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ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

**Diplomatic Conference for the Adoption
of a European Agreement concerning
the International Carriage of Dangerous Goods
by Inland Waterway (ADN) */**
(Geneva, 22-26 May 2000,
agenda item 6 (a))

**CONSIDERATION OF A DRAFT EUROPEAN AGREEMENT
CONCERNING THE INTERNATIONAL CARRIAGE
OF DANGEROUS GOODS BY INLAND WATERWAY (ADN) **/**

The secretariat reproduces below the text of the draft ADN (except the annexed regulations) for consideration by the Conference. This text has been prepared by the secretariat on the basis of the text developed by the ad hoc Working Group for the Elaboration of a draft European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterway (except annexes) (TRANS/AC.6/20/Add.1) which has been editorially reviewed after consultation with the Office of Legal Affairs.

*/ Organized jointly by the Economic Commission for Europe and the Central Commission for the Navigation of the Rhine (CCNR).

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**EUROPEAN AGREEMENT CONCERNING THE INTERNATIONAL
CARRIAGE OF DANGEROUS GOODS BY INLAND WATERWAY (ADN)**

THE CONTRACTING PARTIES,

DESIRING to establish by joint agreement uniform principles and rules, for the purposes of:

- (a) increasing the safety of international carriage of dangerous goods by inland waterway;
- (b) contributing effectively to the protection of the environment, by preventing any pollution resulting from accidents or incidents during such carriage; and
- (c) facilitating transport operations and promoting international trade,

CONSIDERING that the best means of achieving this goal is to conclude an agreement to replace the “European Provisions concerning the International Carriage of Dangerous Goods by Inland Waterway” annexed to resolution No. 223 of the Inland Transport Committee of the Economic Commission for Europe, as amended,

HAVE AGREED as follows:

CHAPTER I
GENERAL PROVISIONS

Article 1

Scope

1. This Agreement shall apply to the international carriage of dangerous goods by vessels on inland waterways.
2. This Agreement shall not apply to the carriage of dangerous goods by seagoing vessels on maritime waterways forming part of inland waterways.
3. This Agreement shall not apply to the carriage of dangerous goods by warships or auxiliary warships or to other vessels belonging to or operated by a State, provided such vessels are used by the State exclusively for governmental and non-commercial purposes. However, each Contracting Party shall, by taking appropriate measures which do not impair the operations or operational capacity of such vessels belonging to or operated by it, ensure that such vessels are operated in a manner compatible with this Agreement, where it is reasonable in practice to do so.

Article 2

Regulations annexed to the Agreement

1. The Regulations annexed to this Agreement shall form an integral part thereof. Any reference to this Agreement implies at the same time a reference to the Regulations annexed thereto.
2. The annexed Regulations include:
 - (a) Provisions concerning the international carriage of dangerous goods by inland waterways;
 - (b) Requirements and procedures concerning inspections, the issue of certificates of approval, recognition of classification societies, derogations, special authorizations, monitoring, training and examination of experts;
 - (c) General transitional provisions;
 - (d) Supplementary transitional provisions applicable to specific inland waterways.

Article 3

Definitions

For the purposes of this Agreement:

- (a) “*vessel*” means an inland waterway or seagoing vessel;
- (b) “*dangerous goods*” means substances and articles the international carriage of which is prohibited by, or authorized only on certain conditions by, the annexed Regulations;
- (c) “*international carriage of dangerous goods*” means any carriage of dangerous goods performed by a vessel on inland waterways on the territory of at least two Contracting Parties;

- (d) “*inland waterways*” means the navigable inland waterways including maritime waterways on the territory of a Contracting Party open to the navigation of vessels under national law;
- (e) “*maritime waterways*” means inland waterways linked to the sea, basically used for the traffic of seagoing vessels and designated as such under national law;
- (f) “*recognized classification society*” means a classification society which is, in conformity with the annexed Regulations and recognized, in accordance with the procedures laid down in these Regulations, by the competent authority of the Contracting Party where the certificate is issued;
- (g) “*competent authority*” means the authority or the body designated or recognized as such in each Contracting Party and in each specific case in connection with these provisions;
- (h) “*inspection body*” means a body nominated or recognized by the Contracting Party for the purpose of inspecting vessels according to the procedures laid down in the annexed Regulations.

CHAPTER II

TECHNICAL PROVISIONS

Article 4

Prohibitions on carriage, conditions of carriage, monitoring

1. Subject to the provisions of Articles 7 and 8, dangerous goods barred from carriage by the annexed Regulations shall not be accepted for international carriage.
2. Without prejudice to the provisions of Article 6, the international carriage of other dangerous goods shall be authorized, subject to compliance with the conditions laid down in the annexed Regulations.
3. Observance of the prohibitions and the conditions referred to in paragraphs 1 and 2 shall be monitored by the Contracting Parties in accordance with the provisions laid down in the annexed Regulations.

Article 5

Exemptions

This Agreement shall not apply, in part or in its entirety, to the carriage of dangerous goods which are exempted in accordance with the annexed Regulations. Exemptions may only be granted when the quantity of the goods exempted, or the nature of the transport operation exempted, or the packagings, ensure that transport is carried out safely.

Article 6

Sovereign right of States

Each Contracting Party shall retain the right to regulate or prohibit the entry of dangerous goods into its territory for reasons other than safety during carriage.

Article 7

Special regulations, derogations

1. The Contracting Parties shall retain the right to arrange, for a limited period established in the annexed Regulations, by special bilateral or multilateral agreements, and provided safety is not impaired:
 - (a) that the dangerous goods which under this Agreement are barred from international carriage may, subject to certain conditions, be accepted for international carriage on their inland waterways; or
 - (b) that dangerous goods which under this Agreement are accepted for international carriage only on specified conditions may alternatively be accepted for international carriage on their inland waterways under conditions different from those laid down in the annexed Regulations.

The special bilateral or multilateral agreements referred to in this paragraph shall be communicated immediately to the Executive Secretary of the Economic Commission for Europe, who shall communicate them to the Contracting Parties which are not signatories to the said agreements.

2. Each Contracting Party shall retain the right to issue special authorizations for the international carriage in tank vessels of dangerous substances the carriage of which in tank vessels is not permitted under the provisions concerning carriage in the annexed Regulations, subject to compliance with the procedures relating to special authorizations in the annexed Regulations.
3. The Contracting Parties shall retain the right to authorize, in the following cases, the international carriage of dangerous goods on board vessels which do not comply with conditions established in the annexed Regulations, provided that the procedure established in the annexed Regulations, is complied with:
 - (a) The use or application on a vessel of materials, installations or equipment or certain measures concerning construction or certain provisions other than those prescribed in the annexed Regulations;
 - (b) Vessel with technical innovations derogating from the provisions of the annexed Regulations.

Article 8

Transitional provisions

1. Certificates of approval and other documents prepared in accordance with the requirements of the Regulations for the carriage of dangerous goods on the Rhine (ADNR), the Regulations for the carriage of dangerous goods on the Danube (ADN-D) or national regulations based on the European Provisions concerning the International Carriage of Dangerous Goods by Inland Waterway as annexed to resolution No. 223 of the Inland Transport Committee of the Economic Commission for Europe or as amended, applicable at the date of application of the annexed Regulations in accordance with Article 11, paragraph 1, shall remain valid until their expiry date, but not for more than five years, under the same conditions as those prevailing up to the date of such application, including their recognition by other States.

2. Vessels which, at the date of application of the annexed Regulations in accordance with Article 11, paragraph 1, are approved for the carriage of dangerous goods on the territory of a Contracting Party and which conform to the requirements of the annexed Regulations, according to the general transitional provisions, may obtain an ADN certificate of approval under the procedure laid down in the annexed Regulations.
- [3. In the case of vessels referred to in paragraph 2 above, having to perform carriage for the first time on inland waterways to which the Regulations for the carriage of dangerous goods on the Rhine (ADNR) were applicable under domestic law prior to the date of application of the annexed Regulations in accordance with Article 11, paragraph 1, compliance with the provisions concerning the carriage and the general transitional provisions of the annexed Regulations, shall be verified by [a recognized classification society or] an inspection body of a Member State of the Central Commission for the Navigation of the Rhine.]
- [4. In the case of vessels referred to in paragraph 2 above, having to perform carriage for the first time on inland waterways on which the Regulations for the carriage of dangerous goods on the Danube (ADN-D) [were applicable under domestic law prior to the date of application of the annexed Regulations in accordance with Article 11, paragraph 1, compliance with the provisions concerning the carriage and the general transitional provisions of the annexed Regulations, shall be verified by [a recognized classification society or] the competent authority of a Member State of the Danube Commission.]
- [5. In the case of vessels referred to in paragraph 2 to be used exclusively for carriage on inland waterways where ADNR was not applicable under domestic law prior to the date of application of the annexed Regulations in accordance with Article 11, paragraph 1, the supplementary transitional provisions applicable to specific inland waterways may be applied in addition to the general transitional provisions. Such vessels shall obtain an ADN certificate of approval limited to the inland waterways referred to above, or to a portion thereof.]
6. If new provisions are added to the annexed Regulations, the Contracting Parties may include new general transitional provisions. These provisions shall indicate the vessels in question and the period of validity.

Article 9

Applicability of other regulations

The transport operations to which this Agreement applies shall remain subject to local, regional or international regulations applicable in general to the carriage of goods by inland waterway.

CHAPTER III
FINAL PROVISIONS

Article 10

Contracting Parties

1. Member States of the Economic Commission for Europe whose territory contains inland waterways, other than those forming a coastal route, which form part of the network of inland waterways of international importance as defined in the European Agreement on Main Inland Waterways of International Importance (AGN) */ may become Contracting Parties to this Agreement:
 - (a) by signing it definitively;
 - (b) by depositing an instrument of ratification, acceptance or approval after signing it subject to ratification, acceptance or approval;
 - (c) by depositing an instrument of accession.
2. The Agreement shall be open for signature until 31 May 2001 at the Office of the Executive Secretary of the Economic Commission for Europe, Geneva. Thereafter, it shall be open for accession.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 11

Entry into force

1. This Agreement shall enter into force one month after the date on which the number of States mentioned in Article 10, paragraph 1, which have signed it definitively, or have deposited their instruments of ratification, acceptance, approval or accession has reached a total of seven.

However, the annexed Regulations, except provisions concerning recognition of classification societies, shall not apply until twelve months after the entry into force of the Agreement itself.
2. For any State signing this Agreement definitively or ratifying, accepting, approving or acceding to it after seven of the States referred to in Article 10, paragraph 1, have signed it definitively or have deposited their instruments of ratification, acceptance, approval or accession, this Agreement shall enter into force one month after the said State has signed it definitively or has deposited its instrument of ratification, acceptance, approval or accession, and the Regulations annexed thereto shall apply for the said State either on the same date, if they are already in force by that date, or, if they are not in force by that date, on the date on which they apply under the provisions of paragraph 1 of this article.

*/ The States concerned at the date of adoption of the Agreement are: Austria, Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Czech Republic, Finland, France, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Slovakia, Spain, Sweden, Switzerland, Ukraine, United Kingdom and Yugoslavia.

Article 12

Denunciation

1. Any Contracting Party may denounce this Agreement by so notifying in writing the Secretary-General of the United Nations.
2. Denunciation shall take effect twelve months after the date of receipt by the Secretary-General of the written notification of denunciation.

Article 13

Termination

1. If, after the entry into force of this Agreement, the number of Contracting Parties is less than 5 during 12 consecutive months, this Agreement shall cease to have effect at the end of the said period of 12 months.
2. In the event of the conclusion of a world-wide agreement for the regulation of the multimodal transport of dangerous goods, any provision of this Agreement, with the exception of those pertaining exclusively to inland waterways, the construction and equipment of vessels, carriage in bulk or tankers which is contrary to any provision of the said world-wide agreement shall, from the date on which the latter enters into force, automatically cease to apply to relations between the Parties to this Agreement which become parties to the world-wide agreement, and shall automatically be replaced by the relevant provision of the said world-wide agreement.

Article 14

Declarations

1. Any State may, at the time of signing this Agreement definitively or of depositing its instrument of ratification, acceptance, approval or accession or at any time thereafter, declare by written notification addressed to the Secretary-General of the United Nations that this Agreement shall extend to all or any of the territories for the international relations of which it is responsible. The Agreement shall extend to the territory or territories named in the notification one month after it is received by the Secretary-General.
2. Any State which has made a declaration under paragraph 1 of this article extending this Agreement to any territory for whose international relations it is responsible may denounce the Agreement in respect of the said territory in accordance with the provisions of Article 12.
3. In addition, any State may, at the time of signing this Agreement definitively or of depositing its instrument of ratification, acceptance, approval or accession or at any time thereafter, declare by written notification addressed to the Secretary-General of the United Nations that this Agreement shall not extend to certain inland waterways on its territory, provided that the waterways in question are not part of the network of inland waterways of international importance as defined in the European Agreement on Main Inland Waterways of International Importance (AGN). If this declaration is made subsequent to the time when the State signs this Agreement definitively or when it deposits its instrument of ratification, acceptance, approval or accession, the Agreement shall cease to have effect on the inland waterways in question one month after this notification is received by the Secretary-General.

4. Any State which has made a declaration under paragraph 3 of this article may subsequently declare by means of a written notification to the Secretary-General of the United Nations that this Agreement shall apply to all or part of its inland waterways covered by the declaration made under paragraph 3. The Agreement shall apply to the inland waterway or waterways mentioned in the notification one month after it is received by the Secretary-General.

Article 15

Disputes

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Agreement shall so far as possible be settled by negotiation between the Parties in dispute.
2. Any dispute which is not settled by direct negotiation may be referred by the Contracting Parties in dispute to the Administrative Committee which shall consider it and make recommendations for its settlement.
3. Any dispute which is not settled in accordance with paragraphs 1 or 2 shall be submitted to arbitration if any one of the Contracting Parties in dispute so requests and shall be referred accordingly to one or more arbitrators selected by agreement between the Parties in dispute. If within three months from the date of the request for arbitration the Parties in dispute are unable to agree on the selection of an arbitrator or arbitrators, any of those Parties may request the Secretary-General of the United Nations to nominate a single arbitrator to whom the dispute shall be referred for decision.
4. The decision of the arbitrator or arbitrators appointed under paragraph 3 of this article shall be binding on the Contracting Parties in dispute.

Article 16

Reservations

1. Each State may, at the time of signing, ratifying, or acceding to this Agreement, declare that it does not consider itself bound by Article 15. Other Contracting Parties shall not be bound by Article 15 in respect of any Contracting Party which has entered such a reservation.
2. Any Contracting State having entered a reservation as provided for in paragraph 1 of this article may at any time withdraw such reservation by notifying in writing the Secretary-General of the United Nations.
3. Reservations other than those provided for in this Agreement are not permitted.

Article 17

Administrative Committee

1. An Administrative Committee shall be established to consider the implementation of this Agreement, to consider any amendments proposed thereto and to consider measures to secure uniformity in the interpretation and application thereof.
2. The Contracting Parties shall be members of the Administrative Committee. The Committee may decide that the States referred to in Article 10, paragraph 1 of this Agreement which are not Contracting Parties, any other Member State of the Economic Commission for Europe or of the United Nations or representatives of international intergovernmental or non-governmental

- organizations may, for questions which interest them, attend the sessions of the Committee as observers.
3. The Secretary-General of the United Nations [and the Secretary-General of the Central Commission for the Navigation of the Rhine] shall provide the Administrative Committee with secretariat services.
 4. The Administrative Committee shall, at its first session each year, elect a Chairman and a Vice-Chairman.
 5. The Executive Secretary of the Economic Commission for Europe shall convene the Administrative Committee annually, or at other intervals decided on by the Committee, and also at the request of at least five Contracting Parties.
 6. A quorum consisting of not less than one half of the Contracting Parties shall be required for the purpose of taking decisions.
 7. Proposals shall be put to the vote. Each Contracting Party represented at the session shall have one vote. The following rules shall apply:
 - (a) Proposed amendments to the annexed Regulations and decisions pertaining thereto shall be adopted in accordance with the provisions of Article 19 [18], paragraph 2;
 - (b) Proposed amendment to the annexed Regulations and decisions pertaining thereto shall be adopted in accordance with the provisions of Article 20 [19], paragraph 4;
 - (c) Proposals and decisions relating to the recommendation of agreed classification societies, or to the withdrawal of such recommendation, shall be adopted in accordance with the procedure of the provisions of Article 20 [19], paragraph 4;
 - (d) Any proposal or decision other than those referred to in paragraphs (a) to (c) above shall be adopted by a majority of the Administrative Committee members present and voting.
 8. The Administrative Committee may set up such working groups as it may deem necessary to assist it in carrying out its duties.
 9. In the absence of relevant provisions in this Agreement, the Rules of Procedure of the Economic Commission for Europe shall be applicable unless the Administrative Committee decides otherwise.

[Article 18

Safety Committee

A Safety Committee shall be established to consider all proposals for the amendment of the Regulations annexed to the Agreement, particularly as regards safety of navigation in relation to the construction, equipment and crews of vessels. The Safety Committee shall function within the framework of the activities of the bodies of the Economic Commission for Europe and of the Central Commission for the Navigation of the Rhine which are competent in the transport of dangerous goods by inland waterways.]

Article 19 [18]

Procedure for amending the Agreement, excluding the annexed Regulations

1. This Agreement, excluding its annexed Regulations, may be amended upon the proposal of a Contracting Party by the procedure specified in this article.
2. Any proposed amendment to this Agreement, excluding the annexed Regulations, shall be considered by the Administrative Committee. Any such amendment considered or prepared during the meeting of the Administrative Committee and adopted by it by a two thirds majority of the members present and voting shall be communicated by the Secretary-General of the United Nations to the Contracting Parties for their acceptance.
3. Any proposed amendments communicated for acceptance in accordance with paragraph 2 shall come into force with respect to all Contracting Parties three months after the expiry of a period of 12 months following the date of communication of the proposed amendment if, during that period, no objection to the amendment in question has been communicated in writing to the Secretary-General of the United Nations by a Contracting Party.

Article 20 [19]

Procedure for amending the annexed Regulations

1. The annexed Regulations may be amended upon the proposal of a Contracting Party.

The Secretary-General of the United Nations may also propose amendments with a view to bringing the annexed Regulations into line with other international agreements concerning the transport of dangerous goods and the United Nations Recommendations on the Transport of Dangerous Goods, as well as amendments proposed by a subsidiary body of the Economic Commission for Europe with competence in the area of the transport of dangerous goods.
2. Any proposed amendment to the annexed Regulations shall in principle be submitted to [the Safety Committee], which shall submit the draft amendments it adopts to the Administrative Committee.
3. At the specific request of a Contracting Party, or if the secretariat of the Administrative Committee considers it appropriate, amendments may also be proposed directly to the Administrative Committee. They shall be examined at a first session and if they are deemed to be acceptable, they shall be reviewed at the following session of the Committee at the same time as any related proposal, unless otherwise decided by the Committee.
4. Decisions on proposed amendments and proposed draft amendments submitted to the Administrative Committee in accordance with paragraphs 2 and 3 shall be made by a majority of the members present and voting. However, a draft amendment shall not be deemed adopted if, immediately after the vote, five members present declare their objection to it. Adopted draft amendments shall be communicated by the Secretary-General of the United Nations to the Contracting Parties for acceptance.
5. Any draft amendment to the annexed Regulations communicated for acceptance in accordance with paragraph 4 shall be deemed to be accepted unless, within three months from the date on which the Secretary-General circulates it, at least one-third of the Contracting Parties, or five of them if one-third exceeds that figure, have given the Secretary-General written notification of their objection to the proposed amendment. If the amendment is deemed to be accepted, it shall enter into force for all the Contracting Parties, on the expiry of a further period of three months, except in the following cases:

- (a) In cases where similar amendments to other international agreements governing the carriage of dangerous goods have already entered into force, or will enter into force at a different date, the Secretary-General may decide, upon written request by the Executive Secretary of the Economic Commission for Europe, that the amendment shall enter into force on the expiry of a different period so as to allow the simultaneous entry into force of these amendments with those to be made to such other agreements or, if not possible, the quickest entry into force of this amendment after the entry into force of such amendments to other agreements; such period shall not, however, be of less than one month's duration.
- (b) The Administrative Committee may specify, when adopting a draft amendment, for the purpose of entry into force of the amendment, should it be accepted, a period of more than three months' duration.

Article 21 [20]

Requests, communications and objections

The Secretary-General of the United Nations shall inform all Contracting Parties and all States referred to in Article 10, paragraph 1 of this Agreement of any request, communication or objection under Articles 19 [18] and 20 [19] above and of the date on which any amendment enters into force.

Article 22 [21]

Review conference

1. Notwithstanding the procedure provided for in Articles 19 [18] and 20 [19], any Contracting Party may, by notification in writing to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing this Agreement.

A review conference to which all Contracting Parties and all States referred to in Article 10, paragraph 1, shall be invited, shall be convened by the Executive Secretary of the Economic Commission for Europe if, within a period of six months following the date of notification by the Secretary-General, not less than one fourth of the Contracting Parties notify him of their concurrence with the request.

2. Notwithstanding the procedure provided for in Articles 19 [18] and 20 [19], a review conference to which all Contracting Parties and all States referred to in Article 10, paragraph 1, shall be invited, shall also be convened by the Executive Secretary of the Economic Commission for Europe upon notification in writing by the Administrative Committee. The Administrative Committee shall make a request if agreed to by a majority of those present and voting in the Committee.
3. If a conference is convened in pursuance of paragraphs 1 or 2 of this article, the Executive Secretary of the Economic Commission for Europe shall invite the Contracting Parties to submit, within a period of three months, the proposals which they wish the conference to consider.
4. The Executive Secretary of the Economic Commission for Europe shall circulate to all the Contracting Parties and to all the States referred to in Article 10, paragraph 1, the provisional agenda for the conference, together with the texts of such proposals, at least six months before the date on which the conference is to meet.

Article 23 [22]

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Geneva, this [twenty-sixth day of May two thousand], in a single copy, in the English, French, German and Russian languages for the text of the Agreement proper, and in the French language for the annexed Regulations, each text being equally authentic for the Agreement proper.

The Secretary-General of the United Nations is requested to prepare a translation of the annexed Regulations in the English and Russian languages.

The Secretary-General of the Central Commission for the Navigation of the Rhine is requested to prepare a translation of the annexed Regulations in the German language.
