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Economic Commission for Europe**Inland Transport Committee****Working Party on the Transport of Dangerous Goods**

Joint Meeting of Experts on the Regulations annexed to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN) (ADN Safety Committee)

Thirty-second session

Geneva, 22-26 January 2018

Item 4 (b) of the provisional agenda

**Implementation of the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN):
Special authorizations, derogations and equivalents**

Section 1.16.0 of ADN — Owner and operator**Transmitted by the Government of Germany* ******I. Provision concerned**

“1.16.0 For the purposes of this Chapter, “owner” means “the owner or his designated representative or, if the vessel is chartered by an operator, the operator or his designated representative”.

II. Question of interpretation

1. It is not clearly specified which enterprise should be considered as the operator in this context.
2. From information available to the German delegation, it appears that there are two common models of operation in inland navigation:
 - (a) Bareboat charter: the hire of an inland navigation vessel without crew or equipment, by its owner, to another enterprise that may make use of the vessel during the hire period; the other enterprise provides the crew and technical equipment for the vessel.

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(b) Time charter: the vessel is made available to another enterprise for a stated period of time, with its crew and equipment; the other enterprise may make use of the vessel for the duration of the hire period to transport goods or persons or carry out other services agreed with the enterprise providing the vessel.

3. An enterprise that has been given the use of a vessel under the bareboat charter procedure may in turn make the vessel available to a third enterprise under the time charter procedure.

4. In the Central Commission for Navigation on the Rhine provisions on navigation, the following distinction is made in respect of the vessel's operator:

5. The operator operates a vessel at his or her own cost and risk.

6. In the case of a bareboat charter, the operator is the hirer/charterer of the vessel.

⇒Is there a legal definition of “operator” in CCNR or European Union provisions?

7. In the case of a time charter or a voyage charter, it is generally the owner who makes a profit from the operation of the vessel.

Proposal

8. The German delegation is of the opinion that the operator, as mentioned in section 1.16.0, is the party who has legal and economic responsibility for the vessel's technical equipment. It can therefore only be a party operating a vessel in line with the bareboat charter procedure, and not a party who uses a vessel under a time charter procedure.

9. The same interpretation may be drawn from a maritime navigation provision in the International Convention for the Safety of Life at Sea (SOLAS) Convention, Chapter IX, regulation 2, paragraph 2:

“Company means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code.”

10. Germany invites the Safety Committee to consider the issue and would welcome confirmation of its interpretation.
