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**Committee of Experts on the Transport of Dangerous Goods
and on the Globally Harmonized System of Classification
and Labelling of Chemicals**

Sub-Committee of Experts on the Transport of Dangerous Goods

Forty-first session

Geneva, 25 June–4 July 2012

Item 5 (d) of the provisional agenda

**Miscellaneous proposals of amendments to the Model Regulations
on the Transport of Dangerous Goods: miscellaneous**

**Exemptions for machinery and equipment permanently
fixed to vehicles**

Transmitted by the expert from Switzerland¹

Summary

Executive summary: Allow the exemption under special provision 363 to be used for vehicles in land transport.

Action to be taken: Amend special provision 363 of chapter 3.3.

¹ In accordance with the programme of work of the Sub-Committee for 2011–2012 approved by the Committee at its fifth session (refer to ST/SG/AC.10/C.3/76, para. 116 and ST/SG/AC.10/38, para. 16).

Introduction

1. The exemption listed in the UN Model Regulations under special provision 363 does not apply to vehicles or means of containment defined in Part 6 of these Regulations subject to special provision 301. Special provision 301 applies to the entry UN No. 3363 DANGEROUS GOODS IN MACHINERY or DANGEROUS GOODS IN APPARATUS as long as the quantities of dangerous goods present do not exceed those shown in column (7a) of the dangerous goods list. Special provision 301 adds that the competent authority may nevertheless allow for exemptions in excess of these quantities, except where special provision 363 applies. In conclusion, for UN Nos. 1202, 1203, 1223, 1268, 1863 and 3475, the exemption under special provision 363 may be applied to machinery and equipment that are not permanently mounted on vehicles.
2. The terminology used in special provision 363 supports this conclusion. Subparagraph (c) of the special provision states: “The machinery or equipment shall be loaded in an orientation ...”. Nowhere is there any mention of machinery permanently fixed to vehicles. The reason for this omission may be that the Model Regulations concern multimodal transport of means of containment, not means of containment that are not intended for multimodal transport but are permanently fixed to vehicles. Examples of vehicles that may not be exempted under special provision 363 are provided in the annex.
3. It must therefore be concluded from these texts that machinery and equipment permanently mounted on vehicles may not be exempted under special provision 363. It is difficult to accept that this applies to land transport, as from a safety point of view there is nothing to distinguish machinery loaded onto vehicles from similar machinery permanently mounted on vehicles. One might even say that permanently mounted machinery is safer than similar machinery simply loaded onto a vehicle.
4. Since allowing the exemption provided for in special provision 363 to apply to permanently fixed machinery and equipment is justifiable from the point of view of safety and the requirements of modes of land transport, we propose to amend special provision 363 so that it may also apply to vehicles in land transport. As the term “vehicle” as defined in 1.2.1 applies only to road vehicles or railway wagons, the first step should be to lift the ban on the vehicles referred to in brackets in the first sentence of special provision 363. The second would be to amend subparagraph (c) of special provision 363 in order to include the possibility of exempting means of containment that are not “loaded” but rather “permanently fixed to vehicles”.

Proposal 1

5. Amend the first sentence of special provision 363 of Chapter 3.3 as follows:

“363 This entry applies to dangerous goods above the quantity specified in column (7a) of the dangerous goods list of Chapter 3.2 in means of containment (other than ~~vehicles or~~ means of containment defined in Part 6 of these Regulations subject to special provision 301) integral to equipment or machinery (e.g. generators, compressors, heating units, etc.) as part of their original design type.”
6. Amend subparagraph (c) of special provision 363 as follows:

“(c) The machinery or equipment shall be permanently fixed to the vehicle or loaded in an orientation to prevent inadvertent leakage of dangerous goods and secured by means capable of restraining the machinery or equipment to

prevent any movement during carriage which would change the orientation or cause it to be damaged.”

7. We are not sure what led to the exclusion of vehicles from special provision 363. If the reason was that the carriage of machinery or equipment on wheels by other modes of transport is not permitted, the difficulty could be overcome by specifying in special provision 363 that the exemption may be applied only to vehicles used in land transport.

Proposal 2

8. Amend the first sentence of special provision 363 of Chapter 3.3 as follows:

“363 This entry applies to dangerous goods above the quantity specified in column (7a) of the dangerous goods list of Chapter 3.2 in means of containment (other than vehicles **transported by sea or by air** or means of containment defined in Part 6 of these Regulations subject to special provision 301) integral to equipment or machinery (e.g. generators, compressors, heating units, etc.) as part of their original design type.”

9. Amend subparagraph (c) of special provision 363 as follows:




“(c) The machinery or equipment shall be **permanently fixed to the vehicle or** loaded in an orientation to prevent inadvertent leakage of dangerous goods and secured by means capable of restraining the machinery or equipment to prevent any movement during carriage which would change the orientation or cause it to be damaged.”

Justification

10. It is not necessary to specify in subparagraph (c) that vehicles carried by sea or by air are excluded from the scope, as that has already been stated in brackets in the first sentence of special provision 363.

11. However, we find the discrimination against machinery and equipment on wheels as opposed to similar machinery and equipment without wheels difficult to understand.

Annex

1		Compressor Vehicle, trailer Liquid fuel, UN Nos. 1202 and 1203 Quantity: 2,000 litres
2		Mobile generator set Vehicle, tri-axle trailer Liquid fuel, UN No. 1202 Quantity: 1,900 litres
3		Heating equipment Vehicle, trailer Liquid fuel Heating oil, UN No. 1202 Quantity: 100–300 litres