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Ad hoc Working Group for the Elaboration
of a draft European Agreement concerning
the International Carriage of Dangerous
Goods by Inland Waterway

**REPORT OF THE AD HOC WORKING GROUP ON ITS EIGHTH SESSION
(12-14 October 1998)**

Addendum 2*

**Draft European Agreement concerning the international carriage
of dangerous goods by inland waterway (ADN)**

The secretariat reproduces below the text of the draft ADN based on the decisions taken at the eighth session of the Working Group.

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CHAPTER 1

PROCEDURE FOR THE ISSUE OF THE CERTIFICATE OF APPROVAL

Certificates of approval shall conform to the requirements set out in marginals 10 282 and 10 283, or 210 282 and 210 283 of Annex 1, they shall be issued in accordance with the following procedure:

1.1 Issue and recognition of certificates of approval

1.1.1 Certificate of approval

(1) The certificate of approval referred to in marginal 10 282 or 210 282 of annex 1 shall be issued by the competent authority of the Contracting Party in which the vessel is registered, or in its absence, of the Contracting Party in which it has its home port or, in its absence, of the Contracting Party in which the owner is domiciled or in its absence, by the competent authority selected by the owner or his representative.

The other Contracting Parties shall recognize such certificates of approval.

(2) The competent authority of any of the Contracting Parties may request the competent authority of any other Contracting Party to issue a certificate of approval in its stead.

(3) The competent authority of any of the Contracting Parties may delegate the authority to issue the certificate of approval to an inspection body as defined in 1.3.

1.1.2 Temporary certificate of approval

The temporary certificate of approval referred to in marginal 10 283 or 210 283 of annex 1 shall be issued by the competent authority of one of the Contracting Parties for the cases and under the conditions referred to in these marginals.

The other Contracting Parties shall recognize such temporary certificates of approval.

1.2 Inspection procedure

(1) The competent authority of the Contracting State shall supervise the inspection of the vessel. Under this procedure, the inspection may be performed by an inspection body designated by the Contracting Party or by a recognized classification society. The inspection body or the recognized classification society shall issue an inspection report certifying that the vessel conforms partially or completely to the provisions of Annex 1.

(2) This inspection report shall be drawn up in a language accepted by the competent authority and must contain all the necessary information to enable the certificate to be drawn up.

1.3 Inspection body

(1) Inspection bodies shall be subject to recognition by the State administration as expert bodies on the construction and inspection of inland navigation vessels and as expert bodies on the transport of dangerous goods by inland waterway. They shall meet the following criteria:

- Compliance by the body with the requirements of impartiality;

- Existence of a structure and personnel which provide objective evidence of the professional ability and experience of the body;
 - Compliance with the material contents of standard EN 45004: 1995 supported by detailed inspection procedures.
- (2) Inspection bodies may be assisted by experts (e.g., an expert in electrical installations) or specialized bodies according to the national provisions applicable (e.g., classification societies).
- (3) The Administrative Committee shall maintain an up-to-date list of the inspection bodies appointed.

1.4 Application for the issue of a certificate of approval

The owner of a vessel, or his representative, who requests a certificate of approval, shall deposit an application with the competent authority referred to in 1.1.1 (1). The competent authority shall specify the documents to be submitted to it. In order to obtain a certificate of approval a valid vessel certificate must accompany the request.

1.5 Particulars entered in the certificate of approval and amendments thereto

- (1) The owner of a vessel, or his representative, shall inform the competent authority of any change in the name of the vessel or change of official number or registration number and shall transmit to it the certificate of approval for amendment.
- (2) All particulars or amendments to the certificate of approval provided for in annex 1 and in the other regulations drawn up by mutual agreement by the Contracting Parties may be entered in the certificate by the competent authority.
- (3) When the owner of the vessel, or his representative, has the vessel registered in another State which is Contracting Party, he shall request a new certificate of approval from the competent authority of that Contracting Party. The competent authority may issue the new certificate for the remaining period of validity of the existing certificate without making a new inspection of the vessel, provided that the state and the technical specifications of the vessel have not undergone any modification.

1.6 Presentation of the vessel for inspection

- (1) The owner, or his representative, shall present the vessel for inspection unladen, cleaned and equipped; he shall be required to provide such assistance as may be necessary for the inspection, such as providing a suitable launch and personnel, and uncovering those parts of the hull or installations which are not directly accessible or visible.
- (2) In the case of a first, special or periodical inspection, the inspection body or the recognized classification society may require a dry-land inspection.

1.7 First inspection

If a vessel does not yet have a certificate of approval or if the validity of the certificate of approval expired more than six months ago, the vessel shall undergo a first inspection.

1.8 Special inspection

If the vessel's hull or equipment has undergone alterations liable to diminish safety in respect of the carriage of dangerous goods, or has sustained damage affecting such safety, the vessel shall be presented without delay by the owner or his representative for further inspection.

1.9 Periodical inspection

(1) To extend the validity of the certificate of approval, the owner of the vessel, or his representative, shall present the vessel for a periodical inspection. The owner of the vessel or his representative may request an inspection at any time.

(2) If the request for a periodical inspection is made during the last year preceding the expiry of the validity of the certificate of approval, the new period of validity of the certificate shall commence when the validity of the preceding certificate of approval expires.

(3) A periodical inspection may also be requested during a period of six months after the expiry of the certificate of approval.

(4) The competent authority shall again establish the validity period of the certificate of approval according to the results of the inspection.

The validity period shall be entered in the certificate of approval.

1.10 Extension of the certificate of approval without an inspection

By derogation from article 1.9, at the substantiated request of the owner or his representative, the competent authority may grant an extension of the validity of the certificate of approval of not more than one year without an inspection. This extension shall be granted in writing and shall be kept on board the vessel. Such extensions may be granted only once every two validity periods.

1.11 Official inspection

(1) If the competent authority has reason to assume that a vessel may constitute a danger, in relation to the transport of dangerous goods, for the persons on board or for shipping or for the environment, it may order an inspection of the vessel in accordance with article 1.2.

(2) When exercising this right to inspect, the authorities will make all possible efforts to avoid unduly detaining or delaying a vessel. Nothing in this Agreement affects rights relating to compensation for undue detention or delay. In any instance of alleged undue detention or delay the burden of proof shall lie with the owner or operator of the vessel.

1.12 Withholding and return of the certificate of approval

(1) When an inspection body or a classification society observes, in the course of an inspection, that a vessel or its equipment suffers from serious defects in relation to dangerous goods which might jeopardize the safety of the persons on board or the safety of shipping, or constitute a hazard for the environment, it shall immediately notify the competent authority to which it answers with a view to a decision to withhold the certificate.

If this authority which decided to withdraw the certificate is not the authority which issued the certificate, it shall immediately inform the latter and, where necessary, return the certificate to it if it presumes that the defects cannot be eliminated in the near future.

(2) When the inspection body or the classification society referred to in paragraph 1 above ascertains, by means of a special inspection according to paragraph 1.8, that these defects have been remedied, the certificate of approval shall be returned by the competent authority to the owner or to his representative.

This inspection may be made at the request of the owner or his representative, by another inspection body or another classification society. In this case, the certificate of approval shall be returned through the competent authority to which the inspection body or the classification society answers.

(3) When a vessel is finally immobilized or scrapped, the owner shall send back the certificate of approval to the competent authority which issued it.

1.13 Duplicate copy

In the event of the loss, theft or destruction of the certificate of approval or when it becomes unusable for other reasons, an application for a duplicate copy, accompanied by appropriate supporting documents, shall be made to the competent authority which issued the certificate.

This authority shall issue a duplicate copy of the certificate of approval, which shall be designated as such.

1.14 Register of certificates of approval

(1) The competent authorities shall assign a serial number to the certificates of approval which they issue. They shall keep a register of all the certificates issued.

(2) The competent authorities shall keep copies of all the certificates which they have issued and enter all particulars and amendments in them, as well as cancellations and replacements of certificates.

CHAPTER 2

[PROCEDURE FOR EQUIVALENTS AND DEROGATIONS

2.1 Procedure for equivalents

When the provisions of Annex 1, Annex B1 or B2, prescribe for a vessel the use or the presence on board of certain materials, installations or equipment or the adoption of certain construction measures or certain fixtures, the competent authority may agree to the use or the presence on board of other materials, installations or equipment or the adoption of other construction measures or other fixtures for this vessel if, on the basis of recommendations established by [the Administrative Committee], they are accepted as equivalent.

2.2 Derogations on a trial basis

The competent authority may, on the basis of a recommendation by [the Administrative Committee], issue a trial certificate of approval for a limited period for a specific vessel having new technical characteristics departing from the requirements of Annex 1, provided that these characteristics are sufficiently safe.

2.3 Particulars of equivalents and derogations

The equivalents and derogations referred to in 2.1 and 2.2 shall be entered in the certificate of approval.]

CHAPTER 3

[SPECIAL AUTHORIZATIONS CONCERNING TRANSPORT IN TANK VESSELS]

3.1 Special authorizations

- (1) In accordance with paragraph 2 of Article 7, the competent authority shall have the right to issue special authorizations to a carrier or a shipper for the international carriage in tank vessels of dangerous substances, including mixtures, the carriage of which in tank vessels is not authorized under Annex 1, in accordance with the procedure set out below.
- (2) A special authorization shall be valid, due account being taken of the restrictions specified therein, for the [States which are] Contracting Parties and on whose territory the transport operation will take place, for not more than one year but subject to repeal at an earlier date. With the approval of the Competent authorities of these [States which are] Contracting Parties, the special authorization may be renewed for a period of not more than one year.
- (3) The special authorization shall include a statement concerning its repeal at an earlier date and shall conform to the model given in Annex 1.

3.2 Procedure

- (1) The carrier or the shipper shall apply to the competent authority of [a State which is] a Contracting Party on whose territory the transport operation takes place for the issue of a special authorization.

The application shall include the particulars mentioned in [Annex B.2] of Annex 1. The applicant shall be responsible for the accuracy of the particulars.

- (2) The competent authority shall consider the application from the technical and safety point of view. If it has no reservations, it shall draw up a special authorization applying the criteria laid down in [Annex B.2] of Annex 1 and immediately inform the other competent authorities involved in the carriage in question. The special authorization shall be issued only when the authorities concerned agree to it or have not expressed opposition within a period of [two] weeks after receiving the information. The applicant shall receive the original of the special authorization and keep a copy of it on board the vessel(s) involved in the carriage in question. The competent authorities shall immediately communicate to the Administrative Committee the applications for special authorizations, the applications rejected and the special authorizations granted.
- (3) If the special authorization is not issued because doubts or opposition have been expressed, the Administrative Committee shall decide whether or not to issue a special authorization.

3.3 Update of the list of substances

- (1) The Administrative Committee shall consider all the special authorizations and applications communicated to it and decide whether the substance is to be included in the list of substances in Annex 1 (Annex B2, Appendix 4).
- (2) If the Administrative Committee enters technical or safety reservations concerning the inclusion of the substance in the list in Annex 1 (Appendix 4 to Annex B2) or concerning certain conditions, the competent authority shall be so informed. The competent authority shall immediately withdraw or, if necessary, modify the special authorization.]

CHAPTER 4

RECOGNITION OF CLASSIFICATION SOCIETIES

4.1 General

In the event of the conclusion of an international agreement concerning more general regulations for the navigation of vessels on inland waterways and containing provisions relating to the full range of activities of classification societies and their recognition, any provision of this Chapter in contradiction with any of the provisions of the said international agreement would, in the relations among Parties to this Agreement which had become parties to the international agreement and as from the day of the entry into force of the latter, automatically be deleted and replaced ipso facto by the relevant provision of the international agreement. This Chapter would become null and void once the international agreement came into force if all parties to this Agreement became parties to the international agreement.

4.2 Procedure for the recognition of classification societies

(1) A classification society which wishes to be recommended for recognition under this Agreement shall submit its application for recognition, in accordance with the provisions of this chapter, to the competent authority of a Contracting Party.

The Contracting Party shall forward the application to the Administrative Committee unless in its opinion the conditions and criteria referred to in 4.3 have manifestly not been met.

The classification society shall prepare the relevant information in accordance with the provisions of this chapter. It shall produce it in the language of the State where the application is submitted and the English language and in language used in the area where the classification society performs its activities.

(2) The Administrative Committee shall appoint a Committee of Experts. The composition of the Committee of Experts and its rules of procedure shall be determined by the Administrative Committee. This Committee of Experts shall consider the proposal; it shall determine whether the classification society meets the criteria set out in 4.3 below and shall make a recommendation to the Administrative Committee within a period of six months.

(3) The Administrative Committee shall examine the report of the experts. It shall decide in accordance with the procedure set out [in article 19, paragraph 4], [in article 17] within one year maximum, whether or not to recommend to the Contracting States that they should recognize the classification society in question. The Administrative Committee shall establish a list of the classification societies recommended for recognition by the Contracting Parties.

(4) On the basis of the list referred to in paragraph (3), each Contracting Party may decide to recognize the classification societies in question. The Contracting Party shall inform the Administrative Committee and the other Contracting Parties of its decision.

The Administrative Committee shall update the list of recognitions issued by Contracting Parties.

(5) If a Contracting Party considers that a classification society no longer meets the conditions and criteria set out in 4.3 below, it may submit a proposal to the Administrative Committee for withdrawal from

the list of recommended societies. Such a proposal shall be substantiated by convincing evidence of a failure to meet the conditions and criteria.

(6) The Administrative Committee shall set up a new Committee of Experts following the procedure set out under 4.2 (2) which must report to the Administrative Committee within a period of six months.

(7) The Administrative Committee may decide, according to article [17] [19] to withdraw the name of the society in question from the list of societies recommended for recognition. In such a case, the classification society shall immediately be so informed and Contracting Parties shall be advised by the Administrative Committee to withdraw their recognition accordingly.

(8) [In the case of a vessel with a certificate of approval issued on the basis of an inspection according to Chapter 1, paragraph 1.2, by a classification society that does not appear, at the time of the inspection, in the list referred to in paragraph (3) above, entering the territory of another [State which is] Contracting Party, the competent authority of [that Party] [that State] may at any time order an official inspection in accordance with Chapter 1, paragraph 1.11, even if at first sight the vessel presents no obvious danger for the persons on board, for navigation or for the environment.]

4.3 Conditions and criteria for the recognition of a classification society applying for recognition under this Agreement

A classification society applying for recognition under this Agreement must meet all the following conditions and criteria:

(1) A classification society shall be able to demonstrate extensive knowledge of and experience in the assessment of the design and construction of inland navigation vessels. The society should have comprehensive rules and regulations for the design, construction and periodical inspection of vessels. These rules and regulations shall be published and continuously updated and improved through research and development programmes.

(2) Registers of the vessels classified by the classification society shall be published annually.

(3) The classification society shall not be controlled by shipowners or shipbuilders, or by others engaged commercially in the manufacture, fitting out, repair or operation of ships. The classification society shall not be substantially dependent on a single commercial enterprise for its revenue.

(4) The headquarters or a branch of the classification society authorized and entitled to give a ruling and to act in all areas incumbent on it under the regulations governing inland navigation shall be located in one of the [States which are] Contracting Parties.

(5) The classification society and its experts shall have a good reputation in inland navigation; the experts shall be able to provide proof of their professional abilities.

(6) The classification society:

- shall have sufficient professional staff and engineers for the technical tasks of monitoring and inspection and for the tasks of management, support and research, in proportion to the tasks and the number of vessels classified and sufficient to keep regulations up to date and develop them in the light of quality requirements;

- shall have experts in at least two [States which are] Contracting Parties.
- (7) The classification society shall be governed by a code of ethics.
- (8) The classification society shall have prepared and implemented and shall maintain an effective system of internal quality based on the relevant aspects of internationally recognized quality standards and conforming to the standards EN: 45004: 1995 (control mechanisms) and ISO 9001 or EN 29001: 1997. The classification society is subject to certification of its quality system by an independent body of auditors recognized by the administration of the State in which it is located.

4.4 Obligations of recommended classification societies

- (1) Recommended classification societies shall undertake to cooperate with each other so as to guarantee the equivalence of their technical standards and their implementation.
- (2) Recommended classification societies shall undertake to bring their requirements into line with the present and future provisions of this Agreement.

CHAPTER 5

[MONITORING THE CARRIAGE OF DANGEROUS GOODS BY INLAND WATERWAY

5.1 Monitoring compliance with requirements

[States which are] Contracting Parties shall ensure that a representative proportion of consignments of dangerous goods carried by inland waterway is subject to the monitoring in Article 4, paragraph 3, of this Agreement.

5.2 Monitoring Procedure

- (1) In order to carry out the checks provided for in this Agreement, the [States which are] Contracting Parties shall use the checklist in Appendix 1. A copy of this checklist or a certificate showing the result of the check drawn up by the authority which carried it out shall be given to the master of the vessel and presented on request in order to simplify or avoid, where possible, subsequent checks. This paragraph shall not prejudice [States which are] Contracting Parties right to carry out specific measures for detailed checks.
- (2) The checks shall be random and shall as far as possible cover an extensive portion of the inland waterway network.
- (3) Where appropriate and provided that this does not constitute a safety hazard, samples of the goods transported may be taken for examination by laboratories recognized by the competent authority.
- (4) Checks shall not exceed a reasonable length of time.

5.3 Infringements or requirements

Without prejudice to other penalties which may be imposed, vessels in respect of which one or more infringements of the rules on the transport of dangerous goods are established may be immobilized either on-the-spot or at a place designated for this purpose by the authorities carrying out the check and required to be brought into conformity before continuing their journey or may be subject to other appropriate measures, depending on the circumstances or the requirements of safety including, where appropriate, refusal to allow such vessels to enter in the territory of the [State which is] Contracting Party.

5.4 Checks in companies and at places for loading and unloading

- (1) Checks may also be carried out at the premises of undertakings, as a preventive measure or where infringements which jeopardize safety in the transport of dangerous goods have been recorded during the voyage.
- (2) The purpose of such checks shall be to ensure that safety conditions for the transport of dangerous goods by road comply with the relevant laws.

5.5 Cooperation of the competent authorities

- (1) [States which are] Contracting Parties shall assist one another in order to give proper effect to these requirements.

(2) Serious or repeated infringements jeopardizing the safety of the transport of dangerous goods committed by a non-resident vessel or undertaking must be reported to the competent authorities in the [State which is] Contracting Party in which the vehicle is registered or in which the undertaking is established.

(3) The competent authorities of [State which is] Contracting Party in which serious or repeated infringements have been recorded may ask the competent authorities of the State in which the vehicle is registered or in which the undertaking is established for appropriate measures to be taken with regard to the offender or offenders, [State which is] Contracting Party.

(4) The latter competent authorities shall notify the competent authorities of the [State which is] Contracting Party in which the infringements were recorded of any measures taken with regard to the transporter or the undertaking.

5.6 Administrative assistance during the checking of a vessel registered in another [State which is] Contracting Party

If the findings of a check on a vessel registered in another [State which is] Contracting Party give grounds for believing that serious or repeated infringements have been committed which cannot be detected in the course of that check in the absence of the necessary data, the competent authorities of the [States which are] Contracting Parties concerned shall assist one another in order to clarify the situation. Where, to that end, the competent [State which is] Contracting Party carries out a check in the undertaking, the other States concerned shall be notified of the results.]
