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Economic Commission for Europe**Inland Transport Committee****Working Party on the Transport of Dangerous Goods****Joint Meeting of the RID Committee of Experts and the
Working Party on the Transport of Dangerous Goods**

Bern, 20-24 March 2023

Item 5 (a) of the provisional agenda

Proposals for amendments to RID/ADR/ADN: pending issues**Online grocery delivery services****Transmitted by the Council on Safe Transportation of Hazardous
Articles (COSTHA)*,*****Summary*

- Executive summary:** During the COVID-19 pandemic, retail deliveries, including grocery deliveries, have significantly increased. As a result, groceries are frequently carried out by a delivery service that utilizes an operator's own "vehicle". The increase in use of these services creates questions as to whether the requirements of the dangerous goods regulations apply when transported by a commercial employee in a similar manner to the traditional consumer retail experience.
- Action to be taken:** Introduce an exemption in ADR/ADN for the carriage, by the retailer, of dangerous goods packaged for retail sale under specific conditions.
- Related documents:** Joint Meeting RID/ADR/ADN – Spring 2022 Session (informal document INF.32 (COSTHA))
Sub-Committee of Experts on Transport of Dangerous Goods – sixtieth session (ST/SG/AC.10/C.3/2022/28 (COSTHA))
Joint Meeting RID/ADR/ADN – Autumn 2022 Session (ECE/TRANS/WP.15/AC.1/2022/27 (COSTHA), informal documents INF.16 (FEA), INF.28 (France) and INF.29 (RECHARGE))

* A/77/6 (Sect. 20), table 20.6

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Introduction

1. COSTHA would like to remind the Joint Meeting of the challenges posed by direct-to-customer delivery systems which may contain dangerous goods. During the COVID-19 pandemic, retail deliveries of goods, including grocery deliveries, have significantly increased. Common examples of dangerous goods sold and transported out of grocery and/or retail stores include flammable gases and liquids, organic peroxides, corrosive substances, and small lithium batteries.
2. The delivery of “online” purchases is frequently carried out by services that use the operator’s “vehicle” (e.g., Instacart, Peapod, Whole Foods Market in the United States of America), and the increase in the use of these services creates questions as to whether the requirements of the dangerous goods regulations apply when used by a commercial employee in a manner similar to that of the traditional consumer retail experience. Currently, neither ADR nor ADN provides any exceptions for this practice. COSTHA understands that the definition of a “vehicle” is currently being discussed at the Working Party on the Transport of Dangerous Goods.
3. At the March 2022 session of the Joint Meeting, COSTHA presented informal document INF.32 to gather input for a future proposal. Many delegations provided initial comments on the issue, which allowed COSTHA to present a working document (ECE/TRANS/WP.15/AC.1/2022/27) containing two proposal options at the September 2022 session of the Joint Meeting. COSTHA is grateful to the many delegations who provided comments which were very helpful for the preparation of this document.

Discussion at the Sub-Committee of Experts on Transport of Dangerous Goods

4. Because this issue has impacts regionally and beyond countries that utilize the ADR/ADN regulations, COSTHA also brought it to the attention of the Sub-Committee of Experts on the Transport of Dangerous Goods for discussion during its sixtieth session that took place in Geneva (27 June – 6 July 2022) (ST/SG/AC.10/C.3/2022/28). COSTHA explained to the Sub-Committee that the delivery systems introduced by grocery stores due to COVID-19 are mostly used for shorter distances, and that “off the shelf” products are placed in shopping bags, thus losing both their original (i.e., suitable) outer packaging and hazard communication. The following comments were shared:

- One delegation mentioned that even though its regulations did not have a specific exception on these types of deliveries, it did contain some exceptions for movement to retail locations;
- One delegation shared its derogation covering “last mile” delivery options, which provide a packaging and marking exception for dangerous goods that were originally shipped as a limited quantity or in combination packaging under 4.1. This derogation is limited to 30 kg per type of dangerous goods and up to 333 kg per “vehicle”;
- Another delegation indicated its domestic regulations did contain any domestic exception, but felt the topic needed to be further investigated. It was also suggested that the proposed language in document ST/SG/AC.10/C.3/2022/28 be an option, not a requirement, and that “vehicle” limits should be included in the provisions.

Justification

5. During the traditional retail experience, consumers buy these dangerous goods products and use either bags or the product’s own packaging to facilitate their handling/transport to their “vehicles” and homes. The products in retail packaging are never repackaged per ADR for additional safety or marked in accordance with the dangerous goods regulations. When carrying these products out of retail stores, an individual person is not subject to the various regulations. However, the regulations do apply to delivery companies and services.

6. The growth of these types of operations, especially in the magnitudes currently happening, was not anticipated when the regulations were originally developed. Applying the current regulatory requirements to these operations seems impractical and of little benefit to the overall transportation system. The delivery operations to the end consumer that originate from retail locations do not typically utilize any packaging beyond the retail packaging in place on the store shelf. Grocery deliveries to the end consumer are typically limited to short distances, and the goods being carried are not subjected to the forces typically encountered in freight transportation where performance-oriented packaging is needed for safety reasons. Instead, the goods are often placed in bags or directly into an individual's "vehicle" (such as onto a seat or in the trunk). Additionally, marking these bags (regardless of whether they are considered a "suitable outer packaging" or "overpack") is not current practice.

7. Based on the differences in operations, these delivery services to the end consumer do not seem to require the same level of safety equivalent to more traditional transportation operations. If these operations were to be considered subject to the dangerous goods regulations, there could be a significant, negative impact to the sustainability and environmental efforts to reduce packaging globally.

Proposal

8. COSTHA requests consideration to expressly exclude dangerous goods from the regulations during retail-to-customer delivery operations. The intent of the proposals below is to limit the amount of additional packaging and marking that does not add to the safety for the shipper or carrier and is not necessary for the end consumer. A similar exception to the regulations is provided within 1.1.3.1 (a) of ADR where transportation by a private individual with certain limitations is excepted from regulations. Excluding the operations described above could be accomplished with an additional exception within that section such as provided below:

"1.1.3.1 Exemption related to the nature of the transport operation"

The provisions laid down in ADR do not apply to:

...

(g) The carriage of dangerous goods by or on behalf of a consignor which consigns the goods directly to the final consumer (business to end consumer), where the consignment is packaged for retail sale (online, in a brick-and-mortar storefront, through direct sales, or direct mail) is intended for the personal or domestic use of the consignee (i.e., end consumer or recipient), if:

- The distance between consignor and consignee does not exceed 150 km;
- Measures have been taken to prevent any leakage of contents in normal conditions of carriage;
- The maximum quantity of dangerous goods contained in each packaging does not exceed 5 kilograms or litres;
- The total quantity of all dangerous goods carried in the transport unit does not exceed 400 kilograms or litres; and
- The goods are packed:
 - i. in inner packagings derived from packages conforming with the provisions on limited quantities in accordance with Chapter 3.4;
 - ii. in inner packagings derived from combination packagings conforming to Chapter 4.1;
 - iii. in single packagings conforming to Chapter 6.1; or
 - iv. in accordance with the requirements of special provision 188 (in the case of carriage of lithium batteries).

Shipments (returns) from the original consignee back to the original consignor are also included under these provisions. This exemption does not apply to dangerous goods from Classes 1, 4.2, 6.2 and 7, provided that measures have been taken to prevent leakage of contents in normal conditions of carriage.”
