

## **Transport of dangerous goods in inland navigation: going beyond legislation**

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Ladies and Gentlemen, distinguished delegates, dear Colleagues,

It is for me an honour and a pleasure to have the opportunity to present to you some thoughts and visions from the point of view of the secretariat of the Central Commission for the Navigation of the Rhine concerning safe transport of dangerous goods in inland waterways.

As it is well known, the contribution of the CCNR in this field looks back to the 19<sup>th</sup> century. The well known ADNR, which has originally been developed for the Rhine area by the CCNR, has served as a basis for the ADN which has been already ratified by 16 European States and moreover applies to the whole European Union on the basis of a European directive. This is a testimony that CCNR's activities have become more and more relevant beyond the boundaries of the Rhine and its riparian states. Its secretariat and its working parties are still active in this issue, while its member states continue to play a prominent role within the working groups of the ADN committees.

Transport of dangerous goods by inland waterways has been recently at the top of the news with the capsizing of a double hull ship from type C with 2400 m<sup>3</sup> sulphuric acid as cargo, which blocked the Rhine navigation for more than 30 days.

The cause of this accident is not yet well known and I am not going to prejudice the ongoing investigations. But, besides their dramatic component, serious accidents like this one offer the opportunity to become more aware of some danger and to make important progress, as maritime transport accidents show.

In this preoccupation, consideration and discussion will develop within the CCNR about the possible need to verify if there may exist some shortfall or inadequacy in the regulations. The competent instances of CCNR will analyse the circumstances that have led to this incident in close cooperation with the German authorities. It is important to draw conclusions concerning the reliability of the navigation of the Rhine and to decide measures to avoid such incidents in future. All hints to potential weaknesses of our navigation system need to be disclosed and investigated.

But it is already obvious that technical regulation, its screening and improvement, is only a part of the picture. To guarantee safety, sustainability and economical viability of transport of dangerous goods by inland waterways, it is necessary to look beyond legislation. The safe transportation of dangerous goods on our waterways can only be assured by a holistic approach: regulating and non-regulating measures shall be used in coordination.

I would propose therefore to look on the one side beyond specific regulations concerning technical requirements on dangerous goods on IWT and on the other to look beyond regulation tools in general. These will be the two aspects I will try to develop.

## **I. Beyond specific legislation for dangerous goods**

Specialized legislation for the transport of dangerous goods as contained in the ADN has to be combined with or completed by other legislation to build an effective and exhaustive normative framework for this type of activity.

Three examples may be mentioned here:

### **1. Coordination between regulations for the transport of dangerous goods and ship waste regulations**

This is a broad field. I will concentrate here on the recently entered in force CDNI Convention (*Convention on the collection, deposit and reception of waste produced during navigation on the Rhine and inland waterways*). This convention, which has been thought out within the CCNR, deals inter alia with cargo residues and the way to eliminate them properly. ADN and CDNI have been coordinated to this aim, but CDNI goes further and is more detailed than ADN concerning the management of cargo loading rests. Unsolved questions remain especially in the field of gaseous loading rests. Degassing of tanks is allowed by ADN, so far it not dangerous, but may be problematic with regard to air and water pollution. That's an example where ADN has to be completed by rules that are specifically aiming environment protection.

### **2. Role of crew regulations**

Ships carrying hazardous goods belong very often to categories of ships presenting special complexity (container ships, double hull, etc.) Apart from the condition that one member of the crew members must have a "certificate as expert", the ADN doesn't regulate specific conditions concerning the qualifications of the crew members. It is the role of personnel regulations ("Patent" regulation, etc.) to guarantee that the boatmaster and his crew have the adequate command and control and of the ship, its loading and unloading, its operation, etc...To this concern, the ADN relies on the qualification standards given by other regulation. With the evolution of technology, the requirements on boatmasters and boatsmen serving on specific kinds of ships like container ships or some kind of tankers, which often carry dangerous goods, should be strengthened. Specialised patents for special ships are sometimes brought up in the discussions. Another subject of worry is the language competence of the crew member in a globalised inland shipping. That's a general problem but the quality of communication is especially important when transport of dangerous goods is on stake. All these questions are looked into within the CCNR.

### **3. Civil liability rules**

As dangerous goods can be more harmful than other cargo, the question of compensation of damages caused by this kind of cargo in inland shipping activities is of importance. Except of the application of the CLNI convention, which has, at yet, been ratified only by some countries, the matter is still regulated only by national law. The attempt of UNIDROIT and latter on of the CCNR to devote a specific convention to the civil liability concerning transport of dangerous goods by inland vessels, has failed. Important question are here on stake like the kind of liability which applies in case of accident, the solvency of the ship-owner, the limit of the liability, the role of insurance, and so on. The last accident near St Goar shows that these are not academic questions. At yet, for instance, there is no obligation of insurance in Rhine navigation. In practice, nearly all ships have insurance but how will it be in the future?

These three examples show that the specific dangerous goods regulation, the AND, concentrating on technical regulations, has to be cautiously combined and completed with other regulations to reach the goal of efficient prevention, legal certainty and sustainability.

But we need also to open the scope beyond tools consisting in legislation and regulation in general.

## **II. Beyond legislation in general**

To organise the transport of dangerous goods in an optimal way, we need to take in consideration also other instruments than the traditional regulatory ones.

Here to I will take also three examples.

### **1. Agreements on good practice and self binding commitment of the industry**

If legally binding rules are essential and should even in some cases be strengthened, there is also a increasing criticism about excessive regulation. Not every emerging situation needs to be or even can be object of regulation in a legally binding manner. There are good examples which demonstrate that cooperation on a voluntary basis between partners is an efficient way to complement legally binding regulation.

This is applied to the interface between inland barges and the shore side which belong to two separate regulatory fields. Instead of starting to draft a new legislation concerning this issue, a voluntary agreement based on definition of good practice has been established. Together with OCIMF, the *Oil Companies International Marine Forum*, and all industry associations concerned with the transport of dangerous goods on European inland waterways, the CCNR initiated in 2006 the project ISGINTT (*International Safety Guide for Inland Navigation Tank-barges and Terminals*). The aim is to assure a smooth link between inland tank-barges with other vessels or shore facilities. It is based on principles of good practice generally recognized and accepted even if not legally binding. Since its presentation in 2010, the ISGINTT guideline is available in its first edition on the ISGINTT-website. The document has been downloaded about 1500 times from the website. For the time being, the guideline is available in English only, but we are looking forward to receiving sufficient financial support to provide translations into other languages. The CCNR holds the secretariat of this initiative and has received positive feedback: the navigation sector and industry have already started to apply the ISGINTT guideline in their daily work.

Another kind of voluntary agreement could be reached in 2001 under the aegis of the CCNR in the field of reduction of VOC pollutants by the renunciation of the shippers to require degassed ships in the case of successive transport of compatible products. For the implementation of this agreement, the CCNR is an intermediate between environmental administration and inland navigation, concerning the reduction of river pollution by MTBE and ETBE, which are substances likely to pollute the water by cautiousless degassing.

## **2. Economical aspects**

Transport of dangerous goods by inland waterways is an economical activity. All safety measures have a cost. Insufficient security may harm the image of IWT and by consequence the competitiveness of this mode of transport. To find the right balance between these two constraints, it is necessary not only to have at disposal technical expertise but also economical information and methodological instruments to evaluate the financial impact of new security requirements. Technical regulations have also to be designed in respect with the maintenance of a level playing field from the economical point of view. The CCNR has been able to combine these various competences and information, for instance by the discussions preceding the adoption of the regulation concerning double hull. The instrument of "market observation" it is developing in cooperation with the European commission can play here an important role. But the most efficient tool in this context is the capacity to organise intensive dialogue with the industry within its working parties but also in the form of round tables and forums.

## **3. Accident preparation plans**

An accident can ever occur as we have seen with the Waldorf. The passive security offered by the double hull technology has satisfactorily worked. The principal damage was the prolonged interruption of the navigation. In this case, what is essential is the best possible management of the event to reduce as much as possible the incidence on the navigation. The anticipation of this kind of event by planning in advance salvage procedures and availability of all necessary equipment can decisively help to minimize the impact of an accident. Of course, this belongs to the competence of the states, but a closer international cooperation can be helpful on an international river like the Rhine. Already with the precedent accident of the Excelsior the CCNR has created a working group on this subject. Even if the German authorities have shown a full control in the conduct of the salvation operations in the case of the Waldorf, there are still aspects to improve and the work on this field will continue within the CCNR. Each accident is an opportunity to prepare more efficiently the next coming challenge.

As we have seen organisation of dangerous goods on inland waterways goes clearly beyond ADN and requires far more than technical regulation and control. It consists of the knowledge, experience and even tradition of the people working on board. It is influenced by economy. Social requirements have a strong influence as well. The preservation of the reputation of inland navigation as an environmentally friendly mode of transport is also of great importance. Regarding these various and always changing factors, technical regulations are central but cover a part only of this large field of policy. Partnership beyond regulatory work is central. Interdisciplinary cooperation is fundamental for the transportation of dangerous goods in inland navigation.

CCNR is strongly engaged in this cooperation. It facilitates for instance the exchange of experiences between classification societies in regard of the technical prescriptions an exchange which could be extended to the ADN prescriptions, as considered during the latest meeting of the ADN Safety Committee. These dense contacts and regular exchanges of experiences with the sector allows the CCNR to gather and analyse information and experiences. This systematic feedback-loop puts its working parties into the position to steadily ameliorate the regulations and to develop additional supporting tools.

Although CCNR has partly handed over the maintenance of ADN-legislation to UNECE, its involvement remains active on this file. Within the legislative work on ADN and beyond it, CCNR stays on board.