COMMISSION

COMMISSION DECISION

of 13 December 2005

amending Decision 2005/263/EC on authorising Member States to adopt certain derogations pursuant to Directive 94/55/EC with regard to the transport of dangerous goods by road

(notified under document number C(2005) 3565)

(Only the English, Lithuanian and Swedish texts are authentic)

(Text with EEA relevance)

(2005/903/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 [1], and in particular Article 6(9) thereof,

Whereas:

(1) Pursuant to Article 6(9) of Directive 94/55/EC, Member States must give the Commission advance notification of their derogations for the first time by 31 December 2002 or up to two years after the last date of application of the amended versions of the Annexes to the Directive.

(2) Commission Directive 2003/28/EC [2] amended Annexes A and B to Directive 94/55/EC. By virtue of Directive 2003/28/EC Member States had to bring into force national legislation no later than 1 July 2003, as the last date of application referred to in Article 6(9) of Directive 94/55/EC was 30 June 2003.

(3) Certain Member States had notified the Commission by 31 December 2003 of their wish to adopt derogations from Directive 94/55/EC. By 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 [3], the Commission authorised the adoption by the Member States of the derogations listed in Annexes I and II to that Decision.

(4) Sweden, the United Kingdom and Lithuania notified the Commission by 31 December 2004 of their wish to adopt new derogations and to amend their existing derogations in Annexes I and II to Decision 2005/263/EC. The Commission has examined the notifications for compliance with the conditions laid down in Article 6(9) of Directive 94/55/EC and has approved them. Those Member States should therefore be authorised to adopt the derogations in question.

(5) It is therefore necessary to amend Annexes I and II to Decision 2005/263/EC.

(6) The measures provided for in this Decision are in accordance with the opinion of the Committee on the transport of dangerous goods set up under Article 9 of Directive 94/55/EC,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/263/EC is hereby amended as follows:

1. Annex I shall be amended by the derogations listed in Annex I to this Decision.

2. Annex II shall be amended by the derogations listed in Annex II to this Decision.

[1] 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).
[2] OJ L 90, 8.4.2003, p. 45.
[3] OJ L 85, 2.4.2005, p. 58.

Article 2

This Decision is addressed to the Republic of Lithuania, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 13 December 2005.

For the Commission
Jacques BARROT
Vice-President

ANNEX I

Derogations for Member States on small quantities of certain dangerous goods

THE UNITED KINGDOM

RO-SQ 15.1 (amended)

Subject: Carriage of certain low-hazard radioactives such as clocks, watches, smoke detectors, compass dials (E1).

Reference to the Annex to the Directive: Most requirements of ADR.

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

Reference to the national legislation: The Radioactive Material (Road Transport) Regulations 2002 Regulation 5(4)(d). The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004: Regulation 3(10).

Content of the national legislation: Total exemption from the provisions of the national regulations for certain commercial products containing limited quantities of radioactive material. (A luminous device intended to be worn by a person; in any one vehicle or railway vehicle no more than 500 smoke detectors for domestic use with an individual activity not exceeding 40 kBq; or in any one vehicle or railway vehicle no more than five gaseous tritium light devices with an individual activity not exceeding 10 GBq).

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

RO-SQ 15.2 (amended)

Subject: Exemption from the requirement to carry a transport document for certain quantities of dangerous goods (other than Class 7) as defined in 1.1.3.6 (E2).

Reference to the Annex to the Directive: 1.1.3.6.2 and 1.1.3.6.3.

Content of the Annex to the Directive: Exemptions from certain requirements for certain quantities per transport unit.

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

Content of the national legislation: Transport document is not required for limited quantities, except where these form part of a larger load.

Comments: This exemption is suited to national transport, where a transport document is not always appropriate in cases where local distribution is involved.

RO-SQ 15.3 (amended)

Subject: Carriage of light-gauge metal cylinders for use in hot-air balloons between the filling site and the launch/landing site (E3).

Reference to the Annex to the Directive: 6.2.

Content of the Annex to the Directive: Requirements for construction and testing of gas receptacles.

Reference to the national legislation: The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004: Regulation 5(15).

Content of the national legislation: Allows carriage of non-ADR-compliant cylinders for the carriage of UN 1011, 1965 and 1978, subject to stringent aviation requirements.

Comments: Gas cylinders used for hot-air balloons are designed to be as lightweight as possible, which precludes their meeting the normal requirements for gas cylinders. The average balloon cylinder has a water capacity of 70 litres, and the largest does not exceed 90 litres. Not more than five cylinders are carried on the vehicle at any one time.

RO-SQ 15.4 (amended)

Subject: Exemption from the requirement for vehicles carrying low-level radioactive material to carry fire-fighting equipment (E4).

Reference to the Annex to the Directive: 8.1.4.

Content of the Annex to the Directive: Requirement for vehicles to carry fire-fighting appliances.

Reference to national legislation: The Radioactive Material (Road Transport) Regulations 2002 Regulation 5(4)(d).

Content of national legislation: Removes requirement to carry fire extinguishers when carrying only exempted packages (UN 2908, 2909, 2910 and 2911).

Restricts the requirement where only a small number of packages are carried.

Comments: Carriage of fire-fighting equipment is in practice irrelevant to the transport of UN 2908, 2909, 2910, UN 2911, which may often be carried in small vehicles.

RO-SQ 15.5 (amended)

Subject: Distribution of goods in inner packagings to retailers or users (excluding those of classes 1, 4.2, 6.2 and 7) from local distribution depots to retailers or users and from retailers to end users (N1).

Reference to the Annex to the Directive: 6.1.

Content of the Annex to the Directive: Requirements for the construction and testing of packagings.

Reference to national legislation: The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004: Regulation 7(4) and Regulation 36 Authorisation Number 13.

Content of national legislation: Packagings are not required to have been allocated an RID/ADR or UN mark or to be otherwise marked if they contain goods as set out in Schedule 3.

Comments: ADR requirements are inappropriate for the final stages of carriage from a distribution depot to a retailer or user or from a retailer to an end user. The purpose of this derogation is to allow the inner receptacles of goods for retail distribution to be carried on the final leg of a local distribution journey without an outer packaging.

RO-SQ 15.6 (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 to 9.

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

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

Content of national legislation: The regulations do not apply to the carriage of nominally empty storage tanks.

Comments: Movement of such fixed tanks is not carriage of dangerous goods in the normal sense, and ADR 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.

LITHUANIA

RO-SQ 20.1 (new)

Subject: Adoption of RO-SQ 15.8.

Reference to the national legislation: Lietuvos Respublikos Vyriausybės 2000 m. kovo 23 d. nutarimas Nr. 337 'Dėl pavojingų krovinių vežimo kelių transportu Lietuvos Respublikoje' (Government Resolution No 337 on the Transport of Dangerous Goods by Road in the Republic of Lithuania, adopted on 23 March 2000).

ANNEX II

Derogations for Member States on local transport limited to their territory

SWEDEN

RO-LT 14.12 (new)

Subject: Carriage of UN 0335 FIREWORKS.

Reference to the Annex to the Directive: Annex B, section 7.2.4, V2 (1).

Content of the Annex to the Directive: Provisions for the use of EX/II and EX/III vehicles.

Reference to the national legislation: Appendix S — Specific regulations for the domestic transport of dangerous goods by road issued in accordance with the Transport of Dangerous Goods Act.

Content of the national legislation: When carrying UN 0335 FIREWORKS, Special Provision V2 (1) in 7.2.4 is only applicable for a net explosive content of more than 3 000 kg (4 000 kg with trailer), provided the fireworks has been assigned to UN 0335 according to the default fireworks classification table in 2.1.3.5.5 of the fourteenth revised edition of the UN Recommendations on the Transport of Dangerous Goods.

Such assignment shall be made with the agreement of the competent authority. A verification of the assignment shall be carried on the transport unit.

Comments: The carriage of fireworks is limited in time to two short periods of the year, the turn of the year and the turn of the month April/May. The carriage from consigners to terminals can be done by the present fleet of EX-approved vehicles without great problems. However, the distribution of fireworks from terminals to shopping areas and the surplus back to the terminal is limited due to lack of EX-approved vehicles. The carriers are not interested to invest in such approvals because they cannot recover their expenses. This leads to a risk for the whole existence for the consigners of fireworks because they cannot get their products on the market.

When using this derogation, the classification of the fireworks must have been made on basis of the default list in the UN Recommendations, in order to get the best-updated classification possible.

A similar type of exception is for UN 0336 FIREWORKS incorporated in Special Provision 651, section 3.3.1 of ADR 2005.

LITHUANIA

RO-LT 20.1 (new)

Subject: Adoption of RO-LT 4.1.

Reference to national legislation: Lietuvos Respublikos Vyriausybės 2000 m. kovo 23 d. nutarimas Nr. 337 'Dėl pavojingų krovinių vežimo kelių transportu Lietuvos Respublikoje' (Government Resolution No 337 on the Transport of Dangerous Goods by Road in the Republic of Lithuania, adopted on 23 March 2000).

RO-LT 20.2 (new)

Subject: Adoption of RO-LT 4.2.

Reference to the national legislation: Lietuvos Respublikos Vyriausybės 2000 m. kovo 23 d. nutarimas Nr. 337 'Dėl pavojingų krovinių vežimo kelių transportu Lietuvos Respublikoje' (Government Resolution No 337 on the Transport of Dangerous Goods by Road in the Republic of Lithuania, adopted on 23 March 2000).