

Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (Text with EEA relevance)

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PARLIAMENT AND OF THE COUNCIL

of 24 September 2008

on the inland transport of dangerous goods

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) The transport of dangerous goods by road, rail or inland waterway presents a considerable risk of accidents. Measures should therefore be taken to ensure that such transport is carried out under the best possible conditions of safety.
- (2) Uniform rules concerning the transport of dangerous goods by road and by rail were established by Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road⁽³⁾ and Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail⁽⁴⁾ respectively.
- (3) In order to set up a common regime covering all aspects of the inland transport of dangerous goods, Directives 94/55/EC and 96/49/EC should be replaced with a single Directive which also lays down provisions in relation to inland waterways.
- (4) The majority of Member States are contracting parties to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), subject to the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID) and, in so far as is relevant, contracting parties to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN).
- (5) The ADR, RID and ADN lay down uniform rules for the safe international transport of dangerous goods. Such rules should also be extended to national transport in order

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to harmonise across the Community the conditions under which dangerous goods are transported and to ensure the proper functioning of the common transport market.

- (6) This Directive should not apply to the transport of dangerous goods in certain exceptional circumstances linked to the nature of the vehicles or vessels involved, or to the limited nature of the transport undertaken.
- (7) Nor should the provisions of this Directive apply to the transport of dangerous goods under the direct and physical responsibility or supervision of the armed forces. The transport of dangerous goods carried out by commercial contractors working for the armed forces should, however, fall within the scope of this Directive unless the contractual duties are carried out under the direct and physical responsibility or supervision of the armed forces.
- (8) A Member State that has no railway system, and no immediate prospect of having one, would be under a disproportionate and pointless obligation if it had to transpose and implement the provisions of this Directive in respect of rail transport. Such a Member State should, for as long as it has no railway system, therefore be exempted from the obligation to transpose and implement this Directive in relation to rail transport.
- (9) Each Member State should retain the right to exempt from the application of this Directive the transport of dangerous goods by inland waterway if the inland waterways in its territory are not linked, by inland waterway, to the waterways of other Member States, or if no dangerous goods are transported on them.
- (10) Without prejudice to Community law, and the provisions of Annex I, Section I.1 (1.9), Annex II, Section II.1 (1.9) and Annex III, Section III.1 (1.9), Member States should retain the right, on grounds of transport safety, to maintain or adopt provisions in areas not covered by this Directive. Those provisions should be clear and specific.
- (11) Each Member State should retain the right to regulate or prohibit the transport of dangerous goods within its territory, on grounds other than safety, such as grounds of national security or environmental protection.
- (12) The use of means of transport registered in third countries should be allowed for the international transport of dangerous goods within the territories of the Member States, subject to compliance with the relevant provisions of the ADR, RID or ADN and of this Directive.
- (13) Each Member State should retain the right to apply more stringent rules to national transport operations performed using means of transport registered or put into circulation within its territory.
- (14) The harmonisation of the conditions applicable to the national transport of dangerous goods should not prevent specific national circumstances from being taken into account. This Directive should therefore permit Member States to grant certain derogations under certain specified conditions. Such derogations should be listed in this Directive as ‘national derogations’.

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- (15) In order to address unusual and exceptional situations, Member States should have the right to grant individual authorisations allowing the transport of dangerous goods within their territory which would otherwise be prohibited by this Directive.
- (16) In view of the level of investment required in this sector, Member States should be permitted to retain on a temporary basis certain specific national provisions concerning the construction requirements relating to means of transport and equipment and concerning transport through the Channel Tunnel. Member States should also be permitted to maintain and adopt provisions for the transport of dangerous goods by rail between Member States and States which are contracting parties to the Organisation for Cooperation of Railways (OSJD) until the rules set out in Annex II to the Agreement on International Goods Transport by Rail (SMGS) and the provisions of Annex II, Section II.1, to this Directive, and thereby the RID, have been harmonised. Within 10 years of the entry into force of this Directive, the Commission should assess the consequences of these provisions and, if necessary, submit appropriate proposals. Such provisions should be listed in this Directive as ‘additional transitional provisions’.
- (17) It is necessary to be able to adapt rapidly the Annexes to this Directive to scientific and technical progress, including the development of new technologies for tracking and tracing, in particular to take account of new provisions incorporated into the ADR, RID and ADN. Amendments to the ADR, RID and ADN and the corresponding adaptations to the Annexes should enter into force simultaneously. The Commission should provide Member States with financial support, as appropriate, for the translation of the ADR, RID and ADN and any amendments thereto into their official languages.
- (18) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾.
- (19) In particular, the Commission should be empowered to adapt the Annexes to this Directive to scientific and technical progress. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (20) The Commission should also be able to revise the lists of national derogations and to decide upon the application and implementation of emergency measures in the event of an accident or incident.
- (21) On grounds of efficiency, the normal time limits for the regulatory procedure with scrutiny should be curtailed for the adoption of adaptations to the Annexes to scientific and technical progress.
- (22) Since the objectives of this Directive, namely to ensure the uniform application of harmonised safety rules throughout the Community and a high level of safety in national and international transport operations, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Directive, be better achieved at Community level, the Community may adopt measures, in accordance with

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the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

- (23) The provisions of this Directive are without prejudice to the commitment entered into by the Community and its Member States, in accordance with the goals set at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in June 1992, to strive for the harmonisation of systems for the classification of dangerous substances.
- (24) The provisions of this Directive are without prejudice to the Community legislation governing the safety conditions under which biological agents and genetically modified organisms, regulated under Council Directive 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms⁽⁶⁾, Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms⁽⁷⁾ and Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work⁽⁸⁾, should be transported.
- (25) The provisions of this Directive are without prejudice to the application of other Community provisions in the fields of occupational safety and health and environmental protection. They are, in particular, without prejudice to the framework Directive on occupational safety and health, Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work⁽⁹⁾, and its subsidiary directives.
- (26) Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels⁽¹⁰⁾ provides that vessels carrying a certificate issued pursuant to the Regulation for the transport of dangerous substances on the Rhine (ADNR) may carry dangerous goods throughout the territory of the Community under the conditions stated in that certificate. As a consequence of the adoption of this Directive, Directive 2006/87/EC should be amended in order to delete that provision.
- (27) A transitional period of up to two years should be allowed for the application of the provisions of this Directive to the transport of dangerous goods by inland waterway so as to allow sufficient time for the adaptation of national provisions, the establishment of legal frameworks and the training of personnel. A general transitional period of five years should be granted in respect of all ship and personnel certificates issued before or during the transitional period for the application of the provisions of this Directive to the transport of dangerous goods by inland waterway, unless a shorter period of validity is indicated in the certificate.
- (28) Directives 94/55/EC and 96/49/EC should therefore be repealed. In the interests of clarity and coherence, it is also necessary to repeal Council Directive 96/35/EC of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway⁽¹¹⁾, Directive 2000/18/EC of the European Parliament and of the Council of 17 April 2000 on minimum examination

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requirements for safety advisers for the transport of dangerous goods by road, rail or inland waterway⁽¹²⁾, Commission Decision 2005/263/EC of 4 March 2005 authorising Member States to adopt certain derogations pursuant to Directive 94/55/EC with regard to the transport of dangerous goods by road⁽¹³⁾, and Commission Decision 2005/180/EC of 4 March 2005 authorising Member States to adopt certain derogations pursuant to Council Directive 96/49/EC with regard to the transport of dangerous goods by rail⁽¹⁴⁾.

- (29) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽¹⁵⁾, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables, illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 256, 27.10.2007, p. 44.](#)
- (2) Opinion of the European Parliament of 5 September 2007 ([OJ C 187 E, 24.7.2008, p. 148](#)), Council Common Position of 7 April 2008 ([OJ C 117 E, 14.5.2008, p. 1](#)) and Position of the European Parliament of 19 June 2008 (not yet published in the Official Journal).
- (3) [OJ L 319, 12.12.1994, p. 7.](#)
- (4) [OJ L 235, 17.9.1996, p. 25.](#)
- (5) [OJ L 184, 17.7.1999, p. 23.](#)
- (6) [OJ L 117, 8.5.1990, p. 1.](#)
- (7) [OJ L 106, 17.4.2001, p. 1.](#)
- (8) [OJ L 262, 17.10.2000, p. 21.](#)
- (9) [OJ L 183, 29.6.1989, p. 1.](#)
- (10) [OJ L 389, 30.12.2006, p. 1.](#)
- (11) [OJ L 145, 19.6.1996, p. 10.](#)
- (12) [OJ L 118, 19.5.2000, p. 41.](#)
- (13) [OJ L 85, 2.4.2005, p. 58.](#)
- (14) [OJ L 61, 8.3.2005, p. 41.](#)
- (15) [OJ C 321, 31.12.2003, p. 1.](#)