
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)****Twenty-second session**

Geneva, 21 – 25 January 2013

Item 5 (b) of the provisional agenda

Proposals for amendments to the Regulations annexed to ADN:**Other amendment proposals**

Objectives and the use of the harmonized vessel checklist**Transmitted by the informal working group on the development of a harmonized vessel checklist****Standardized vessel checklist in accordance with 1.8.1.2.1****DRAFT 2013-01-16****Legal basis**

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.

1.8.1 Monitoring compliance with requirements

1.8.1.1 General

1.8.1.1.1 In accordance with Article 4, paragraph 3 of ADN, Contracting Parties shall ensure that a representative proportion of consignments of dangerous goods carried by inland waterways is subject to monitoring in accordance with the provisions of this Chapter, and including the requirements of 1.10.1.5.

1.8.1.1.2 Participants in the carriage of dangerous goods (see Chapter 1.4) shall, without delay, in the context of their respective obligations, provide the competent authorities and their agents with the necessary information for carrying out the checks.

1.8.1.2 Monitoring procedure

1.8.1.2.1 In order to carry out the checks provided for in Article 4, paragraph 3 of ADN, the Contracting Parties shall use the checklist to be developed by the Administrative Committee. A copy of this checklist or a certificate showing the result of the check drawn up by the competent 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 Contracting Parties' right to carry out specific measures for detailed checks.

1.8.1.2.2 The checks shall be random and shall as far as possible cover an extensive portion of the inland waterway network.

1.8.1.2.3 When exercising the right to monitor, the authorities shall make all possible efforts to avoid unduly detaining or delaying a vessel.

1.8.1.3 Infringements of the 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 by inland waterways are established may be detained 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.

1.8.1.4 Checks in companies and at places of loading and unloading

1.8.1.4.1 Checks may 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.

1.8.1.4.2 The purpose of such checks shall be to ensure that safety conditions for the transport of dangerous goods by inland waterways comply with the relevant laws.

1.8.1.4.3 Sampling

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.

1.8.1.4.4 Cooperation of the competent authorities

1.8.1.4.4.1 Contracting Parties shall assist one another in order to give proper effect to these requirements.

1.8.1.4.4.2 Serious or repeated infringements jeopardizing the safety of the transport of dangerous goods committed by a foreign vessel or undertaking shall be reported to the competent authority in the Contracting Party where the certificate of approval of the vessel was issued or where the undertaking is established.

1.8.1.4.4.3 The competent authority of the Contracting Party where serious or repeated infringements have been recorded may ask the competent authority of the Contracting Party where the certificate of approval of the vessel was issued or where the undertaking is established for appropriate measures to be taken with regard to the offender or offenders.

1.8.1.4.4.4 The latter competent authority shall notify the competent authorities of the Contracting Party where the infringements were recorded of any measures taken with regard to the offender or offenders.

1.8.2 Administrative assistance during the checking of a foreign vessel

If the findings of a check on a foreign vessel 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 Contracting Parties concerned shall assist one another in order to clarify the situation.

8.1.2.1 In addition to the documents required by other regulations, the following documents shall be kept on board:

[...]

- (j) The checklist or a certificate showing the result of the check drawn up by the competent authority which carried it out, referred to in 1.8.12. The most recent list or certificate shall be kept on board.

Standardized vessel checklist in accordance with 1.8.1.2.1

Objectives

Article 4, paragraph 3 of the ADN Agreement is defining the objective of controlling vessels: "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."

A more detailed description can be found in 1.8.1.1.1 and 1.8.1.2.1:

"In accordance with Article 4, paragraph 3 of ADN, Contracting Parties shall ensure that a representative proportion of consignments of dangerous goods carried by inland waterways is subject to monitoring in accordance with the provisions of this Chapter, and including the requirements of 1.10.1.5."

"In order to carry out the checks provided for in Article 4, paragraph 3 of ADN, the Contracting Parties shall use the checklist to be developed by the Administrative Committee. A copy of this checklist or a certificate showing the result of the check drawn up by the competent 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 Contracting Parties' right to carry out specific measures for detailed checks."

The objective in accordance with the agreement itself is very general: "observance of the prohibitions and conditions shall be monitored". This general objective cannot be covered completely by a standardized checklist and therefore 1.8.1.2.1 contains the statement that Contracting Parties have the right to carry out specific measures for detailed tests.

[The regulation that a copy of the checklist or a certificate showing the result of the check shall be given to the master of the vessel in order to simplify or avoid subsequent checks leads to a number of questions.

A "certificate showing the result of the check" can only avoid subsequent checks, if

- all points of the checklist are checked at each control and all of them are positive and
- the cargo has not changed since the last check.

A "certificate showing the result of the check" can simplify subsequent checks, if

- all points of the checklist are checked at each control and all of them are positive or
- all points of the checklist are checked at each control and the deficiencies are mentioned in this certificate.

If the cargo has changed since the last check, but the period since the last check is relatively short, the authority would only have to check the cargo related points of the check list. The new certificate showing the result of the check would have to specify that only the cargo

related points have been checked. Nevertheless this procedure has some risks: if the first check is done e.g. on 1st of June and the vessel has an ADN certificate which is valid until 10th of June, the vessel would receive a positive “certificate showing the result of the check”. Then the vessel could change cargo on the 5th of June and be controlled again on 12th of June. The second authority would only check the cargo related points and issue a positive certificate despite of the fact that the vessel is sailing without a valid certificate. Most probably the authorities would therefore control at least some of the vessel specific points in any case.

A copy of the checklist could avoid (if the cargo has not changed) or simplify (if the cargo has changed, but the last check has been done recently) subsequent checks. But if it is obligatory to have the copy of the checklist, it can be required by EBIS and can cause serious economic consequences despite of its preliminary legal status. Compromise: if the copy of the checklist is only optional, the master of the vessel is able to decide whether he shows only the certificate (the first page of the checklist) or the complete copy of the checklist. If he does not show the complete copy, the subsequent check will be a complete check again.

ADN 2013 allows both options. The Safety Committee can adopt a recommendation to use only one of the two options, but the ADN would still allow both options until end of 2014.

Apart from that there is another problem: the requirement of 8.1.2.1 lit. j cannot be fulfilled, if the vessel has not been checked. E.g. a new vessel is not able to fulfill this requirement on its first voyage. And if the certificate or the copy of the checklist is lost, it is normally not possible to obtain a new copy of the lost document.

Possible solution:

First step: checklist as a recommendation of the Safety Committee, no obligation to hand over a copy of the complete checklist.

Second step: delete 8.1.2.1 lit. j and introduce the obligation to hand over the copy of the complete checklist. This would only be an obligation for the authority. The master of the vessel can destroy the copy, but has to accept the consequences (more detailed subsequent checks, which cause additional delays). Neither a controlling authority nor an EBIS inspector could require from him to show the copy of the last checklist. This would only be a formal change, which would reflect the actual situation.]

Should the checklist be a recommendation of the Administrative Committee or should it become part of the ADN?

Advantages of a recommendation:

- can be amended at every meeting of the Administrative Committee, if necessary

Advantages of the checklist as part of ADN:

- full harmonization, because all authorities would be obliged to adapt their checklists to the ADN

Use of the standardized vessel checklist

The standardized vessel checklists in accordance with ADN for dry cargo vessels and for tank vessels may only be used if the vessel is falling under the scope of ADN. Therefore the controlling authority has to investigate whether the vessel is transporting dangerous goods in accordance with ADN, before it uses the standardized vessel checklist.

The standardized vessel check list is not containing any personal data of the responsible boatmaster and no information about the consequences of the vessel check. The data which

is necessary for the legal processes in the individual contracting parties has therefore to be collected on the respective forms and checklists of the controlling authorities.

[1. Before 2015

- a) Only a certificate (first page of the checklist) is handed over to the master of the vessel
 - i) Subsequent check before change of cargo:
The controlling authority can see that the vessel has been checked, and it can assume that nothing has changed since the last check. But it does not know the results of the last check. As there is no international agreement about the consequences of the individual deficiencies and it is theoretically possible that the vessel has passed the border with a deficiency with which it would be stopped in the controlling country, the authority might decide to make a new complete check.
 - ii) subsequent check with new cargo, but very shortly after the last check
The controlling authority can see that the vessel has been checked, and it can assume that nothing has changed regarding the technical status of the vessel since the last check. It would be possible to check only the cargo related points of the vessel checklist. But the authority does not know the results of the last check. As there is no international agreement about the consequences of the individual deficiencies and it is theoretically possible that the vessel has passed the border with a deficiency with which it would be stopped in the controlling country, the authority might decide to make a new complete check.
 - iii) subsequent check after several weeks
New complete check.
- b) a complete copy of the checklist is handed over to the master of the vessel
 - i) subsequent check before change of cargo
The controlling authority can see that the vessel has been checked, and it can assume that nothing has changed since the last check. Deficiencies can be seen in the copy and there is no need to make a new check.
 - ii) subsequent check with new cargo, but very shortly after the last check
The controlling authority can see that the vessel has been checked, and it can assume that nothing has changed regarding the technical status of the vessel since the last check. The technical deficiencies can be seen in the copy and the new check can be restricted to the cargo related points.
 - iii) subsequent check after several weeks
New complete check.
- c) a vessel does not have a certificate or a copy on board
This is a violation of 8.1.2.1 j), even if it is a new vessel or a vessel which has not been checked in accordance with ADN before. The skipper has no possibility to proof his innocence.
The authority has to make a new complete check in addition to the other measures.

2. 2015 onwards

- a) a complete copy of the checklist is handed over to the master of the vessel
 - i) subsequent check before change of cargo
see 1 (b) i
 - ii) subsequent check with new cargo, but very shortly after the last check
see 1 (b) ii
 - iii) subsequent check after several weeks
see 1 (b) iii

- b) a vessel does not have a copy of the checklist on board
New complete check.]
