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COMMISSION DECISION

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

(notified under document number C(2005) 443)

(Text with EEA relevance)

(2005/180/EC)

(OJ L 61, 8.3.2005, p. 41)

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(Text with EEA relevance)

(2005/180/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 [1], and in particular Articles 6(9), (11) and (14) thereof,

Whereas:

(1) Pursuant to Article 6(9) of Directive 96/49/EC, Member States must give the Commission an advance notification of their derogations, for the first time by 31 December 2002 or until two years after the last date of application of the amended versions of the Annex to the Directive.

(2) Certain Member States had notified the Commission by 31 December 2002 of their wish to adopt derogations from Directive 96/49/EC. By Commission Decision 2003/627/EC of 20 August 2003 authorising Member States pursuant to Directive 96/49/EC to adopt certain derogations with regard to the transport of dangerous goods by rail [2], the Commission authorised the adoption by those Member States of the derogations listed in Annexes I and II to that Decision.

(3) Commission Directive 2003/29/EC [3] amended the Annex to Directive 96/49/EC. By virtue of Directive 2003/29/EC Member States had to bring into force national legislation no later than 1 July 2003, the last date of application referred to in Article 6(9) of Directive 96/49/EC being 30 June 2003.

(4) A few Member States notified their wish to adopt derogations. The Commission has examined the notifications for compliance with the conditions laid down in Articles 6(9), (11) and (14) of Directive 96/49/EC, and has approved them. Those Member States should therefore be authorised to adopt those derogations.

(5) By the same occasion, it is considered desirable to assemble all the derogations authorised to date in a single decision. Decision 2003/627/EC should therefore be repealed and replaced.

(6) To make sure that the situation of the derogations is updated regularly, the Commission shall propose a comprehensive update of all existing derogations at least every five years.

(7) The measures provided for in this Decision are in accordance with the opinion of the Committee on the transport of dangerous goods, set up by Article 9 of Council Directive 94/55/EC [4],

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[1] OJ L 235, 17.9.1996, p. 25. Directive as last amended by Commission Directive 2004/110/EC (OJ L 365, 10.12.2004, p. 24).
[2] OJ L 217, 29.8.2003, p. 67.
[3] OJ L 90, 8.4.2003, p. 47.
[4] OJ L 319, 12.12.1994, p. 7. Directive as last amended by Commission Directive 2004/111/EC (OJ L 365, 10.12.2004, p. 25).

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HAS ADOPTED THIS DECISION:

Article 1

Member States listed in Annex I are authorised to implement the derogations set out in Annex I, regarding the transportation by rail within their territory of small quantities of certain dangerous goods.

These derogations shall be applied without discrimination.

Article 2

Member States listed in Annex II are authorised to implement the derogations set out in Annex II regarding, first, the transportation on particular designated routes within their territory of dangerous goods forming part of a defined industrial process, being of local nature and being tightly controlled under clearly specified conditions, and, secondly, the local transportation of dangerous goods over short distances within the perimeters of ports, airports or industrial sites.

Article 3

Decision 2003/627/EC is repealed.

References to the repealed Decision shall be construed as references to this Decision.

Article 4

This Decision is addressed to the Member States.

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ANNEX I

Derogations for Member States on small quantities of certain dangerous goods

GERMANY

RA-SQ 3.1

Subject: Exemption of small quantities of certain goods for private use.

Reference to the Annex to Directive 96/49/EC (hereinafter referred to as the Directive): Table in Chapter 3.2 for certain UN numbers in Classes 1 to 9.

Content of the Annex to the Directive: Transport authorisation and provisions.

Reference to the national legislation: Gefahrgut-Ausnahmeverordnung — GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350), geändert durch Artikel 2 der Verordnung vom 28.4.2003 (BGBl. I S. 595); Ausnahme 3.

Content of the national legislation: Classes 1 to 9; Exemption for very small quantities of various goods in packagings and quantities for private use; a maximum of 50 kg per transport unit; application of the general packing requirements for internal packaging.

Comments: Derogation limited to 31.12.2004.

List No. 14*.

RA-SQ 3.2

Subject: Combined packaging authorisation.

Reference to the Annex to the Directive: 4.1.10.4 MP2

Content of the Annex to the Directive: Prohibition of combined packaging.

Reference to the national legislation: Gefahrgut-Ausnahmeverordnung — GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350), geändert durch Artikel 2 der Verordnung vom 28.4.2003 (BGBl. I S. 595); Ausnahme 21.

Content of the national legislation: Class 1.4S, 2, 3 and 6.1; authorisation of combined packaging of objects in Class 1.4S (cartridges for small weapons), aerosols (Class 2) and cleaning and treatment materials in Class 3 and 6.1 (UN numbers listed) as sets to be sold in combined packaging in packaging group II and in small quantities.

Comments: List No. 30*, 30a, 30b, 30c, 30d, 30e, 30f, 30g.

FRANCE

RA-SQ 6.1

Subject: Transport of registered luggage in passenger trains.

Reference to the Annex to the Directive: 7.7

Content of the Annex to the Directive: RID materials and objects excluded from transport as luggage.

Reference to the national legislation: Arrêté du 5 juin 2001 relatif au transport de marchandises dangereuses par chemin de fer (Decree of 5 June 2001 on the transport of hazardous goods by rail, 'RID-Decree') — Article 18.

Content of the national legislation: RID materials and objects which may be carried as express parcels can be carried as luggage in passenger trains.

RA-SQ 6.2

Subject: Parcels of hazardous materials kept by passengers in trains.

Reference to the Annex to the Directive: 7.7

Content of the Annex to the Directive: RID materials and objects excluded from transport as hand luggage.

Reference to the national legislation: Arrêté du 5 juin 2001 relatif au transport de marchandises dangereuses par chemin de fer (Decree of 5 June 2001 on the transport of hazardous goods by rail, 'RID-Decree') — Article 19.

Content of the national legislation: The transport as hand luggage of parcels of hazardous materials intended for the personal or professional use of passengers is authorised subject to certain conditions: only the provisions relating to the packaging, marking and labelling of parcels set out in 4.1, 5.2 and 3.4 apply.

Comments: Portable gas receptacles allowed for patients with respiratory problems in the necessary amount for one journey.

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RA-SQ 6.3

Subject: Transport for the needs of the rail carrier.

Reference to the Annex to the Directive: 5.4.1

Content of the Annex to the Directive: Information concerning hazardous materials to be indicated on the consignment note.

Reference to the national legislation: Arrêté du 5 juin 2001 relatif au transport de marchandises dangereuses par chemin de fer (Decree of 5 June 2001 on the transport of hazardous goods by rail, 'RID-Decree') — Article 20.2.

Content of the national legislation: Transport for the needs of the rail carrier of quantities not exceeding the limits set in 1.1.3.6 is not subject to the load declaration obligation.

RA-SQ 6.4

Subject: Exemption from the labelling of certain mail wagons.

Reference to the Annex to the Directive: 5.3.1

Content of the Annex to the Directive: Obligation to affix labels on the walls of wagons.

Reference to the national legislation: Arrêté du 5 juin 2001 relatif au transport de marchandises dangereuses par chemin de fer (Decree of 5 June 2001 on the transport of hazardous goods by rail, 'RID-Decree') — Article 21.1.

Content of the national legislation: Only mail wagons carrying over three tonnes of a material in the same class (other than 1, 6.2 or 7) must be labelled.

RA-SQ 6.5

Subject: Exemption from the labelling of wagons carrying small containers.

Reference to the Annex to the Directive: 5.3.1

Content of the Annex to the Directive: Obligation to affix labels on the walls of wagons.

Reference to the national legislation: Arrêté du 5 juin 2001 relatif au transport de marchandises dangereuses par chemin de fer (Decree of 5 June 2001 on the transport of hazardous goods by rail, 'RID-Decree') — Article 21.2.

Content of the national legislation: If the labels affixed on the small containers are clearly visible, the wagons do not have to be labelled.

RA-SQ 6.6

Subject: Exemption from the labelling of wagons carrying road vehicles loaded with parcels.

Reference to the Annex to the Directive: 5.3.1

Content of the Annex to the Directive: Obligation to affix labels on the walls of wagons.

Reference to the national legislation: Arrêté du 5 juin 2001 relatif au transport de marchandises dangereuses par chemin de fer (Decree of 5 June 2001 on the transport of hazardous goods by rail, 'RID-Decree') — Article 21.3.

Content of the national legislation: If the road vehicles have labels corresponding to the parcels which they contain, the wagons do not have to be labelled.

SWEDEN

RA-SQ 14.1

Subject: A railway carriage carrying dangerous goods, as express goods, need not be marked with labels.

Reference to the Annex to the Directive: 5.3.1

Content of the Annex to the Directive: Railway carriages carrying dangerous goods must display labels.

Reference to the national legislation: Särskilda bestämmelser om vissa inrikes transporter av farligt gods på väg och i terräng.

Content of the national legislation: A railway carriage carrying dangerous goods, as express goods, need not be marked with labels.

Comments: There are quantity limits in RID for goods to be called express goods. Therefore it is a small quantity issue.

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THE UNITED KINGDOM

RA-SQ 15.1

Subject: Carriage of certain low-hazard radioactives such as clocks, watches, smoke detectors, compass dials.

Reference to the Annex to the Directive: Most requirements of RID

Content of the Annex to the Directive: Requirements concerning the carriage of Class 7 material.

Reference to the national legislation: Packaging, Labelling and Carriage of Radioactive Material by Rail Regulations 1996, Regulation 2(6) (as amended by Schedule 5 of the Carriage of Dangerous Goods (Amendment) Regulations 1999).

Content of the national legislation: Total exemption from the provisions of the national regulations for certain commercial products containing limited quantities of radioactive material.

Comments: This derogation is a short-term measure, which will no longer be required when similar amendments to the IAEA regulations are incorporated into RID.

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RA-SQ 15.2 (amended)

Subject: Movement of nominally empty fixed tanks not intended as transport equipment (N2).

Reference to the Annex to the Directive: Parts 5 and 7.

Content of the Annex to the Directive: Requirements concerning consignment procedures, carriage, operation and vehicles.

Reference to the national legislation: The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004: Regulation 5(14).

Content of the national legislation:

Comments: Movement of such fixed tanks is not carriage of dangerous goods in the normal sense, and RID provisions cannot in practice be applied. As the tanks are 'nominally empty', the amount of dangerous goods actually contained in them is by definition extremely small.

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RA-SQ 15.3

Subject: Easing of restrictions on transporting mixed loads of explosives, and explosives with other dangerous goods, in wagons, vehicles and containers (N4/5/6).

Reference to the Annex to the Directive: 7.5.2.1 and 7.5.2.2

Content of the Annex to the Directive: Restrictions on certain types of mixed loading.

Reference to the national legislation: Carriage of Dangerous Goods by Road Regulations 1996, reg. 18; Carriage of Dangerous Goods by Rail Regulation, Regulations 17 and 24; Carriage of Explosives by Road Regulations, Regulation 14.

Content of the national legislation: National legislation is less restrictive regarding mixed loading of explosives, providing such carriage can be accomplished without risk.

Comments: The United Kingdom wishes to permit some variations on the mixing rules for explosives with other explosives and for explosives with other dangerous goods. Any variation will have a quantity limitation on one or more constituent parts of the load and would only be permitted provided that 'all reasonably practicable measures have been taken to prevent the explosives being brought into contact with, or otherwise endangering or being endangered by, any such goods'.

Examples of variations the UK may want to permit are:

1. Explosives allocated on classification to UN Numbers 0029, 0030, 0042, 0065, 0081, 0082, 0104, 0241, 0255, 0267, 0283, 0289, 0290, 0331, 0332, 0360, or 0361 may be carried in the same vehicle with the dangerous goods allocated on classification the UN Number 1942. The quantity of UN 1942 permitted to be carried shall be limited by deeming it to be an explosive of 1.1D;

2. Explosives allocated on classification to UN Number 0191, 0197, 0312, 0336, 0403, 0431, or 0453 may be carried in the same vehicle with dangerous goods (except flammable gases, infectious substances and toxic substances) in transport category 2 or dangerous goods in transport category 3, or any combination of them, provided the total mass or volume of dangerous goods

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in transport category 2 does not exceed 500 kilograms or litres and the total net mass of such explosives does not exceed 500 kg;

3. Explosives of 1.4G may be carried with flammable liquids and flammable gases in transport category 2 or non-flammable, non-toxic gases in transport category 3, or in any combination of them in the same vehicle, provided the total mass or volume of dangerous goods when added together does not exceed 200 kilograms or litres and the total net mass of explosives does not exceed 20 kg;

4. Explosive articles allocated on classification to UN Numbers 0106, 0107 or 0257 may be carried with explosive articles in Compatibility Group D, E or F for which they are components. The total quantity of explosives of UN Numbers 0106, 0107 or 0257 shall not exceed 20 kilograms.

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RA-SQ 15.4 (amended)

Subject: To allow different 'maximum total quantity per transport unit' for Class 1 goods in Categories 1 and 2 of table in 1.1.3.1.

Reference to the Annex to the Directive: 1.1.3.1.

Content of the Annex to the Directive: Exemptions related to the nature of the transport operation.

Reference to the national legislation: The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004: Regulation 3(7)(b).

Content of the national legislation: To lay down rules regarding exemptions for limited quantities and mixed loading of explosives.

Comments: To allow different limited quantity limits and mixed loading multiplication factors for Class 1 goods, namely '50' for Category 1 and '500' for Category 2. For the purpose of calculating mixed loads, the multiplication factors are to read '20' for Transport Category 1 and '2' for Transport Category 2.

RA-SQ 15.5 (amended)

Subject: Adoption of RA-SQ 6.6.

Reference to the Annex to the Directive: 5.3.1.3.2.

Content of the Annex to the Directive: Relaxation of placarding requirement for piggyback carriage.

Reference to the national legislation: The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004: Regulation 7(12).

Content of the national legislation: The placarding requirement does not apply in cases where the vehicle placards are clearly visible.

Comments: This has always been a UK national provision.

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ANNEX II

Derogations for Member States on local transport limited to their territory

GERMANY

RA-LT 3.1

Subject: Transportation of Class 9 PCB-contaminated materials in bulk.

Reference to the Annex to Directive 96/49/EC (hereinafter referred to as the Directive): 7.3.1.

Content of the Annex to the Directive: Transportation in bulk.

Reference to the national legislation: Gefahrgut-Ausnahmeverordnung — GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350), geändert durch Artikel 2 der Verordnung vom 28.4.2003 (BGBl. I S. 595); Ausnahme 11.

Content of the national legislation: Authorisation for transportation in bulk in vehicle swap bodies or containers sealed to be impermeable to fluids or dust.

Comments: Derogation 11 limited to 31.12.2004; as from 2005, same provisions in ADR and RID.

See also Multilateral Agreement M137.

List No 4*.

RA-LT 3.2

Subject: Transportation of packaged hazardous waste.

Reference to the Annex to the Directive: Parts 1 to 5.

Content of the Annex to the Directive: Classification, packaging and marking.

Reference to the national legislation: Gefahrgut-Ausnahmeverordnung — GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350), geändert durch Artikel 2 der Verordnung vom 28.4.2003 (BGBl. I S. 595); Ausnahme 20.

Content of the national legislation: Classes 2 to 6.1, 8 and 9: Combined packaging and transportation of hazardous waste in packs and IBCs; waste must be packaged in internal packagings (as collected) and categorised in specific waste groups (avoidance of dangerous reactions within a waste group); use of special written instructions relating to the waste groups and as a waybill; collection of domestic and laboratory waste, etc.

Comments: List No. 6*.

SWEDEN

RA-LT 14.1

Subject: Carriage of hazardous waste to hazardous waste disposal plants.

Reference to the Annex to the Directive: part 2, chapter 5.2, and 6.1.

Content of the Annex to the Directive: Classification, marking and labelling, and requirements for the construction and testing of packaging.

Reference to national legislation: Särskilda bestämmelser om vissa inrikes transporter av farligt gods på väg och i terräng.

Content of the national legislation: The legislation consists of simplified classification criteria, less restrictive requirements for the construction and testing of packaging, and modified labelling and marking requirements. Instead of classifying hazardous waste according to RID it is assigned to different waste groups. Each waste group contains substances that can, in accordance with RID, be packed together (mixed packing). Each package must be marked with the relevant waste group code instead of the UN number.

Comments: These regulations may only be used for the carriage of hazardous waste from public recycling sites to hazardous waste disposal plants.