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PROPOSALS FOR AMENDMENTS TO ANNEXES A AND B OF ADR

**Revised wording of the two new transitional provisions 1.6.3.30 and 1.6.4.20 regarding
vacuum-operated waste tanks**

Transmitted by the Government of Sweden

SUMMARY

Executive summary:

The adopted texts for the transitional measures in 1.6.3.30 and 1.6.4.20 are worded in a new way that could be misinterpreted and possibly even invite misuse.

Action to be taken:

Reword these transitional provisions in line with the wording used for 1.6.3.20.

Related documents:

Report from the seventy-fifth session of WP.15 (TRANS/WP.15/176, paras 69-70 and Annex 1) and INF.29 from this meeting and TRANS/WP.15/AC.1/94/Add.1.

Introduction

At the last session of WP.15, the secretariat presented a very helpful information paper (INF.29) consolidating all changes to be adopted for Chapter 1.6 Transitional Measures. During

its adoption, the expert from Sweden expressed concern about the wording of the new transitional provisions for vacuum-operated tanks already adopted by the RID/ADR/ADN Meeting. Perhaps his remark was misunderstood, since by mistake it has been linked to the long-standing provision for FRP-tanks in the report (para. 70), so Sweden would like to express this concern more fully.

The adopted text for ADR reads (new renumbered sub-sections 1.6.3.30 and 1.6.4.20):

“Vacuum-operated waste [fixed tanks (tank vehicles) and demountable tanks / tank-containers] constructed before 1 January 2005, which conform to the requirements of 6.10.3.9 applicable as from 1 January 2003, may still be used.”

The corresponding text for RID translated into English reads (only sub-section 1.6.4.20 applies):

“Vacuum-operated waste tank-containers constructed before 1 January 2005 in accordance with the requirements of 6.10.3.9 applicable up to 31 December 2004 and which do not conform to the requirements applicable as from 1 January 2005, may still be used.”

In addition to the unusual wording of the ADR provision, which might be attributed to the need to cover equipment already approved before the restructuring of ADR, both wordings literally speaking allow continued use if one provision and one alone is complied with. As long as the equipment is constructed according to the present requirements of 6.10.3.9, no other provisions need to be complied with in the future. Of course, such a far-reaching interpretation must be avoided and a wording is suggested based on the structure used in sub-section 1.6.3.20 and elsewhere.

Proposal

Amend 1.6.3.30 and 1.6.4.20 to read:

“Vacuum-operated waste [fixed tanks (tank vehicles) and demountable tanks / tank-containers] constructed before 1 [July] 2005 in accordance with the requirements in force up to 31 December 2004 but which do not, however, conform to the requirements of 6.10.3.9 applicable as from 1 January 2005, may still be used.”

Justification

Transitional provisions must not be open to interpretation and Sweden believes that this proposed wording is unambiguous. To avoid any confusion with the normal introduction period of six months, Sweden considers that 1 July should be the date from which the new requirements of 6.10.3.9 need to be applied.

Safety implications

Having transitional provisions that could invite a very loose interpretation would be to the detriment of safety.

Feasibility and Enforceability

Will be improved.
