

CUNE - Responsibilities and liabilities when carrying third part goods

by Georgiana Cune

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University of Wales
Trinity Saint David

Responsibilities and Liabilities when carrying third party goods

Student: Georgiana Florina Cune
1805121

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Abstract. This paper focuses on the responsibilities and liabilities when carrying third party goods on the road from the legal point of view when carrying dangerous goods. The high demand of primary materials, such as, for example diesel or petrol, classified as dangerous goods by the ADR Agreement, is increasing the risk of road accidents. For this purpose, relevant legal requirements are set, and everyone associated with the carriage of this hazardous goods is responsible for ensuring that these requirements are met.

1. Introduction

The proper development and sustainability of the transport industry identifies and takes into consideration relevant macroeconomic factors from six categories relatively interdependent: political, economic, socio-cultural, technological, legal and environmental, referred as the PESTLE analysis (del Marmol and Freys, 2015). This paper will analyse the legal responsibilities and liabilities within transport companies when caring third party goods. Transport plays an important part in the economy of every country and adhering to legislations and regulations is fundamental, especially when transporting dangerous goods. The carriage of dangerous goods requires that every participant involved in handling the carriage, from the point of origin to destination, to strictly follow the legal requirements and safety regulations in order to prevent accidents that can endanger the human life and the environment (Janno and Koppel, 2018). Massive legal fees can also be applied when derogating from the law.

2. Regulations and enforcement authorities

The European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR Agreement), and Regulations concerning the International Carriage of Dangerous Goods by Rail (RID Agreement) integrate all the legislation throughout the EU and is governed by United Nations Economic Commission for Europe (UNECE) (Lowe and Pidgeon, 2018). All the EU and some non-EU state member's national legislation regarding the carriage of dangerous goods by road is based on these Agreements (ADR, Annex B, 2016).

The UN divides the dangerous goods into nine classes and packing groups. The nine classes are further grouped into divisions offering more information about the hazardous danger within each class. The carriage of dangerous goods must follow the legal requirements including a proper shipping name and labelling in accordance with their hazard classification and composition, right documentation, vehicle marking and equipment and training for the drivers, loaders or unloaders (Lowe and Pidgeon, 2018). In Table 1. is presented the UN classification of dangerous goods in Part 2 of ADR Agreement and the Eurostat statistics on the share of transport distribution of each class (in million tonne-kilometre), by year since 2014, in the European Union. (Eurostat, 2018).

Table 1. Classification of dangerous goods and EU – 28 transportation between 2014 and 2017

Dangerous good classes	EU - 28			
	2014	2015	2016	2017
	Million Tonne- kilometre (TKM)			
1. Explosives	649	:(c)	:(c)	:(c)
2. Gases, compressed, liquified, dissolved und. pressure	10,235	10,598	10,523	:(c)
3. Flammable liquids	41,489	:(c)	43,665	43,555
4.1. Flammable solids	2,258	:(c)	:(c)	:(c)
4.2. Substances liable to spontaneous combustion	1,603	1,754	1,513	1,954
4.3. Substance emitting flammable gases (with water)	149	172	161	:(c)
5.1. Oxidising substances	2,989	3,061	3,102	:(c)
5.2. Organic peroxides	100	95	94	224
6.1. Toxic substances	1,405	:(c)	1,589	:(c)
6.2. Substances liable to cause infections	423	152	281	206
7. Radioactive material	273	82	110	123
8. Corrosives	7,250	9,201	:(c)	:(c)
9. Miscellaneous dangerous substances	5,536	6,553	:(c)	:(c)
99. Unknown dangerous good	3	3	:	3

:(c) – confidential

Source: Eurostat (2018)

It is the responsibility of everyone involved in the transport of dangerous goods to provide a safe work environment and to adhere to the law. In the UK, the Department of Transport (DfT), Health and Safety Executive (HSE), Driver and Vehicle Standards Agency (DVSA) and the police are the enforcement authorities concerned with the compliance of ADR requirements and regulations for securely transporting dangerous goods on the road, except 7th class of radioactive materials (DfT, 2017). Respectively, the Office of Rail and Road (ORR) is the responsible regulator for the rail transport. (ORR, 2018).

2.1. Exemptions

Part 1.1.3 in ADR sets out some exemptions on small load carriage related to the maximum quantity per transport unit that can be transported by individual carriers for the purpose of personal use. Part 3.4 in ADR applies to limited quantity (LQ) exemptions, where goods are exempted from ADR requirements, but the packaging does not exceed the agreed quantity limitations, proper label is applied, and carriers are suitably trained. The current ADR Agreement establishes some other exemptions that can be found in Parts 5.3, 5.4, 7.2, 8 and 9. (Lowe and Pidgeon, 2018).

2.2. Participants responsibilities and liabilities

The employer or the undertaking (Lowe, 2018) has legal obligations to prevent risks on their employee's safety and environment by providing relevant documentation and

certification of dangerous goods packing through the Vehicle Certification Agency (VCA) Dangerous Goods Office (DfT, 2017). Since 1st January 2000, many of the companies in the dangerous goods transportation sector are required to appoint a Dangerous Goods Safety Adviser (DGSA) which will fulfil the ADR requests (DGSA, 2018).

According to ADR regulations (2017), Annex B, drivers transporting dangerous goods must possess training course certificates and be practical trained in how to handle and stow hazardous packages in the safest way, as well with how to act when emergency situations occur. It is also the driver's responsibility to carry the right documentation regarding information and data of the load. Another liability concern is ensuring that the approved vehicle is in accordance with the ADR regulations by having the correct danger labels and marking and to visually scan the vehicle for defects (Lowe 2018). For instance, in 2016 in West Virginia, USA, a tank car AXLX 1702, filled at Axial Corporation with 90-ton load of liquified compressed chlorine – an extremely toxic gas - was entirely released from the tank shell crack, forming a large vapour cloud, endangering the life of ten Axial employees and damaging the vegetation in the area. Further National Transportation Safety Board (NTSB) investigations in USA showed that one of the pre-existing cracks of the tank which was previously repaired, was the origin of the shell crack. This incident could have been avoided if detailed attention was payed while performing the checking of the vehicle for cracks and leakages (National Transportation Safety Board, 2016).

Other personnel involved in handling the dangerous goods, such as fillers, loaders, unloaders, packers, etc. must also provide safety measures to prevent and minimize the risks.

2.3. Information and markings displayed on vehicles, tankers and containers

The transport of dangerous goods by road is usually made by road tanker and containers which must have the right material or lining, in order to avoid any chemical reaction and to have installed particular fitments to stop 'electrical flashes from the vehicle's engine igniting flammable goods' (Rushton et al., 2017, p. 527). The consignor must ensure that the vehicles, bulk containers (IBC) and tanks are approved and accepted to carry the hazardous goods and the displayed markings are authorized by ADR (Lowe and Pidgeon, 2018).

The vehicles transporting hazardous goods on the road must be labelled with signs and warning panels that displays information about the danger of the load and help emergency crews to deal with possible accidents. In the UK, the vehicle, container or tank must display a reflective orange-coloured plate on its front and the rear, containers being labelled on all four sides, and a black and white diamond-shaped plate may be displayed when carrying limited quantity loads. On the continent, the diamond-shaped placards on the vehicles are displayed separately under ADR regulations (Lowe and Pidgeon, 2018). Figure 1 presents

an example of UK plate marking for national road carriage and Figure 2 presents a continental plate example (Fire Safety Advice Centre, 2016).

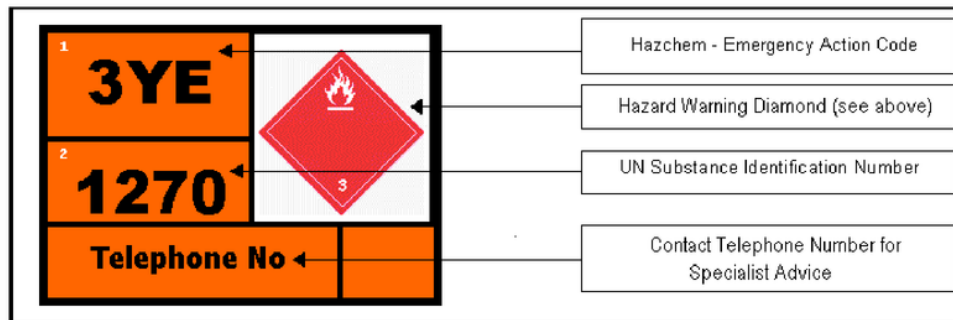


Figure 1. Plate markings for national carriage of dangerous goods in the UK

Source: Fire Safety Advice Centre (2016).

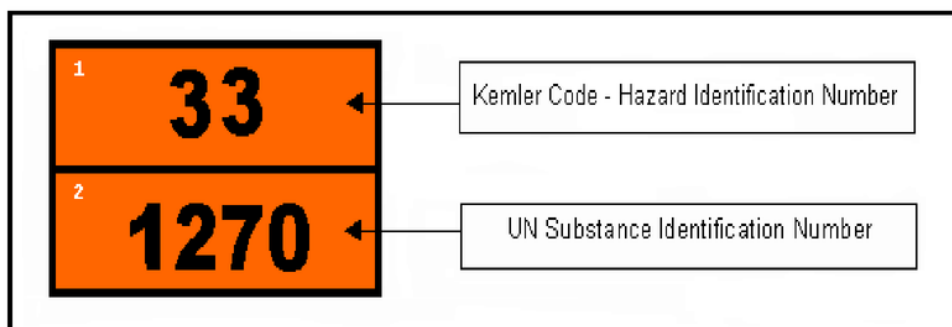


Figure 2. Plate markings for continental carriage of dangerous goods

Source: Fire Safety Advice Centre (2016).

The Hazchem Code, often referred as the Emergency Action Code, is used in the UK and provides more information for the emergency services and the Kemler Code, known as a Hazard Identification Number is used on the continental panels. The UN Substance Identification Number is used for both continental and UK plates

2.4. Participants legal documentation

When caring dangerous goods nationally and internationally, under the ADR Agreement, the driver or the carrier must always hold a transport documentation providing all the information about the dangerous loads. The paper is issued by consignors to the carriers and, according to Lowe and Pidgeon (2018, p.549), must contain detailed information, as follows:

- full classification of the goods: actual name, classification code, UN number, packing group;
- the designation of the carriage;
- transport category and emergency and control temperatures;
- primary hazard class and other related hazards;
- number and weight or volume for individual packed goods and the total mass or volume in each transport category;
- weight or volume and the number of each container or tank when transporting bulk loads;
- the consignor's and consignee's names and addresses;
- the consignor's declaration stating that the packages and the containers or tanks carrying the dangerous goods are suitable and labelled in accordance with ADR requirements;
- the tunnel codes. There are five categories of tunnel codes A to E, with A category being the least restrictive and no signs are required.

In addition to the documentation issued by the consignor, the transportation carriers are also required to provide in writing emergency instructions and actions, the weight or volume of the carried load and additional relevant information on the carriage (Lowe and Pidgeon, 2018).

3. Conclusion

As transport of goods by road is a fundamental activity in the logistical systems, international and national regulations apply in order to minimize the risks for everyone involved in the activity. However, the transport of dangerous goods by road requires vast and complex legislation which is national and EU-driven. The national legislation of each member state of the European Union is coordinated by the ADR Agreement in the United Nations Economic Commission for Europe (UNECE). These requirements are implemented as to avoid the risks of harming the human life and health and to minimise the impact on the environment.

Carrying dangerous goods requires elaborated safety measures in accordance with ADR requirements, such as relevant information, documentation and suited packing for the goods. The vehicles, containers and loads are required by law, to have displayed proper labels and markings regarding the danger of the load and information for the emergency authorities. Visual checks of the vehicle must also be performed by drivers, to avoid accidents caused by leakages, cracks or other defects. Failure of anyone involved in handling and transporting dangerous goods, to adhere to the strict provisions of the law will have liability issues.

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GRADEMARK REPORT

FINAL GRADE

GENERAL COMMENTS

57 /100

Instructor

The assignment is to be in the form of a written report in which you will discuss the Carrier's Responsibilities and Liabilities when carrying third party goods. The task assignment is to be 1,750 words, +/- 10%.

Assessment Criteria:

Outline the carrier's responsibilities and liabilities under law and their defence against spurious claims

Word Count 1796

Good assignment but could have been better if you concentrated on responsibilities and liabilities as per the task description. Your assignment centred on compliance, whilst I agree would require some responsibilities, but little if any liabilities.

Liabilities such as claims for damage in transit etc.

You could have used the Road Traffic Act (1988) Part I (section 20), Part II, (section 40 and beyond), Part II & Part IV to assist in your assignment.

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