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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-eighth session

Geneva, 23–27 August 2021

Item 4 (b) of the provisional agenda

**Proposals for amendments to the regulations annexed to the ADN:
other proposals**

Report of the fifth meeting of the informal working group “loading on top in barges”

Submitted by the Government of the Netherlands* **

Summary

Executive summary:	The informal working group identified three different loading on top operations.
Action to be taken:	The ADN Safety Committee is requested in paragraphs 11 and 12 to consider the results of the informal working group and to decide appropriately.
Related documents:	Informal document INF.15 of the thirtieth session Informal document INF.6 of the thirty-first session as addendum to document ECE/TRANS/WP.15/AC.2/2017/44 Informal document INF.9 of the thirty-second session ECE/TRANS/WP.15/AC.2/2018/39 Informal document INF.17 of the thirty-third session ECE/TRANS/WP.15/AC.2/70 Informal document INF.5 of the thirty-fifth session ECE/TRANS/WP.15/AC.2/72 Informal document INF.5 of the thirty-sixth session ECE/TRANS/WP.15/AC.2/74 ECE/TRANS/WP.15/AC.2/76

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Introduction

1. The ADN Safety Committee may recall that at its thirty-sixth session the mandate for the informal working group had been extended and the informal working group had been asked to proceed in a two-step approach:

“The Safety Committee noted the outcome of the fourth meeting of the informal working group on loading on top in barges and encouraged the group to go forward according to its mandate. It was recommended to proceed in a two-step approach: (a) to analyse whether the ADN is the correct legal instrument to prescribe loading on top operations and (b) to organize, as far as possible, the parallel work on the multiple tasks listed in informal document INF.5. The Chair invited all interested parties to participate in that work.”

2. The informal working group held a remotely working session on 22 and 23 April 2021. Representatives of the: European Bulk Oil Traders' Association (EBOTA), European Barge Union (EBU), European Skippers Organisation (ESO), Federation of European Tank Storage Associations (FETSA), European Petroleum Refiners Association (FuelsEurope), Germany and the Netherlands participated in the session.

Considerations

3. To analyse whether the ADN is the correct legal instrument to prescribe loading on top operations, the informal working group identified three different types of loading on top:

- (a) Loading of the same cargo on top of dangerous goods; i.e. loading of dangerous good on top of a dangerous good with the same UN number and entry in table C;
- (b) Loading of non-dangerous goods on top of dangerous goods; e.g. loading of biocomponents on top of diesel fuel (UN 1202), or the other way around;
- (c) Loading of a dangerous good on top of another dangerous good; e.g. loading of Ethanol (UN 1170) on top of diesel fuel (UN 1202), or the other way around.

Loading on top of the same cargo

4. Regarding the loading on top of the same cargo (3a), the informal working group took into consideration that loading on top of the same cargo may never start a process (chemical or otherwise) that results in a change of the classification of the initial or added substance. Therefore, loading on top may never result in a different classification of the transported substances. The informal working group reiterated that commingling by mechanical means of substances in cargo tanks is not intended nor allowed.

5. The informal working group noted the similarity between these loading on top operations and the loading of substances into empty, uncleaned tanks, containing residues of previous cargoes. Which is permitted according to 7.2.4.13.1, provided those residues of the previous cargo do not react dangerously with the next cargo.

6. Therefore, the informal working group considered that the ADN is the correct legal instrument to prescribe these operations and that these operations are not prohibited by ADN.

7. It was noted that perhaps a small number of “general n.o.s. entries” (2.1.1.2 type D) might be defined in such broad terms that it is possible to classify different substances that could react dangerously with each other to the same entry in table C. Therefore, the informal working group suggests that the ADN Safety Committee requests the informal working group of substances to look into this matter and come up with a list of entries in table C that could include different substances within that single entry that could react with each other. These entries in table C could be identified as not allowed to be loaded on top of themselves using a special provision, or a remark in column 20 of Table C, whichever is considered most appropriate.

Loading on top of a different substance

8. Regarding the loading of different substances on top of a dangerous substance (3b and 3c), the informal working group considered that the loading on top of a different cargo results in a process (i.e. the mixing of the two different substances) that may result in the change of the classification of the initial or added substance. These kinds of industrial processes, on the shore, are currently prescribed by environmental law, using a system of permits for installations, describing which industrial processes are allowed for each installation. These permits take into account the local circumstances. Therefore, the informal working group noted that it would like to further investigate whether these permits could form the legal instrument on which the loading on top of different substances in a vessel might be prescribed. The informal working group noted that, at least in the Netherlands, for certain loading operations the ship is considered “a part of the installation”.

9. It might be possible that loading on top of different substances in a ship connected to a shore installation could be regulated by the permit for that shore installation under environmental law. This approach would result in a system that has no legislative gaps; because it can only lead to the loading on top of different substances at locations where the mixing of these substances is permitted. This approach would need to be supplemented with amendments in the ADN to ensure that the process of mixing substances in a vessel under the permit of the shore installation is allowed in ADN, and that it is safe, well documented, transparent and enforceable.

10. Currently, the informal working group does not have enough information to conclude that loading on top of different substances could be regulated by this approach. The informal working group would like to consider this topic at its next session, when the group is provided with additional information from the representatives of the industrial installations and shore installations.

Action to be taken

11. The ADN Safety Committee is invited to consider the report of the informal working group and to decide whether it can support the conclusions of the group on loading on top of the same cargo in paragraphs 5 and 6.

12. The Committee is also invited to consider the discussion on the loading on top of different substances and to decide whether the group can continue its work in that direction. In that case, the Committee is requested to ask the informal working group to consider the following items:

(a) To analyse whether the system of permits for shore installations could be the legal basis for loading on top of different substances in vessels; and

(b) To extend that analysis to the necessary amendments in ADN if it proves to be a feasible approach.