



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL DIRECTIVE

**on the approximation of the laws of the Member States with regard to the transport of
dangerous goods by vessels on inland waterways**

(presented by the Commission)

EXPLANATORY MEMORANDUM

A. FOREWORD

The main purpose of this proposal is to align national and international rules on transport of dangerous goods by inland waterways, parallel to those for road (Directive 94/55/EC¹) and rail (Directive 96/49/EC²), as a further harmonisation measure to improve transport safety, to guarantee fair competition and to facilitate transport operations. The proposed Directive will meet also the Council's request on training requirements for transporting dangerous goods for crews of inland waterways vessels, raised during discussions of the Directive on the boatmasters' certificate.

B. GENERAL INTRODUCTION

The international transport of dangerous goods by inland waterways is currently governed by two sets of rules which have either limited legal effect or limited geographical scope of application, namely the Recommendation concerning the international carriage of dangerous goods by inland waterway (ADN) issued by the UN Economic Commission for Europe (ECE) and the Regulation on the Transport of Dangerous Goods on the Rhine (ADNR) adopted by the Central Rhine Commission (CCNR). Contracting Parties to the ADNR are Belgium, France, Germany, the Netherlands and Switzerland.

After many years of discussions about the content of technical provisions for the transport of dangerous goods by inland waterways, the Inland Transport Committee (ITC) of the ECE finally agreed that the text of the ADN should be updated in line with the requirements of the ADNR. The responsible Working Group of the ECE has fulfilled this task in the meantime, so that the Annexes of the revised ADN recommendation could be annexed to this proposal.

¹ 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 (OJ No L 319, 12.12.1994, p. 7). Directive amended by Commission Directive 96/86/EC (OJ No L 335, 24.12.1996, p. 43).

² 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 (OJ No L 235, 17.9.1996, p. 25). Directive amended by Commission Directive 96/87/EC (OJ No L 335, 24.12.1996, p. 45).

In addition, the ECE decided in January 1995 to set up a working group for drafting a European Agreement in order to give formal legal status to the ADN recommendation. It is expected that the work at expert level will be finished by the beginning of 1998. In the event that the proposed ADN Agreement will be adopted by contracting parties the existing ADN recommendation will be replaced by the new Agreement.

In this context it should be noted that legally binding pan-European instruments already exist for the transport of dangerous goods by road (ADR Agreement under the auspices of the ECE) and by rail (RID Regulations concerning the International Carriage of Dangerous Goods by Rail, appearing as Annex I to Appendix B of the Convention concerning International Carriage by Rail (COTIF)).

The ADN recommendation only covers the transport of dangerous goods by inland waterways between Member States. Consequently, the transport of such goods by inland waterway at national level falls outside its scope. Furthermore, the ADN is only applicable on the river Rhine.

The objective of this proposal is therefore to ensure

- that the same level of safety is guaranteed for transport both within and between Member States by applying ADN in both cases and
- to align EC rules to internationally agreed standards.

At national level rules have developed in a diverse manner. In the absence of Community legislation concerning the transport of dangerous goods by inland waterway, the safety level required by the various Member States for the transport of such goods in national transport varies from one Member State to another. In effect, these disparities mean that throughout the Community the same sufficiently high level of protection and safety cannot be guaranteed. This means, for instance, that additional equipment or procedures required for a transport operation in one Member State, which have proved their added safety benefit, might not be mandatory in other Member States.

In order to provide a solution to the problems referred to above, uniform safety rules applicable throughout the Community should be established for the transport of dangerous goods by inland waterways. Therefore, in line with the declared political objectives of the Commission in the field of the transport of dangerous goods and in connection with the previous activities of the Council for the transport of dangerous goods by road (Directive 94/55/EC) and rail (Directive 96/49/EC) the Commission proposes to ensure through a framework Directive for inland waterways that, in the future, rules for domestic operations are aligned with those applicable to international ones.

Moreover, during the Council debate on the proposal for a Directive on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community (Directive 96/50/EC³), the Commission was asked in a statement by the Council to submit as soon as possible a proposal for a Directive on the training requirements for crews transporting dangerous goods. The Council's request could be best fulfilled through the proposed framework Directive for transport of dangerous goods by inland waterways. Training requirements for personnel involved in inland waterway transport are already laid down in the Annexes to the ADN (marginal 10 315).

³ OJ No L 235, 17.09.96, p. 31.

As these Annexes will form the Annexes to the legal provisions of the proposed Directive, they will automatically be transposed into Community law. This does not preclude the opportunity for constant adaptation of these Annexes to meet best Community practice in the future.

The best means to achieve the above objectives is to make the ADN rules obligatory not only for the transport of dangerous goods by inland waterways between Member States, but also for transport of such goods on the internal waterways of a Member State. One obvious advantage of using the ADN as the basis of harmonisation is that Community rules will be the same as international rules. It is, in fact, a simplification exercise which will require little additional legislation or administrative burden on the Member States. The aim is therefore to create a set of harmonised rules applicable in a uniform manner throughout the Community area, in accordance with the requirements of the Single Market.

The additional advantage of using ADN is that the same standards would be used in Central and Eastern Europe. The Community has signed Association Agreements with certain Central and Eastern European Countries which are linked to the Community by inland waterway, namely Poland, Czech Republic, Hungary, Slovakia, Rumania and Bulgaria. Under the terms of the Association Agreements, these countries are obliged to approximate their laws to the *acquis communautaire*. This process will therefore be facilitated through basing the proposed Directive on the ADN, since the existing national laws of these countries are largely based on the ADN.

This proposal will not entail particular financial implications for the Community budget and any additional costs for Member States are not considered to be substantial.

C. JUSTIFICATION FOR ACTION AT COMMUNITY LEVEL

Subsidiarity

- (a) *What are the objectives of the proposed action in relation to the Community's obligations?*

In seeking to harmonise rules on the transport of dangerous goods within, as well as between, Member States, it is intended that a high level of safety in this form of transport will be ensured.

Moreover, it is envisaged that a harmonisation of rules at national level will lead to a single market in the provision of transport services with regard to the transport of dangerous goods within the Community. Inland waterway cabotage is already guaranteed by Council Regulation EEC 3921/91. By replacing national rules with a Community measure, existing obstacles to free movement of goods between Member States as far as transport equipment is concerned (vessels, cylinders, tanks, packaging, safety devices) would be removed.

- (b) *Does competence for the planned activity lie solely with the Community or is it shared with the Member States?*

It is a competence shared between the Community and the Member States according to Article 75, paragraph 1 (c) of the Treaty.

- (c) *What is the Community dimension of the problem (for example, how many Member States are involved and what solution has been used up to now)?*

All Member States are already subject to Council Directives 94/55/EC and 96/49/EC which establish the technical requirements for the transport of dangerous goods by road and rail. The same will be true for this Directive.

The proposed Directive is binding on all Member States. However, as is the case with other EC Directives on waterway matters (for instance: Council Directive 82/714/EEC laying down technical requirements for inland waterway vessels⁴), this Directive provides the possibility for Member States not linked to the international European network to exempt such transport from the application of the Directive. Other Member States are left with the possibility to exempt from all or part of the Directive the transport of dangerous goods by vessels operating on navigable waterways not linked with waterways of other Member States.

- (d) *What is the most effective solution taking into account the means available to the Community and those of the Member States?*

Action at Community level is the only possible way to solve these problems.

The problems are three-fold:

Certain Member States are already Contracting Parties to ADNR and apply this for the purposes of transport of dangerous goods on the river Rhine.

However, a large number of bilateral and multilateral agreements provide for derogations to ADNR rules among Contracting Parties of the CCNR which impair the uniform character of these rules.

⁴ OJ No L 301, 28.10.1982, p 1.

Furthermore, at national level rules on the transport of dangerous goods by inland waterways exist and are, to a greater or lesser extent, based on international rules. Nevertheless, these national rules remain different in each Member State, although gradual alignment with the international rules is emerging.

Extending the requirements of the ADN to cover transport operations within one Member State would not require too great an effort of adaptation by Member States given the existence of equivalent rules at the international level. It should be considered as a simplification exercise, using existing widely-recognised rules rather than introducing new ones.

As was stated earlier, the Commission is best placed to coordinate these harmonisation efforts and this is the aim of such a proposal. Moreover, by bringing existing dangerous goods transport rules into Community legislation, the Commission will be more able to ensure coherence between these rules and other related aspects of Community legislation. Comparable measures have already been taken to cover the safe transport of dangerous goods by road and rail within the Community.

- (e) *What real added value will the activity proposed by the Community provide and what would be the cost of inaction?*

The advantages of the proposed Directive can be summarized as follows:

- **In the interests of safety and environmental protection**

The ADN Recommendation brought into line with the ADNR is recognised as a technical regime based on the safest possible conditions, but it is only applicable for international operations. The Directive proposed here would make the requirements of the ADN Recommendation compulsory for both national and international transport within the Community and will therefore enhance safety and the protection of the environment. This is in our common interest.

- **In the interests of harmonisation**

A single set of binding rules would guarantee the same technical requirements for classification, packaging, labelling, documentation and equipment of vessels and would facilitate mutual recognition of certificates. This appears desirable in the long run in order to facilitate the transport of dangerous goods by inland waterway. Such an approach is therefore in line with the concept of the Single Market and with certain specific objectives of the Common Transport Policy, such as the promotion of (environmentally friendly) waterborne and combined transport, the avoidance of road congestion etc. In addition, it will help shipyards to build vessels for an enlarged market without any derogations.

In the interests of the involved parties

Having only one legally binding system will decrease the administrative burden not only for shippers and carriers but also for the enforcement bodies. This could be treated as a contribution to simplification of the law.

- (f) *What forms of action are available to the Community (recommendation, financial support, regulation, mutual recognition, etc...)?*

It is considered that a Directive is the best means available of achieving the goal of uniform national requirements in this field, which is already regulated to some degree by Member States. A Directive would allow the flexibility of amending existing national rules rather than abandoning these for a Regulation. A Recommendation is considered insufficient given the sensitive safety aspects involved in this transport. Financial support would clearly be inadequate.

- (g) *Is it necessary to have a uniform Regulation or is a Directive setting out the general objectives sufficient, leaving implementation at the level of the Member States?*

The nature of the ADN as it exists at present is complex and detailed in its technical provisions. It is not the Community's intention to further complicate these rules by developing additional requirements, but rather, as far as possible, to take the existing ADN for international transport and to allow the Member States to transpose this into national law, while leaving to the Member States the means of enforcement and the implementation of this measure.

D. Coherence with other Community policies

As stated earlier, this Directive aims to establish a set of safety rules relating to the transport of dangerous goods by inland waterways, applicable in a uniform way throughout the Community.

While pursuing this objective, this action is also intended to ensure consistency with other Community policies, and in particular with the following measures:

- Council Directives 94/55/EC⁵ and 96/49/EC⁶ on the approximation of the laws of Member States with regard to the transport of dangerous goods by road and rail.

These Directives have in mind for road and rail transport the same objective as that pursued by this Directive for the transport of dangerous goods by inland waterway. Adoption of this proposal on inland waterway transport will ensure the desired equality of competition between the modes for the transport of dangerous goods.

- Council Directive 96/35/EC⁷ on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway.

This Directive will ensure that undertakings involved in the transport or the related loading or unloading of dangerous goods will comply with the rules by the appointment of safety advisers who have received appropriate vocational training.

⁵ OJ No L 319, 12.12.1994, p. 7. Directive amended by Commission Directive 96/86/EC (OJ No L 335, 24.12.1996, p. 43).

⁶ OJ No L 235, 17.09.1996, p. 25. Directive amended by Commission Directive 96/87/EC (OJ No L 335, 24.12.1996, p. 45).

⁷ OJ No L 145, 19.06.1996, p. 10.

- Council Directives Nos. 90/219/EEC⁸ and 90/220/EEC⁹ relating to the confined use and deliberate release of genetically modified micro-organisms, as well as Directive 90/679/EEC¹⁰ relating to the protection of workers against exposure to biological agents.

These Directives do not cover the transport of the goods referred to. Currently this is only covered in international transport, within the framework of ADN. This Directive consequently aims to plug the gap by making it obligatory for the transport of such goods, at national level, to comply with the same safety provisions as those applicable for international transport. Moreover, the transport of dangerous goods by road and rail were handled in the same way.

- Council Directive 89/391/EEC¹¹ on measures for improvements in the safety and health of workers.

- Proposals for Council Directives concerning minimum safety and health requirements for transport activities and workplaces on means of transport, and protection of workers from risks related to chemical agents.

- Council Directive 96/82/EC¹² on the control of major-accident hazards involving dangerous substances.

- Council Regulation (EEC) No 259/93¹³ on the supervision and control of shipments of waste within, into and out of the European Community.

⁸ OJ L 117, 8.05.1990, p. 1. Directive amended by Commission Directive 94/51/EC (OJ L 297, 18.11.1994, p. 29).

⁹ OJ L 117, 8.05.1990, p. 15. Directive amended by Commission Directive 94/15/EC (OJ L 103, 22.04.1994, p. 20).

¹⁰ OJ L 374, 31.12.1990, p. 1. Directive as last amended by Commission Directive 95/30/EC (OJ L 155, 6.07.1995, p. 41).

¹¹ OJ L 183, 29.06.1989, p. 1.

¹² OJ L 10, 14.01.1997, p. 13.

¹³ OJ L 30, 06.02.1993, p. 1. Regulation as last amended by Council Regulation (EC) 120/97 (OJ L 22, 24.01.1997, p. 14)

Council Directive 67/548/EEC¹⁴ on the classification, packaging and labelling of dangerous substances for placing on the market.

These rules do not cover the classification, packaging and labelling of dangerous goods for transport, this aspect being covered in national and international transport legislation. Given that no Community legislation exists to cover these elements for the purposes of transport, this proposal is aimed at filling the gap.

The Commission, in accordance with its undertaking and that of Member States, under the long-term goals set under Agenda 21, Chapter 19 of the UNCED Conference in Rio de Janeiro in June 1992, will work actively within the UN organisations, e.g. the responsible UN transport bodies, to harmonise classification systems. Under the conclusions of the Rio conference the Community is required to harmonise national and international rules for the classification and labelling of dangerous goods.

¹⁴ OJ L 196, 16.08.1967, p. 1. Directive as last amended by Council and European Parliament Directive 96/56/EC (OJ L 236/35, 18.09.1996).

E. CONTENTS OF THE PROPOSAL

Article 1

Paragraph 1 determines the scope of this proposal.

Paragraph 2 provides for Member States to exempt from the provisions of this Directive the transport of dangerous goods by vessels on waterways on the territory of these Member States, which are not connected to the inland waterway network of other Member States. Paragraph 2 is based on similar clauses in other Community legislation concerning inland waterways.

Paragraph 3 excludes from the scope vessels used for the transport of dangerous goods under the control of the armed forces of a Member State.

Paragraph 4 clarifies the construction specifications for seagoing vessels which operate on the inland waterways on the territory of the Community.

Paragraph 5 allows Member States to maintain national rules which are not covered by the Annexes to this Directive provided that this legislation does not interfere with Community law. With regard to inspections of vessels carrying dangerous goods and requirements for ship inspecting bodies and classification societies, the national provisions may not be extended.

Article 2 defines the main terms used in the proposal.

Article 3 states that the transport of dangerous goods by inland waterways on the territory of a Member State is authorized, insofar as it takes place in accordance with the requirements of the Directive, and especially its Annexes.

Article 4

Paragraph 1 prescribes that vessels transporting dangerous goods on waterways referred to in Article 1(1) shall be issued with a Community certificate in accordance with the procedure laid down in marginal 10 282 of Annex B.1 and marginal 210 282 of Annex B.2 of this Directive (certificate of approval). The certificate of approval attests that the vessel has been inspected and that its construction and equipment comply with the applicable provisions of the Annexes A, B.1 and B.2 to this Directive.

Paragraph 2 foresees that vessels carrying a certificate granted according to the ADN may carry dangerous goods over the entire Community territory under the conditions specified in this certificate. The reason for this provision is to take into account the good safety practice of the Rhine States, on whose legislation this proposal is based, and to avoid duplication and additional cost burden for the operators.

Paragraph 3 introduces a list of bodies authorised to carry out the inspections in accordance with marginals 10 282 and 210 282 ADN.

Paragraph 4 states that the certificate of approval issued by the competent authority of a Member State shall be recognised by all other Member States.

Article 5

Paragraph 1 allows Member States to retain the right to regulate or prohibit, strictly for reasons other than safety, the transport of certain dangerous goods by vessels on inland waterways within its territory.

Paragraph 2 covers the construction and equipment of vessels already in operation at the date of entry into force of this Directive.

Paragraph 3 deals with the Member States' right on the occasion of an accident or an incident.

Paragraph 4 adds an exemption for dioxins and furans whereby national provisions applicable on 31 December 1998 may be maintained.

Paragraph 5 makes a reference to national rules governing ferry operations.

Article 6

Paragraph 1 has the aim of facilitating multimodal transport in recognising the requirements for the safe transport of dangerous goods in sea or land transport. These modal rules are based more closely on the global multimodal UN Recommendations than is the ADN at this stage in its harmonisation.

Paragraph 2 permits a derogation from the requirement in the Annexes A, B.1 and B.2 to this Directive - according to which the marking and documentation relating to the transport operation must be drawn up in several languages - in cases where transport is confined to the territory of a single Member State. It also allows for a different format of that documentation.

Paragraph 3 permits Member States, after consulting the Commission in accordance with the procedure set out in Article 9, to derogate from the provisions in the Annexes A, B.1 and B.2 to this Directive for single transports required in a timescale which would not allow sufficient time for revision of the Annexes.

Article 7

Paragraph 1 states that the transport of dangerous goods by vessels on inland waterways to or from third countries shall be conducted in accordance with the requirements of the Annexes to this Directive. However, where the Community has concluded agreements with third countries which cover the transport of dangerous goods by inland waterway, the provisions of these agreements shall apply.

Paragraph 2 offers the possibility to vessels registered in third countries being inspected and certified of a recognized classification society according to Annex C of this Directive with the effect that no further special ship inspection is needed.

Articles 8 and 9 establish the Committee procedure for further harmonisation of provisions governing the transport of dangerous goods on inland waterways. In particular, this is to take account of new provisions laid down in the ADN. In the case of amendments to specific danger classes of Annexes A, B.1 and B.2, for example, radioactive material, the Committee provided for will take into account the opinions of the experts on this subject.

Articles 10, 11 and 12: No comment.

Annex A: Definitions and general provisions. List of substances and special provisions for the various classes.

Annexes B.1 and B.2: Provisions concerning the carriage of dangerous goods in packages or in bulk and in tank vessels.

Annex C: List of recognised classification societies.

Proposal for a Council Directive
on the approximation of the laws of the Member States with regard to the transport
of dangerous goods by vessels on inland waterways

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75, 1 c thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

Acting in co-operation with the European Parliament in accordance with the procedure laid down in Article 189c of the Treaty³,

Whereas in recent years the transport of dangerous goods by vessels on inland waterways has considerably expanded, thus increasing the risks of accidents occurring; whereas measures must therefore be taken to ensure that such transport is carried out under the best possible conditions of safety;

¹ OJ No C

² OJ No C

³

Whereas the Recommendation concerning the international carriage of dangerous goods by inland waterway (ADN) sets down uniform rules for the safe international transport of dangerous goods by vessels on inland waterways, which are in line with the Regulation on the Transport of Dangerous goods on the Rhine (ADNR); whereas it is consequently desirable that such rules should be extended in scope to national traffic in order to harmonise across the Community the conditions under which dangerous goods are carried by vessels on inland waterways;

Whereas this Directive aims to align national and international rules, parallel to Council Directives 94/55/EC⁴ and 96/49/EC⁵ for the transport of dangerous goods by road and rail, as a further harmonisation measure to improve transport safety, to harmonise competition conditions and to facilitate transport operations; whereas this Directive will meet also the Council's request on training requirements for the crews of inland waterway vessels transporting dangerous goods;

Whereas, in compliance with the principle of subsidiarity, these laws must be approximated in order to ensure a high level of safety for national and international transport operations, to guarantee the elimination of distortions of competition by facilitating the free movement of goods and services throughout the Community and to ensure consistency with the other Community provisions;

Whereas 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 under Agenda 21, Chapter 19, at the UNCED Conference in June 1992 in Rio de Janeiro, to strive for the future harmonization of systems for the classification of dangerous substances;

⁴ OJ No L 319, 12.12.1994, p. 7. Directive amended by Commission Directive 96/86/EC (OJ No L 335, 24.12.1996, p. 43).

⁵ OJ No L 235, 17.09.1996, p. 25. Directive amended by Commission Directive 96/87/EC (OJ No L 335, 24.12.1996, p. 45).

Whereas no specific Community legislation currently governs the safety conditions under which biological agents and genetically modified organisms, regulated under Directives 90/219/EEC⁶, 90/220/EEC⁷ and 90/676/EEC⁸ should be transported by inland waterway;

Whereas the provisions of this Directive are without prejudice to the application of other Community provisions in the field of worker safety and environmental protection;

Whereas the Member States remain free to regulate any operation for the transport of dangerous goods by vessels on inland waterways not covered by this Directive;

Whereas each Member State must retain the right to regulate or prohibit, strictly for reasons other than safety, the national transport of certain dangerous goods by inland waterways;

Whereas the Member States remain free to derogate from the technical Annexes to this Directive with regard to ferry operations undertaken solely for the purpose of crossing an inland waterway or a harbour area in order to take into account the local character and the wide range of different types of ferry boats;

Whereas the introduction of new developments in technology and industry must not be hindered; whereas temporary derogations should be provided for that purpose;

Whereas the transport of dangerous goods by inland waterway to or from a third country is authorized, provided it is carried out in accordance with the requirements of the ADN;

⁶ OJ No L 117, 8.05.1990, p. 1.

⁷ OJ No L 117, 8.05.1990, p. 15.

⁸ OJ No L 374, 31.12.1990, p. 1.

Whereas it must be possible to adapt the Annexes to this Directive rapidly to technical progress, notably by adoption of new provisions laid down in the ADN; whereas the Committee created by Article 9 of Directive 94/55/EC should be used for this purpose,

HAS ADOPTED THIS DIRECTIVE:

Chapter I

Scope, definitions and general provisions

Article 1

(1) This Directive shall apply to the transport of dangerous goods by vessels on inland waterways within or between Member States.

(2) Member States may exempt from the application of all or part of this Directive the transport of dangerous goods by vessels operating on navigable waterways not linked, by inland waterway, to the waterways of other Member States.

(3) This Directive shall not apply to the transport of dangerous goods on inland waterways by vessels belonging to or under the responsibility of the armed forces.

(4) Seagoing vessels operating on the inland waterways of the Community designated in the first paragraph shall comply with the construction specifications set out in marginal 120 100 to 120 295 Annex B.1 of this Directive.

(5) This Directive shall not, however, affect a Member State's right, with due regard to Community law, to maintain specific safety requirements for the national or international transport of dangerous goods by vessels, in so far as the Annexes hereto do not cover that area, as regards, inter alia:

- a) regulations on transport safety authorities including marine police;
- b) requirements and execution of inspections of vessels carrying dangerous goods;

c) requirements for ship inspecting bodies and classification societies.

National provisions concerning letter b) and c) may not be extended. The provisions in question shall cease to apply if similar measures are made obligatory under Community law.

Article 2

For the purposes of this Directive:

- 'ADN' shall mean the technical Annexes to the Recommendation concerning the International Carriage of Dangerous Goods by Inland Waterways, concluded at Geneva, as annexed hereto in their version of 1. January 1997;
- 'ADNR' shall mean the Regulation on the Transport of Dangerous Goods on the Rhine as in force at 1. January 1997;
- 'dangerous goods' shall mean those substances and articles the transport of which is prohibited or authorized only on certain conditions by the Annexes to this Directive;
- 'transport' shall mean any operation involving the transport of dangerous goods by vessels on inland waterways, conducted between Member States or on the inland waterways of a Member State, including the activities of loading, unloading and transfer to or from another mode of transport and the stops necessitated by the circumstances of the transport, covered by the Annexes to this Directive, without prejudice to the arrangements laid down by the laws of the Member States concerning liability in respect of such operations.
- 'ferry operation' shall mean a transport operation undertaken solely for the purpose of crossing an inland waterway or a harbour area.

Article 3

(1) Without prejudice to the provisions of Article 6, dangerous goods the transport of which is prohibited by the provisions of the Annexes to this Directive may not be transported by vessels on inland waterways on the territory of a Member State.

(2) Save as otherwise provided in this Directive and without prejudice to the rules on market access for inland waterway undertakings or to the rules applicable to the transport of goods by vessels on inland waterways, the transport of dangerous goods by vessels on inland waterways shall be authorized subject to compliance with the conditions imposed in the following annexes:

- Provisions relating to dangerous substances and articles (Annex A);
- Provisions relating to the transport of dangerous goods in packagings or in bulk (Annex B.1);
- Provisions relating to the transport of dangerous goods in tanks (Annex B.2).

Article 4

(1) Vessels transporting dangerous goods on the waterways referred to in Article 1(1) shall be issued with a Community certificate in accordance with the procedure laid down in marginal 10 282 of Annex B.1 and marginal 210 282 of Annex B.2. A Community certificate issued by the competent authority of a Member State shall attest that the vessel has been inspected and that its construction and equipment comply with the applicable provisions of the Annexes A, B.1 and B.2. The certificate shall be carried on board the vessel.

(2) Notwithstanding par. 1 all vessels carrying a certificate granted according to the Regulation on the transport of dangerous goods on the Rhine (ADNR) as in force at 1 January 1997 may carry dangerous goods over the entire Community territory under the conditions specified in this certificate.

(3) Each Member State shall establish a list of bodies authorised to carry out inspections in accordance with marginal 10 282 of Annex B.1 and marginal 210 282 of Annex B.2, which it shall communicate to the Commission and to the other Member States. Annex C contains the list of the recognized classification societies.

(4) A certificate issued by the competent authority of a Member State under paragraph (1) shall be recognized by all other Member States.

Chapter II

Derogations, restrictions and exemptions

Article 5

(1) Without prejudice to other Community provisions, each Member State shall retain the right to regulate or prohibit, strictly for reasons other than safety during transport, with regard in particular to national security or environmental protection, the transport of certain dangerous goods on inland waterways within its territory.

(2) The use within the territory of a Member State of vessels carrying a valid certificate for the transport of dangerous goods issued according to the national law of that Member State may be authorised by that Member State until the date of expiry of such valid certificate.

(3) If on the occasion of an accident or an incident, a Member State considers that the safety provisions applicable have been found to be insufficient to limit the hazards involved in the transport operation, and if there is an urgent need to take action, that Member State shall notify the Commission at the planning stage of the measures which it proposes to take. Acting in accordance with the procedure laid down in Article 9, the Commission shall decide whether the implementation of the measures in question should be authorized and shall determine the duration thereof. The Commission may amend the Annexes to the present Directive in accordance with the procedure set out in Article 9.

(4) Member States may maintain all national provisions applicable on 31 December 1998 pertaining to the transport and packaging of substances containing dioxins or furans, until equivalent provisions are incorporated in the Annexes to this Directive. These provisions may not be extended or made more stringent. The Member States shall communicate these national provisions to the Commission, which shall inform the other Member States accordingly.

(5) A Member State may adopt within its territory national provisions relating to ferry operations which differ from the provisions of the Annexes to this Directive. These derogations must be registered on the ferry's technical certificate.

Article 6

(1) Each Member State may authorize the transport by vessels on inland waterways on its territory of dangerous goods classified, packed and labelled in accordance with international requirements for maritime or land transport whenever the transport operation also involves a sea or land voyage.

(2) The provisions of the Annexes to this Directive concerning the use of languages in relevant marking or documentation shall not apply to transport operations confined on inland waterways on the territory of a single Member State. A Member State may authorize the use of languages other than those provided for in the Annexes for transport operations performed exclusively on inland waterways within its territory.

(3) A Member State may, after consulting the Commission, authorize within its territory *ad hoc* transport operations involving dangerous goods or transport operations which are prohibited by the Annexes or transport operations performed under conditions different from those laid down in the Annexes provided that national requirements of safety level are respected and tightly controlled under clearly specified conditions.

Article 7

(1) Subject to national or Community provisions on market access, the transport of dangerous goods by vessels on inland waterways between Community territory and third countries shall be authorized in so far as it complies with the requirements of the Annexes to this Directive. However, where the Community has concluded agreements with third countries which cover the transport of dangerous goods by inland waterway, the provisions of these agreements shall apply.

(2) Member States shall waive the requirements for a special ship inspection of vessels registered in third countries, if a certificate has been issued by a recognized classification society according to Annex C establishing that the construction and equipment of the vessel corresponds to the applicable provisions of the Annexes A, B.1 and B.2.

Chapter III

Final provisions

Article 8

The amendments necessary to adapt the Annexes to scientific and technical progress in the fields covered by this Directive, in particular to take account of amendments to corresponding provisions in the ADN, shall be adopted in accordance with the procedure laid down in Article 9.

Article 9

(1) The Commission shall be assisted by the Committee on the Transport of Dangerous Goods established under Article 9 of Directive 94/55/EC⁹, hereinafter referred to as 'the Committee'.

(2) The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

(3) The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

⁹ OJ L 319, 12.12.1994, p. 7.

(4) The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 10

(1) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1999. They shall forthwith inform the Commission thereof. They shall apply such laws, regulations and administrative provisions from 1 January 1999.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

(2) Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

(3) Member States shall lay down the system of penalties for breaching the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that those penalties are applied. The penalties thus provided for shall be effective, proportionate and dissuasive. Member States shall notify the relevant provisions to the Commission not later than the day specified in paragraph 1 and shall notify any subsequent changes as soon as possible.

Article 11

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

Article 12

This Directive is addressed to the Member States.

Done at ...

For the Council

The President

Annex A

The Annex incorporates marginals 0 001 to 6 999 of Annex A to the Recommendation concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN), as effective on 1 January 1997, 'Member State' being substituted for 'Contracting Party'.

N.B.: Versions in all the official languages of the Community will be published as soon as a consolidated text is available in all languages.

Annexes B.1 and B.2

The Annexes incorporate marginals 10 000 to 331 999 of Annexes B.1 and B.2 the Recommendation concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN), as effective on 1 January 1997, 'Member State' being substituted for 'Contracting Party'.

N.B.: Versions in all the official languages of the Community will be published as soon as a consolidated text is available in all languages.

Annex C

List of recognized classification societies

- 1 Germanischer Lloyd
- 2 Bureau Veritas
- 3 Lloyd's Register of Shipping

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