS). The delegated act on safe and secure parking facilities has been adopted on 15 May 2013 and it should enter into force either on 15 July 2013 or 15 September 2013 based on the reaction of the European Parliament and the Council. The information system on available truck parking places has been developed in such a way that it can convey information related to special restrictions on dangerous goods vehicles, such as number of places for certain classes of dangerous goods.

d) Telematics in the transport of dangerous goods

Work on telematics for the transport of dangerous goods has been going on since 2007 in an ad hoc working group under UN-ECE and OTIF. One of the main conclusions emerging from this work is that further development necessitates a more centralised framework for the information systems.

FR indicated that at the next Joint Meeting of UN-ECE and OTIF on 17-27 September 2013 a half-day session is planned on telematics, probably on 20 September 2013. FR also reminded that this work originates largely from the interest of the Commission in this area. FR, DE and UK felt that the work has moved on sufficiently to identify the best architecture for the system. They indicated that a decentralised approach has limited scope to move forward this initiative and analysis on a common, centralised system needs to be launched.

The Commission suggested that to identify the best way forward it will be necessary to gather the expertise on Intelligent Transport Systems and transport of dangerous goods in a small working group. Furthermore, the next committee meeting should devote a dedicated discussion on this matter. The Commission invited the Member State experts involved in this work to prepare a presentation for the next meeting.

e) Loss of good repute

Regulation (EC) 1071/2009 provides for general conditions and infringements that may lead to the loss of good repute of road transport operators. Most serious infringements regarding the carriage of dangerous goods are defined in Annex IV to the Regulation. The Commission is preparing the list required by Article 6(2)(b) of the Regulation, indicating the categories, types and degrees of seriousness of serious infringements of Community rules which may also lead to the loss of good repute. The infringements on transport of dangerous goods in this list are largely based on Annex II to Directive 95/50/EC, with the notable exception of infringements where the transport operator cannot directly ensure compliance.

SE considered that the infringement relating to unsafe parking, currently in category II in Directive 95/50/EC, should be deemed to be a more serious infringement in the application of Regulation (EC) 1071/2009 due to concerns on terrorism. BE was concerned about situations where low risk dangerous goods are transported without proper markings and documentation. FR, PT, DE underlined that the annexes to Directive 95/50/EC were developed in the context of deciding whether immobilisation is needed. PT, SE also inquired whether the annexes to 95/50/EC need amendment.

The Commission reminded that, unlike Annexes I and III to Directive 95/50/EC, Annex II takes an approach of a guideline instead of binding provisions. Thus there is no immediate urgency to amend it. It would be better to first see the outcome on the list of infringements under Regulation (EC) 1071/2009.

Regarding the concern on infringements involving low risk dangerous goods the Commission underlined two key elements. Firstly, the wording of Regulation (EC) 1071/2009 is reinforced by a reference to major risk to lives or to the environment. Secondly, the loss of good repute involves a conviction or a penalty for a most serious infringement followed by an administrative procedure by the competent authority to determine whether the loss of good repute is a disproportionate measure.

f) Validity and presentation of certificates for drivers transporting dangerous goods

There have been indications that BG applies the format of dangerous goods training certificate in a manner that is difficult to understand and it is potentially in conflict with the rules in force. AT indicated that, despite the practical guidelines on the interpretation of these certificates provided by the BG competent authorities, there will be on-going problems relating to enforcement.

The presentation of these certificates has been discussed in UN-ECE Working Party 15 in its May session and the chairman of WP.15 (PT) indicated that it has been planned to continue this work in the next session. Furthermore, as the first step to remedy the matter the secretariat of UN-ECE will contact the BG authorities on this matter.

g) Proposal for a registry of carriers of radioactive material

Following the DE request to address this issue, the Commission reiterated the comments it made at the last committee meeting. The Commission reminded that the proposal has been made under the Euratom Treaty. Member States interested in the development of this dossier should participate at the relevant Council working group or contact the Presidency.

Next meeting

The next committee is tentatively planned in the second half of December 2013.

UK criticised that the dates of the meetings are not fixed well in advance. The Commission explained that the conference services can confirm the dates, including rooms and interpretation services only six weeks in advance to the tentative date. Furthermore, on several occasions the original date cannot be confirmed due to other dossiers with political urgency and changes of $\pm 2-3$ days are common.

Annex I – List of participants

Belgium	Michael BOGAERT	Ministry for Mobility and Transport
Belgium	Caroline BAILLEUX	Ministry for Mobility and Transport
Czech Republic	Lubos KNIZEK	Ministry of Transport
Czech Republic	Eva HUDECKOVA	Ministry of Transport
Germany	Ina LENNARZ	Federal Ministry of Transport, Building and Urban Development
Germany	Gudula SCHWAN	Federal Ministry of Transport, Building and Urban Development
Spain	Francisca RODRIGUEZ GUZMAN	Ministry of Development
France	Claude PFAUVADEL	Ministry of Sustainable Development
France	Ariane ROUMIER	Ministry of Sustainable Development
Italy	Alfonso SIMONI	Ministry of Infrastructure and Transport
Ireland	Blaithin TARPEY	Health and Safety Authority
Latvia	Marianna HEISLERE	Ministry of Transport
Lithuania	Aleksandr TOLSTOJ	Ministry of Transport and Communications
Luxembourg	Karsten BEHLKE	S.N.C.A
Netherlands	Klaas TIEMERSMA	Ministry of Infrastructure and Environment
Netherlands	Henk LANGENBERG	Ministry of Infrastructure and Environment
Austria	Othmar KRAMMER	Federal Ministry for Transport, Innovation and Technology
Poland	Joanna DOLINSKA	Ministry of Transport,
Poland	Szczepan BUDZYŃSKI	Transportation Technical Supervision
Portugal	Jose Alberto FRANCO	Institute of Mobility and Transport
Finland	Satu MAJAMAA	Ministry of Transport and Communications
Sweden	Bo ZETTERSTROM	Swedish Civil Contingences Agency,
Sweden	Karin MANNERSTEDT - BERG	National Police Board
United Kingdom	Valerie TROJANOWSKA	Department for Transport
United Kingdom	Ian BODDINGTON	Department for Transport
Switzerland	David-Manuel GILABERT	Office federal des transports
CEFIC	Jean-François MERCIER	European Chemical Industry Council
EIGA	Andrew WEBB	European Industrial Gases Association
FECC	Douglas LEECH	European Association of Chemical Distributors
UIC	Jean-Georges HEINTZ	International Union of Railways
EC	Szabolcs SCHMIDT	European Commission, DG MOVE
EC	Roberto FERRAVANTE	European Commission
EC	Timo AALTONEN	European Commission
EC	Stefano CAMPAGNOLO	European Commission
ERA	Natalja SKACENKO	European Railway Agency