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INLAND TRANSPORT COMMITTEE

Working Party on Inland Water Transport
(Forty-eighth session, 19-21 October 2004, agenda item 9)

**IMPLEMENTATION OF CONVENTIONS AND APPLICATION OF
RESOLUTIONS RELATING TO INLAND WATER TRANSPORT**

Addendum 1

At its forty-seventh session, the Working Party took note of the summary of responses by Governments to the questionnaire concerning the Convention on the Contract for the International Carriage of Passengers and Luggage by Inland Waterway (CVN) of 1976 (TRANS/SC.3/2003/10), noting a rather modest interest in the revival or revision of the CVN regime. The Working Party invited Governments to consult their industry (inland navigation passenger services) with a view to clarifying how interested they were in establishing an international contractual regime for the carriage of passengers and luggage by inland waterway and transmit their information to the secretariat in order to take a decision on possible action with regard to this item at its next session (TRANS/SC.3/161, para. 51).

Reproduced below is additional information received from a number of Governments.

BELARUS

1. Pursuant to article 1, the CVN Convention is applied to a contract for the carriage of passengers and luggage by inland waterway when the contract concerns the waterways of at least two States. Only suburban lines and pleasure craft currently conduct passenger operations in the Republic of Belarus, and hence there is no need to accede to the above-mentioned Convention.

REPUBLIC OF MOLDOVA

2. Moldovan carriers consider the establishment of a unified international contractual liability regime to regulate the carriage of passengers and luggage by inland waterway possible.

UKRAINE

3. The following replies to the questionnaire of the Transport Division from the Inland Transport Committee of the United Nations Economic Commission for Europe (UNECE) (document TRANS/SC.3/2002/9) reflect the views of the competent Ukrainian authorities concerning the CVN Convention.

Question 1: What are the reasons that your country has not signed/ratified or acceded to the Convention and to its Protocol?

4. In the period between 1976 and 1991, the international carriage of passengers by inland waterway in the Soviet Union, of which Ukraine formed part, was conducted only on the Danube. Passenger operations on all other rivers of the USSR were not international as they were conducted on the territory of one State. Thus, the regulations for the carriage of passengers and luggage by river transport (Tariff Guide No. 5-R) did not even include the concept of "international carriage".

5. At the same time, the river fleet on the Danube was operated by the Soviet Danube Steamship Line under the supervision of the Ministry of Merchant Marine of the USSR. Any relations that concerned passenger transport on the Danube by the Soviet Danube Steamship Line were regulated by the Trade Seafaring Code of the USSR and the regulations for the carriage of passengers, baggage and hand luggage, and passenger catering services in ports of the Ministry of Merchant Marine.

6. Thus, there was no need for the Soviet Union to sign or accede to the CVN Convention.

7. After 1991, in accordance with Ukrainian legislation, regulations and enactments introduced by the central executive authorities of the USSR, which had not been officially abolished, remained in force, including the above-mentioned Tariff Guide No. 5-R and the regulations for the carriage of passengers, baggage and hand luggage, and passenger catering services.

8. Thus, taking into account the fact that, in Ukraine, most international scheduled passenger services and cruises by inland waterway are conducted on the Danube, and that passenger traffic on all other Ukrainian rivers is extremely insignificant and irregular, Ukraine, like the USSR previously, does not currently feel the need to adopt or accede to the CVN Convention.

9. Moreover, draft regulations for the carriage of passengers and luggage by sea and on the Danube by Ukrainian vessels are now in the process of being approved. The regulations will finally ensure that the liability regime envisaged in the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea is applied to Ukrainian vessels involved in passenger operations on the Danube. The new regulations will establish a uniform limit of liability for the carrier in the event of the death or injury to the health of a passenger during carriage by sea and on the Danube, at a level of 175,000 SDR.

10. For Ukraine, the issue of the adoption of or accession to the CVN Convention will arise only once economic, business, cultural and tourist relations with the countries of the Commonwealth of Independent States (CIS) have been consolidated and regular passenger transport on Ukrainian rivers has been organized.

Question 2: Are the limits of liability envisaged in articles 7 and 11 considered to be appropriate, too low or too high? Would ratification be facilitated by amending the present limits? If so, at what level should the limits be set in order to facilitate acceptance of the Convention by your country?

11. The carrier's limits of liability, as set by CVN and amended by the Protocol to the Convention (660,667 SDR), are entirely acceptable for Ukraine, especially since Ukraine's Insurance Act envisages compulsory private insurance for transport accidents and civil liability insurance for water transport operators.

12. The limits of the carrier's liability should be modified upwards rather than downwards because reducing the carrier's liability will indirectly increase the degree of risk to the passenger during carriage by inland waterway.

13. An amendment to the CVN Convention should be adopted to increase the limits of liability of the river carrier to those of the sea carrier, as set by the Athens Convention and its Protocols. This should be done not only to harmonize the liability regime for carriage by sea and river transport, but also in order to prevent discrimination against the river passenger, whose life and health, judging by the level of liability set by CVN, are valued at less than is the case for the sea passenger.

Question 3: Can you provide (statistical) information on the average height of damage (in SDR's), in your country, caused by accidents relating to the transport of passengers and luggage by inland waterway?

14. There is practically no international passenger transport which could be regulated by the CVN Convention. In fact, over the past three years several tourist journeys have been conducted, during which no accidents occurred.

15. It is thus impossible to provide information on the average height of damage caused by accidents involving passenger transport on inland waterways, or on the amounts of damage caused to passengers' luggage.

Question 4: Are there any other concerns about the level of the limitation of liability?

16. There is a concern that many river carriers, including Ukrainian ones, would not be in a position, financially, to compensate passengers in the event that a court were to award maximum or close to maximum damages.

17. Thus, in order to safeguard the liability regime, Governments that have ratified CVN must adopt national legislative measures making liability insurance compulsory for river carriers to provide compensation for damages caused to a passenger. At the same time, as a means of supporting small- and medium-sized river navigation enterprises, such insurance should be offered on preferential terms.

18. The creation of a Protection and Indemnity Club dealing with the liability of river carriers for damages caused to the life, health and property of passengers could be another, no less effective measure for introducing a harmonized liability regime. When such a club is created as a single pan-European organization, the amount of insurance contributions could be decreased enough to enable most carriers to join the club.

Question 5: May article 2 of the Convention, providing for full responsibility of the carrier for acts and omissions of his agents and servants, represent an obstacle for your Government to become a party to the Convention?

19. The regulation providing for full responsibility of the carrier for acts and omissions of his agents and any other persons whose services he uses, if those agents or persons are acting within the scope of their obligations, is not a factor preventing Ukraine from becoming a party to the Convention, because it has already ratified the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, articles 3 and 4 of which contain similar regulations.

20. Moreover, the Ukrainian Civil Code provides for full responsibility of carriers for actions and omissions of their representatives acting within the authority granted to them.

Question 6: Is there a need at all for setting up an international regime of contractual liability in transport of passengers and goods by inland waterway?

21. Harmonization of national regimes of the carrier's liability is fully consistent with the main principles of the functioning of the European Community and Ukraine's Partnership and Cooperation Agreement of 1994.

22. Failure to agree on limits to the carrier's liability would result in unequal operating conditions for carriers in different countries. The conditions would be less favourable for carriers under the flags of countries that have not established limits of liability or have set them at a lower level than provided for under the CVN Convention.

SWITZERLAND

23. We do not consider the establishment of an international regime of contractual liability for the transport of passengers and luggage by inland water transport to be necessary. Thus, Switzerland does not support establishing such a regime.
