



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMISSION STAFF WORKING DOCUMENT**

*Accompanying document to the*

**Proposal for a**

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the inland transport of dangerous goods**

**Executive summary of the Impact Assessment**

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## COMMISSION STAFF WORKING DOCUMENT

### Executive summary of the Impact Assessment on the proposal for a Directive of the European Parliament and of the Council on the inland transport of dangerous goods

Lead DG: Energy and Transport

#### SECTION 1: PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

The preparation of the initiative started at the beginning of 2005. The Impact Assessment was started in May 2006 and completed in August 2006, without using external expertise.

Member States and EFTA countries were consulted mainly via *the Regulatory Committee on the Transport of Dangerous Goods*.

The European Parliament has been kept informed of the work of the Committee.

Stakeholders, besides participating as observers in the Committee, made their views known in an ongoing process.

Public consultation via “Your Voice in Europe” was launched on 21/05/2006 and closed on 31/07/2006.

#### SECTION 2: PROBLEM DEFINITION

##### 2.1 Overview of the land transport of dangerous goods

The total amount of land freight transport and dangerous goods transport by mode in EU15 countries in 2002 is shown in the following table.

TRANSPORT MODE	TRANSPORT (billion tonne-kms)		SHARE OF NATIONAL TRANSPORT (billion tonne-kms)	
	Freight total	Dangerous goods	Freight total	Dangerous goods
Road	1100	64	990	58
Rail	218	28	131	19
Inland waterway	99	19	29	6
Total	1417	111	1150	84

Adding the new Member States to the figures would increase the total freight transport by an estimated 25% and dangerous goods transport by an estimated 30%.

## 2.2 European regulations on the international land transport of dangerous goods

The international transport of dangerous goods is regulated by international agreements, based on the *Recommendations on the Transport of Dangerous Goods Model Regulations* of the United Nations. The UN Recommendations have been implemented in inland transport modes by three instruments:

- *European Agreement concerning the international carriage of dangerous goods by road (ADR)*
- *Regulations concerning international carriage of dangerous goods by rail (RID)*
- *European Agreement concerning the international carriage of dangerous goods by inland waterways (ADN)*

Almost all EU countries are signatories of ADR and RID.

ADN is not yet in force. It is at the ratification stage and is expected to be in force in 2009 at the latest. Nine of the EU countries are signatories of ADN. Currently, two other ADN-based systems (ADN-R, ADN-D) are applied in the areas of the Rhine and Danube, where countries of those areas are signatories. In addition, there are national rules for national transport.

## 2.3 EU legislation on the land transport of dangerous goods

EU legislation completes the international regulations for dangerous goods transport by making the rules of the international agreements apply also to national transport and consists of the following rules.

ADR and RID have been incorporated into Community law by two pieces of legislation, so-called framework directives: Council Directives 94/55/EC (ADR) and 96/49/EC (RID).

In 1997 the Commission made a proposal for a *Directive of the European Parliament and of the Council with regard to the transport of dangerous goods by inland waterways*. The proposal was never adopted, because the ADN agreement was not concluded as expected, and was withdrawn in 2004.

In connection with the framework directives, two particular directives for dangerous goods safety advisers have been adopted, which cover all three land transport modes: *Council Directive 96/35/EC* and *Directive 2000/18/EC of the European Parliament and of the Council*.

Finally, there are four Commission Decisions granting national derogations for Member States from the framework directives: 2005/263/EC, 2005/903/EC, 2005/180/EC and 2005/777/EC.

## 2.4 Problems requiring action

EU legislation governing the land transport of dangerous goods covers road and rail modes only, but no European rules exist for dangerous goods transport by inland waterway. In multimodal transport it is undesirable to maintain separate sets of rules for each mode, which a user has to comply with. Wherever possible, the rules should be identical.

For historic reasons, the current EU legislation on the transport of dangerous goods is rather complicated and could be simplified.

## **2.5 Affected parties**

Affected parties are companies that are involved in the transport operations of dangerous goods.

## **2.6 The EU's right to act**

Article 71 of the Treaty.

## **2.7 Subsidiarity and proportionality**

Reinforcing and extending the application of ADR and RID by incorporating them into Community law on road and rail transport modes has demonstrated that the EU interventions were justified. In order to create a similar status for inland waterway mode and ADN, an EU intervention is equally necessary.

For Member States which already apply one of the ADNs or intend to do so, only a very small additional effort is required to extend the scope to cover national transport as well. The issue of proportionality is particularly important for Member States which have very little dangerous goods transport or no transport at all by inland waterway. This issue is addressed under point 5.3.

## **2.8 Foreseeable problems**

With increasing use of multimodal concepts, different rules for different transport modes will exacerbate the daily problems encountered in multimodal operations and increase costs unnecessarily. In inland waterway transport, different rules for international and national operations will hamper the development of this mode, which otherwise would be the preferable mode in many cases.

## **SECTION 3: OBJECTIVES**

The general policy objective is to ensure safety in the transport of dangerous goods in the territory of the EU.

International agreements ADR, RID and, soon, ADN fulfil the objectives in international transport. In the territory of the EU, there is an additional need to apply the same objectives to national transport.

Until now, EU rules for the inland transport of dangerous goods have been limited to road and rail transport modes. The third international agreement, ADN, is expected to enter into force soon; it is therefore justified to treat all inland transport modes in a harmonious way in the future. Ensuring at least the same level of safety in national transport as in the international sphere will prevent accidents on waterways, thus supporting the sustainable development strategy, in particular for the environment and society.

The two existing framework directives on dangerous goods transport have been amended several times. The Commission's Legal Service therefore started a codification procedure to simplify the legislation, but the procedure was interrupted when the idea of extending EU interventions to the waterway mode came under consideration. It was thought that a better option could be to replace the existing directives with one piece of legislation with the

intended extended scope. This would mean simplification of the EU legislation, which is in line with the Lisbon strategy.

Provided that this legislative measure is taken, there are further objectives for simplification:

First, including ADN in the scope of the EU legislation would make the two directives on dangerous goods safety advisers unnecessary and they could be repealed.

Secondly, the provisions in the two framework directives are not necessarily similar even where they could be, and they contain provisions that some of them are currently obsolete or will become obsolete in the near future. There is now an opportunity to lay down provisions that are as uniform as possible for all three transport modes, to revoke obsolete provisions and to prepare for provisions that will clearly become outdated in the future.

Thirdly, the four Commission Decisions on national derogations could be integrated into the intended new framework directive.

Finally, it is possible to reduce the volume of the acquis by about 2000 pages.

## **SECTION 4: POLICY OPTIONS**

Three policy options were considered.

### **4.1 Option 1: No policy change, only codification**

The scope and content of the existing EU legislation on dangerous goods transport will be kept in its present format. Transport by inland waterway will not be included in Community law. Only the codification procedure in respect of the existing legislation will be completed.

### **4.2 Option 2: Codification and new legislation for inland waterways**

Codification will be carried out as in option 1, and in addition a new piece of EU legislation will be created to cover dangerous goods transport by inland waterway and ADN.

### **4.3 Option 3: Revision of legislation, encompassing inland waterways**

The existing EU legislation on dangerous goods transport will be revised and simplified, the framework directives merged and the scope of the legislation extended to inland waterway transport in terms of ADN.

## **SECTION 5: ANALYSIS OF IMPACT**

### **5.1 Likely economic, social and environmental impact of policy options**

The policy options have varying degrees of economic, social and environmental impact, although the impact in general appears to be quite small.

It is beyond dispute that the transport of dangerous goods requires rules which ensure that these operations are carried out in such a way that the risk to the general public, the

environment and the workers involved in the transport operations is minimised. There has consequently been no initiative to abandon the rules or to fundamentally modify the system: dangerous goods cannot be disinvented and their transport from one place to another is inevitable.

Option 1 would effectively not change policies or rules. The codification is likely to make the application of rules, to a limited extent, more user-friendly by the simple fact that the number of acts, modifications and cross-references would be substantially reduced. Simplified rules can be expected to be accepted more readily and risks ought to be reduced accordingly, thereby reducing the likelihood of a negative impact in all areas: economic, social and environmental. However, although these changes would be welcomed by stakeholders, their impact in all areas is believed to be limited.

Option 2 adds the element of inland waterways to option 1. Like transport of dangerous goods by road and rail, transport on inland waterways cannot take place without rules ensuring safe transport and minimising the risk to society at large, the workers involved and the environment. Rules are in place governing international transport operations in the Rhine (ADN-R) and Danube (ADN-D) areas and national operations in those countries endowed with inland waterways where dangerous goods are transported on them. Depending on the nature of the international agreements concerned, international rules are either binding or not; in the latter case, other rules may be put in place. National rules supplement those in place for international operations.

Although it is appreciated that many Member States have been trying to align national rules with international ones, it remains a fact that a panoply of rules still exists, in particular in an enlarged Community. With rules on the transport of dangerous goods inevitably complex due to the large number of products concerned, economic operators should only have to comply with one set of rules, be it for national or international transport operations. Since the international set of rules will soon be compulsory for the ADN signatory Member States, it is logical to use these same rules for national operations as well.

Alongside the obvious economic advantages for operators, the social impact is equally positive. There must be rules for the protection and safety of workers, particularly in the area of transport of dangerous goods. It is recognised that ADN provides a level of protection against accidents and accidental emissions of dangerous substances during transport operations; in fact the majority of workers have also enjoyed this level of protection through the safety rules contained in ADN-Rhine, which forms the bedrock of the ADN agreement. The rules also provide equally good protection for rescue forces in the event of an incident or accident. There will also be a very significant environmental impact through a substantially reduced risk of accidents or incidents in the transport of dangerous goods on inland waterways where the proposed rules are satisfactorily implemented.

It is, of course, necessary to enforce the rules in question. A single set of rules would considerably facilitate Member States' enforcement tasks. Indeed, a desire for easier and more effective enforcement is one of the main reasons why some Member States have already tried to reduce the number of regimes applicable in their domestic markets.

In summary, the creation of an EU-wide regime on the transport of dangerous goods on inland waterways covering both national and international transport operations has positive economic, social, environmental and enforcement impact. The market needs rules in view of the inherent risks. It is logical to use that set of rules which those Member States with

considerable inland waterway markets will have to apply in any case, in view of their international obligations, namely the ADN regime.

Option 3 would include a revision element in the proposal in addition to option 2. This revision consists of two parts. The first is intended to eliminate outdated clauses. This option would not be available in a codification process. There can be little doubt about the usefulness of eliminating outdated clauses. Their continuing existence only renders an inherently complex matter unnecessarily complicated, resulting in increased risks and costs. The second part is concerned with harmonising, as far as possible, the rules governing the three land modes: road, rail and inland waterway. An ever-increasing number of transport operations requires more than one transport mode, and the application of different sets of rules for each mode makes the operations unnecessarily expensive and complex. Clearly, a harmonised set of rules will facilitate multimodal transport.

Complex rules contain inherent risks for safety and the environment. It is therefore recognised that harmonising the rules would have a positive impact in all areas: economic because it reduces costs; social because the rules are more easily applied and therefore provide better safety; and environmental for the same reasons. Enforcement by national authorities is made easier by fewer variations in the rules. A harmonised, more user-friendly set of rules should also significantly improve compliance by stakeholders.

Whereas all options provide a positive economic, social, environmental and enforcement impact, option 3 offers the most.

The specific situation of Member States with no inland waterway transport of dangerous goods or with no inland waterways linked to other Member States will be addressed under point 5.3.

## **5.2 Impact on the simplification of Community law**

Policy options 1 and 2 would simplify Community law only in the realm of codification, which means in practice consolidated versions of existing directives.

Policy option 3 would mean more far-reaching simplification geared to greater user-friendliness, integrating all current directives and decisions into one piece of EU legislation.

## **5.3 Regional differences in terms of impact**

The legislative initiative drawn up for policy option 3 stipulates that a Member State with no inland waterway links to other Member States may decide either to apply the EU rules or to continue to apply other rules. Equally, a Member State without any dangerous goods transport by inland waterway would not be obliged to implement the proposed directive.

## **5.4 Impact outside the EU**

For road and rail transport, none of the policy options would change the situation in relation to non-EU countries.

Policy options 2 and 3 would be likely to promote harmonisation of the rules on dangerous goods transport by inland waterway also in non-EU countries of Europe.

## 5.5 Results of the public consultation

A very big majority of respondents are in favour of the policy proposed by DG TREN under point 6.2.

## SECTION 6: COMPARING THE OPTIONS

### 6.1 Summary of impacts

The only substantial difference between the three selected policy options is whether the inland waterway mode is included in Community law or not. In addition, options 2 and 3 differ in terms of the level of harmonisation and simplification of dangerous goods transport rules.

The following comparative tables show the estimated impact of the three options.

Impact	Policy options		
	1. No policy change, only codification	2. Codification + Inland waterways	3. Revision + Inland waterways
Transport safety and security improved	no	likely	likely
Free movement of transport services promoted	no	likely	likely
Environmental risk of accidents decreased	no	likely	likely
EU legislation simplified	to some extent	to some extent	considerably
EU legislation updated	to some extent	to some extent	completely
Rules for transport modes harmonised	no	no	yes

### 6.2 Preferred option

Extending the scope of the current EU legislation on dangerous goods transport to the inland waterway mode is justified now that ADN is soon to enter into force. To achieve this, policy options 2 or 3 are available. Since **option 3** is the only way to attain the objectives of full harmonisation and simplification of Community law in the field, the revision of legislation and its extension to the inland waterway mode is the preferred option.