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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)

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Item 4 (c) of the provisional agenda

Implementation of the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN): Interpretation of the Regulations annexed to ADN

1.6.7.2.2.1 compared to 1.6.7.2.2.2 and 9.3.3.8.1 of ADN – Continuation of class

Transmitted by the Government of Germany* **

Introduction

1. A vessel in service can benefit from the transitional provisions in 1.6.7 of ADN.¹
2. In 1.6.7.2.2.2 of ADN, Table of general transitional provisions: Tank vessels, under the transitional provision for 9.3.3.8.1, Continuation of class, Type N open vessels in service must be equipped with a flame arrester and Type N open vessels must comply with the requirement of continuation of class only if the certificate of approval is renewed after 31 December 2044.
3. 9.3.3.8.1 of ADN, which entered into force on 1 January 2003 on the transition from the Regulations for the Carriage of Dangerous Goods in the Rhine (ADNR) with its marginals to ADN, contained the following wording, which was also used in ADN 2009:

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¹ Note by the CCNR secretariat: the corresponding term in German, “Übergangsvorschriften”, used in the German version of this document is rendered in the French version of ADN 2019 as, variously, “*dispositions transitoires*” (“transitional provisions”), “*mesures transitoires*” (“transitional measures”) and “*prescriptions transitoires*” (“transitional provisions”).



“9.3.3.8.1 The tank vessel shall be built under survey of a recognised classification society and be classed in its highest class.

The vessel’s highest class shall be continued.”

4. On 1 January 2015, when ADN alone was applicable, the following sentence was added:

“This shall be confirmed by an appropriate certificate issued by the recognized classification society (certificate of class).”

5. The transitional provision of 1.6.7.2.1 of ADNR (as of 2003) read as follows:

9.3.3.8.1 in conjunction with 7.2.2.8	Continuation of class for Type N open vessels with flame arrester and Type N open vessels	N.R.M. after 01-01-1995 The following requirements apply on board vessels in service: Except where otherwise provided, the type of construction, the strength, the subdivision, the equipment and the gear of the vessel shall conform or be equivalent to the construction requirements for classification in the highest class of a recognized classification society.
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6. The following transitional provision was included in the first edition of the Regulations annexed to ADN (2009):

9.3.3.8.1	Continuation of class for Type N open vessels with flame arresters and Type N open vessels	N.R.M. The following requirements apply on board vessels in service: Except where otherwise provided, the type of construction, the strength, the subdivision, the equipment and the gear of the vessel shall conform or be equivalent to the construction requirements for classification in the highest class of a recognized classification society.
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7. This transitional provision was reformulated, with effect from 1 January 2011 (ADN 2011), with the expiry date of the transitional provision set as “Renewal of the certificate of approval after 31 December 2044”:

9.3.3.8.1	Continuation of class	N.R.M. Renewal of the certificate of approval after 31 December 2044 for Type N open vessels with flame arresters and Type N open vessels. Until then, the following requirements apply on board vessels in service: Except where otherwise provided, the type of construction, the strength, the subdivision, the equipment and the gear of the vessel shall conform or be equivalent to the construction requirements for classification in the highest class of a recognized classification society.
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8. Until 1994, for Type N open tank vessels and Type N open tank vessels with flame arresters, the following applied: “The type of construction, the strength, the subdivision, the equipment and the gear of the vessel shall conform or be equivalent to the construction requirements for classification in the highest class of a recognized classification society.” Construction under the survey of a recognized classification society and classification in the highest class were not required until 31 December 1995 (see marginal 131 208 of ADNR 1994).

9. The transitional provision thus concerns sentences 1 to 3 of 9.3.3.8.1 of ADN.

10. The situation required in column 3 must be newly certified by a recognized classification society or by the inspection body at each periodic inspection as part of the inspection referred to in 1.16.3 of ADN before the certificate of approval can be issued.

11. To obtain a certificate of approval before 1 January 1995, the owners of a tank vessel had to submit either:

- (a) “The certificate of class”; or
- (b) “A certificate from a recognised classification society certifying that the construction meets its own specifications and specifying derogations from those specifications considered as equivalent (sic!).”

(see marginal 131 182 of ADNR 1994)

12. There is a qualitative difference between a “certificate of class” and a “certificate”. While the certificate of class confirms compliance with all applicable construction requirements of the classification society that was responsible for the inspection and classification (including those not mandated by ADNR/ADN), the certificate provided for in the transitional provision confirms only that the vessel conforms with or is equivalent to the construction requirements of the recognized classification society relating to construction, strength, subdivision, equipment and gear at the time it is brought into service. These are only part of the construction requirements of a classification society.

13. We know of several cases in which owners of Type N open tank vessels with or without flame arresters, **without being required to do so**, also submitted a “certificate of class” for the original issuance or renewal of the certificate of approval. Subsequently, after 1995, instead of the certificate of class, only a simple certificate from the classification society concerning the state of construction referred to in column 3 of the transitional provision was submitted.

14. The general transitional provision in 1.6.7.2.2.1 of ADN reads as follows:

“The construction and equipment of vessels in service shall be maintained at least at the previous standard of safety.”

15. This means that, if they come under the transitional provision, tank vessels must be maintained at the standard of safety noted as of 1.1.1995 for classification.

I. Question of interpretation

16. The Commission should decide whether, in order to maintain the “previous standard of safety”, a certificate of class issued previously should be maintained continuously and to what extent the “previous standard of safety” is flexible if a “certificate of class” was submitted for the original issuance or renewal of the certificate of approval, even though only a simple certificate from a classification society was required subsequently.

17. If so, a certificate of approval could only be renewed if the requirement in the **second sentence** of 9.3.3.8.1 is complied with. That would mean that the transitional provision would not apply in the case of voluntary submission of a certificate of class.

II. Opinion of the German delegation

18. Germany is of the view that continuation of class as a result of the **voluntary** submission of a “certificate of class” before 1995, when ADNR was applicable, should continue under the same conditions after the transition to ADN; if not, there could be a decrease in the standard of safety compared to that attained in 1995.

19. Two examples:

- If a certificate of class was no longer required, there would no longer be any requirement for a periodic inspection of the vessel by the classification society during the third year.
- The thickness of the hull material would need to comply only with the provisions of ES-TRIN, according to which the bottom of the vessel must be inspected only every 10 years, rather than every 5 years.

20. In light of the above examples, the German delegation considers that there would be no guarantee of an equivalent standard of safety.

21. It should also be noted that, in the event of the “declassification” of a Type N closed tank vessel to a Type N open tank vessel, with or without flame arrester, the owner could also claim continuation of class for the vessel by referring to the transitional provision, even though continuation was not necessary. That would result in a clear decrease in the standard of security previously attained.
