



**Economic and Social
Council**

**Distr.
GENERAL**

**TRANS/WP.15/2001/17/Add.2
23 February 2001**

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

**Working Party on the Transport
of Dangerous Goods**

**(Seventieth session,
Geneva, 7-11 May 2001)**

**Convention on Civil Liability for Damage caused during Carriage of Dangerous Goods
by Road, Rail and Inland Navigation Vessels (CRTD)**

Note by the secretariat

The secretariat reproduces below replies to the questionnaire related to the CRTD, submitted by the Czech Republic and the Netherlands.

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1. Reply submitted by Czech Republic

At present the Czech Republic is striving to be admitted to the European Union. For this reason its priority is harmonization of its legal regulations with the laws of the European Union. New regulations aimed at transport of dangerous goods are being prepared within the European Union and the Czech Republic is about to adopt them within the said harmonization. In this connection, it will again be considered whether the Czech Republic will become a CRTD Contracting Party.

One of the reasons why the Czech Republic has not yet become a CRTD Contracting Party is that this fact would probably cause increased economic demands resulting in increased prices of imported goods and reduced economic earnings or even in the loss of competitiveness of exported goods. As regards some commodities (for instance explosives) during whose transport the risk of possible occurrence of great damage exists, the liability insurance can become a limiting factor of international trade.

As regards the type of insurance regulated by CRTD, firstly it will be necessary to win a quality and sufficient reinsurance abroad. Some damage to which CRTD applies cannot be insured within the European Union these days either. This involves especially damage to the environment. Until the reinsurance companies are willing to participate in this insurance within the European Union, they will not be willing to accept them from Czech insurance companies either.

The sums that limit the liability for damage in the Czech Republic are considerably high. As regards railway and road transport, these are more than CZK 1.5 milliard (1 CHF = 23 CZK) and as regards the inland water transport these are more than CZK 750 million. Particular insurance companies will not have sufficient capacity for this insurance and they would probably have to establish a syndicate covering the risks. However even this syndicate would require foreign reinsurance

For the decision on whether the Czech Republic will become a CRTD Contracting Party, it will be necessary, among others, to acquire statistics of loss-incurring events and experience from abroad. In addition, the minimum face value of a policy in case of the compulsory Road Traffic Act insurance is CZK 18 million in case of damage to health and CZK 5 million in case of other damage. Reduction of the insurance level would correspond more to the interests of Czech hauliers.

The liability according to CRTD is drawn up, in essence, as absolutely objective. The possibility of a haulier to absolve from liability is rather limited (practically ruled out).

In conclusion, the Czech Republic intends to participate actively in a possible revision of CRTD if a necessity of this results from the positions of member States of the United Nations Economic Commission for Europe.

2. Reply from Netherlands

Ad (1)

The reason for the Netherlands not to become a party to the CRTD Convention (hereafter referred to as a "Convention") is that the limits of liability as established by this Convention are considered to be too high given the fact that there is an obligation to insure for an amount up to these limits. Such coverage cannot be obtained on the present insurance market, in particular with regard to inland navigation vessels and road transport.

The current insurance availability as regards coverage of transport risks is in general determined by the transboundary capacity of the market. This capacity will increase with the number of countries that become a party to the Convention, especially given the above-mentioned insurance obligation.

Ad(2)

In line with the answer to the first question, the current limits of liability are considered to be too high as long as they are combined with compulsory insurance. Ratification by the Netherlands would therefore be facilitated by amending the present limits insofar as these would be newly fixed at an acceptable level in the light of the current insurance capacity. The appropriate level of the limits should be determined in a negotiation process with participation of the insurance industry.

Ad(3)

During the transport of dangerous goods by road there have been no accidents that exceed the amount of 6.25 million SDRÆs (this is the amount of damage up to which an insurance is compulsory in the Netherlands).

During the transport of dangerous goods by rail there have been 2 accidents: the damages caused were 700,000 SDR and 4 million SDRÆs. (The maximum amount of liability in the Netherlands for road transport is 12 million SDRÆs and for rail transport 30 million SDRÆs).

For transport of dangerous goods by inland waterway vessels, there have during the calendar year 2000 been three claims of more than 50,000 SDR, of which the most expensive was 125,000 SDR.

Ad(4)

It is apparent that the current link between liability limits and insurance obligation is creating difficulties. Another solution than that set out in the answer to the second question would be to set the amount of compulsory insurance at a lower level – on the basis of the capacity of the insurance market or the liability limits or even completely abandon the insurance obligation. The Netherlands has a preference for the first option. In case this appears not to be feasible it would still be necessary to keep the limits at an acceptable level in order to spur the insurance market.

It will be necessary to find out, preferably by international co-ordination, what will be realistic limits to be obtained against acceptable costs. From a business economics perspective it will be financially wise to ask for an insurance that is obtainable for a reasonable insurance premium.

ad (5)

In line with the answer to the first and second question, the current limits of liability are considered to be too high as long as there is an obligation to insure for an amount up to these limits. Such coverage cannot at present be obtained on the insurance market and therefore a compulsory insurance certificate evidencing such coverage cannot be issued up to the limits of the convention.

ad(6)

No.

As a final remark, the Netherlands has always been very much in favour of the establishment of a uniform liability regime in the field of civil liability for damage caused during inland transport of dangerous goods. Therefore, the Netherlands appreciates very much the work presently undertaken by the secretariat to identify the reasons why countries have not acceded to the CRTD Convention and how it could be modified to encourage more accessions. It is sincerely hoped that this work will contribute to the entry into force of a viable international system for providing adequate compensation for damage caused by inland transport of dangerous goods.
