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## II

*(Non-legislative acts)*

## REGULATIONS

## COMMISSION REGULATION (EU) No 267/2010

of 24 March 2010

**on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of agreements, decisions and concerted practices in the insurance sector****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EEC) No 1534/91 of 31 May 1991 on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector <sup>(1)</sup>, and in particular Article 1(1)(a), (b), (c) and (e) thereof,

Having published a draft of this Regulation,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas:

(1) Regulation (EEC) No 1534/91 empowers the Commission to apply Article 101(3) of the Treaty on the Functioning of the European Union <sup>(2)</sup> by regulation to certain categories of agreements, decisions and concerted practices in the insurance sector which have as their object cooperation with respect to:

- the establishment of common risk premium tariffs based on collectively ascertained statistics or the number of claims,
- the establishment of common standard policy conditions,

— the common coverage of certain types of risks,

— the settlement of claims,

— the testing and acceptance of security devices,

— registers of, and information on, aggravated risks.

(2) Pursuant to Regulation (EEC) No 1534/91, the Commission adopted Regulation (EC) No 358/2003 of 27 February 2003 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector <sup>(3)</sup>. Regulation (EC) No 358/2003 expires on 31 March 2010.

(3) Regulation (EC) No 358/2003 does not grant an exemption to agreements concerning the settlement of claims and registers of, and information on, aggravated risks. The Commission considered that it lacked sufficient experience in handling individual cases to make use of the power conferred by Regulation (EEC) No 1534/91 in those fields. That situation has not changed. Furthermore, although Regulation (EC) No 358/2003 granted an exemption for the establishment of standard policy conditions and the testing and acceptance of security devices, this Regulation should not do so since the Commission's review of the functioning of Regulation (EC) No 358/2003 revealed that it was no longer necessary to include such agreements in a sector specific block exemption regulation. In the context where those two categories of agreements are not specific to the insurance sector and, as the review showed, can also give rise to certain competition concerns, it is more appropriate that they be subject to self-assessment.

<sup>(1)</sup> OJ L 143, 7.6.1991, p. 1.

<sup>(2)</sup> With effect from 1 December 2009, Article 81 of the EC Treaty has become Article 101 of the Treaty on the Functioning of the European Union. The two articles are, in substance, identical. For the purposes of this Regulation, references to Article 101 of the Treaty on the Functioning of the European Union should be understood as references to Article 81 of the EC Treaty where appropriate.

<sup>(3)</sup> OJ L 53, 28.2.2003, p. 8.

- (4) Following a public consultation launched on 17 April 2008, the Commission adopted a report to the European Parliament and the Council on the functioning of Regulation (EC) No 358/2003 (the Report)<sup>(1)</sup> on 24 March 2009. In the Report and its accompanying Working Document (the Working Document) preliminary amendments of Regulation (EC) No 358/2003 were proposed. On 2 June 2009, the Commission held a public meeting with interested parties, including representatives of the insurance sector, consumer organisations and national competition authorities, on the findings and proposals in the Report and Working Document.
- (5) This Regulation should ensure effective protection of competition while providing benefits to consumers and adequate legal security for undertakings. The pursuit of those objectives should take account of the Commission's experience in this field, and the results of the consultations leading up to the adoption of this Regulation.
- (6) Regulation (EEC) No 1534/91 requires the exempting regulation of the Commission to define the categories of agreements, decisions and concerted practices to which it applies, to specify the restrictions or clauses which may, or may not, appear in the agreements, decisions and concerted practices, and to specify the clauses which must be contained in the agreements, decisions and concerted practices or the other conditions which must be satisfied.
- (7) Nevertheless, it is appropriate to continue the approach taken in Regulation (EC) No 358/2003 of placing the emphasis on defining categories of agreements which are exempted up to a certain level of market share and on specifying the restrictions or clauses which are not to be contained in such agreements.
- (8) The benefit of the block exemption established by this Regulation should be limited to those agreements which can be assumed with sufficient certainty to satisfy the conditions of Article 101(3) of the Treaty. For the application of Article 101(3) of the Treaty by regulation, it is not necessary to define those agreements which are capable of falling within Article 101(1) of the Treaty. At the same time, there is no presumption that agreements which do not benefit from this Regulation are either caught by Article 101(1) of the Treaty or that they fail to satisfy the conditions of Article 101(3) of the Treaty. In the individual assessment of agreements under Article 101(1) of the Treaty, account must be taken of several factors, and in particular the market structure on the relevant market.
- (9) Collaboration between insurance undertakings or within associations of undertakings in the compilation of information (which may also involve some statistical calculations) allowing the calculation of the average cost of covering a specified risk in the past or, for life insurance, tables of mortality rates or of the frequency of illness, accident and invalidity, makes it possible to improve the knowledge of risks and facilitates the rating of risks for individual companies. This can in turn facilitate market entry and thus benefit consumers. The same applies to joint studies on the probable impact of extraneous circumstances that may influence the frequency or scale of claims, or the yield of different types of investments. It is, however, necessary to ensure that such collaboration is only exempted to the extent to which it is necessary to attain these objectives. It is therefore appropriate to stipulate in particular that agreements on commercial premiums are not exempted. Indeed, commercial premiums may be lower than the amounts indicated by the compilations, tables or study results in question, since insurers can use the revenues from their investments in order to reduce their premiums. Moreover, the compilations, tables or studies in question should be non-binding and serve only for reference purposes. The exchange of information not necessary to attain the objectives set out in this recital should not be covered by this Regulation.
- (10) Moreover, the narrower the categories into which statistics on the cost of covering a specified risk in the past are grouped, the more leeway insurance undertakings have to differentiate their commercial premiums when they calculate them. It is therefore appropriate to exempt joint compilations of the past cost of risks on condition that the available statistics are provided with as much detail and differentiation as is actuarially adequate.
- (11) Furthermore, access to the joint compilations, tables and study results is necessary both for insurance undertakings active on the geographic or product market in question and for those considering entering that market. Similarly access to such compilations, tables and study results may be of value to consumer organisations or customer organisations. Insurance undertakings not yet active on the market in question and consumer or customer organisations must be granted access to such compilations, tables and study results on reasonable, affordable and non-discriminatory terms, as compared with insurance undertakings already present on that market. Such terms might for example include a commitment from an insurance undertaking not yet present on the market to provide statistical information on claims, should it ever enter the market and might also include membership of the association of insurers responsible for producing the compilations. An exception to the

<sup>(1)</sup> COM(2009) 138.

requirement to grant access to consumer organisations and customer organisations should be possible on the grounds of public security, for example where the information relates to the security systems of nuclear plants or the weakness of flood prevention systems.

changed so materially that it is not possible to know in advance what subscription capacity is necessary in order to cover such a risk.

- (12) The reliability of joint compilations, tables and studies becomes greater as the amount of statistics on which they are based is increased. Insurers with high market shares may generate sufficient statistics internally to be able to make reliable compilations, but those with small market shares may not be able to do so, and new entrants are even less likely to be able to generate such statistics. The inclusion in such joint compilations, tables and studies of information from all insurers on a market, including large ones, in principle promotes competition by helping smaller insurers, and facilitates market entry. Given this specificity of the insurance sector, it is not appropriate to subject any exemption for such joint compilations, tables and studies to market share thresholds.
- (13) Co-insurance or co-reinsurance pools can, in certain limited circumstances, be necessary to allow the participating undertakings of a pool to provide insurance or reinsurance for risks for which they might only offer insufficient cover in the absence of the pool. Those types of pools do not generally give rise to a restriction of competition under Article 101(1) of the Treaty and are thus not prohibited by it.
- (14) Co-insurance or co-reinsurance pools can allow insurers and reinsurers to provide insurance or reinsurance for risks even if pooling goes beyond what is necessary to ensure that such a risk is covered. However, such pools can involve restrictions of competition, such as the standardisation of policy conditions and even of amounts of cover and premiums. It is therefore appropriate to lay down the circumstances in which such pools can benefit from exemption.
- (15) For genuinely new risks it is not possible to know in advance what subscription capacity is necessary to cover the risk, nor whether two or more pools could co-exist for the purposes of providing the specific type of insurance concerned. A pooling arrangement offering the co-insurance or co-reinsurance of such new risks can therefore be exempted for a limited period of time without a market share threshold. Three years should constitute an adequate period for the constitution of sufficient historical information on claims to assess the necessity or otherwise of a pool.
- (16) Risks which did not previously exist should be considered as new risks. However, in exceptional circumstances, a risk may be considered as a new risk where an objective analysis indicates that the nature of the risk has
- (17) For risks which are not new, co-insurance and co-reinsurance pools which involve a restriction of competition may, in certain limited circumstances, involve benefits so as to justify an exemption under Article 101(3) of the Treaty, even if they could be replaced by two or more competing insurance entities. They may, for example, allow their participating undertakings to gain the necessary experience of the sector of insurance involved, or they may allow cost savings, or reduction of commercial premiums through joint reinsurance on advantageous terms. However, any exemption should be limited to agreements which do not afford the undertakings involved the possibility of eliminating competition in respect of a substantial part of the products in question. Consumers can benefit effectively from pools only if there is sufficient competition in the relevant markets in which the pools operate. This condition should be regarded as being met when the market share of a pool remains below a given threshold and can therefore be presumed to be subject to actual or potential competition from undertakings which are not participating in that pool.
- (18) This Regulation should therefore grant an exemption to any such co-insurance or co-reinsurance pool which has existed for more than three years, or which is not created in order to cover a new risk, on condition that the combined market share held by the participating undertakings does not exceed certain thresholds. The threshold for co-insurance pools should be lower because co-insurance pools may involve uniform policy conditions and commercial premiums. For the assessment of whether a pool fulfils the market share condition, the overall market share of the participating undertakings should be aggregated. The market share of each participating undertaking is based on the overall gross premium income of that participating undertaking both within and outside that pool in the same relevant market. These exemptions however should only apply if the pool in question meets the further conditions laid down in this Regulation, which are intended to keep to a minimum the restrictions of competition between the participating undertakings of the pool. An individual analysis would be necessary in such cases, in order to determine whether or not the conditions set out in this Regulation are fulfilled.
- (19) In order to facilitate the conclusion of agreements, some of which can involve significant investment decisions, the period of validity of this Regulation should be fixed at seven years.

- (20) The Commission may withdraw the benefit of this Regulation, pursuant to Article 29(1) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty <sup>(1)</sup>, where it finds in a particular case that an agreement to which the exemptions provided for in this Regulation apply nevertheless has effects which are incompatible with Article 101(3) of the Treaty.
- (21) The competition authority of a Member State may withdraw the benefit of this Regulation pursuant to Article 29(2) of Regulation (EC) No 1/2003 in respect of the territory of that Member State, or a part thereof where, in a particular case, an agreement to which the exemptions provided for in this Regulation apply nevertheless has effects which are incompatible with Article 101(3) of the Treaty in the territory of that Member State, or in a part thereof, and where such territory has all the characteristics of a distinct geographic market.
- (22) In determining whether the benefit of this Regulation should be withdrawn pursuant to Article 29 of Regulation (EC) No 1/2003, the anti-competitive effects that may derive from the existence of links between a co-insurance or co-reinsurance pool and/or its participating undertakings and other pools and/or their participating undertakings on the same relevant market are of particular importance,
- (i) has the power to exercise more than half the voting rights; or
  - (ii) has the power to appoint more than half the members of the supervisory board, board of management or bodies legally representing the undertaking; or
  - (iii) has the right to manage the undertaking's affairs;
- (b) undertakings which directly or indirectly have, over a party to the agreement, the rights or powers listed in point (a);
- (c) undertakings in which an undertaking referred to in point (b) has, directly or indirectly, the rights or powers listed in point (a);
- (d) undertakings in which a party to the agreement together with one or more of the undertakings referred to in points (a), (b) or (c), or in which two or more of the latter undertakings, jointly have the rights or powers listed in point (a);
- (e) undertakings in which the rights or powers listed in point (a) are jointly held by:

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### DEFINITIONS

##### Article 1

#### Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. 'agreement' means an agreement, a decision of an association of undertakings or a concerted practice;
2. 'participating undertakings' means undertakings party to the agreement and their respective connected undertakings;
3. 'connected undertakings' means:

- (a) undertakings in which a party to the agreement, directly or indirectly;

- (i) parties to the agreement or their respective connected undertakings referred to in points (a) to (d); or

- (ii) one or more of the parties to the agreement or one or more of their connected undertakings referred to in points (a) to (d) and one or more third parties;

4. 'co-insurance pools' means groups set up by insurance undertakings either directly or through brokers or authorised agents, with the exception of ad-hoc co-insurance agreements on the subscription market, whereby a certain part of a given risk is covered by a lead insurer and the remaining part of the risk is covered by follow insurers who are invited to cover that remainder, which:

- (a) agree to underwrite, in the name and for the account of all the participants, the insurance of a specified risk category; or

- (b) entrust the underwriting and management of the insurance of a specified risk category, in their name and on their behalf, to one of the insurance undertakings, to a common broker or to a common body set up for this purpose;

<sup>(1)</sup> OJ L 1, 4.1.2003, p. 1.



5. 'co-reinsurance pools' means groups set up by insurance undertakings either directly or through broker or authorised agents, possibly with the assistance of one or more reinsurance undertakings, with the exception of ad-hoc co-reinsurance agreements on the subscription market, whereby a certain part of a given risk is covered by a lead insurer and the remaining part of this risk is covered by follow insurers who are then invited to cover that remainder in order to:

(a) reinsure mutually all or part of their liabilities in respect of a specified risk category;

(b) incidentally accept, in the name and on behalf of all the participants, the reinsurance of the same category of risks;

6. 'new risks' means:

(a) risks which did not previously exist, and for which insurance cover requires the development of an entirely new insurance product, not involving an extension, improvement or replacement of an existing insurance product; or

(b) in exceptional cases, risks the nature of which has, on the basis of an objective analysis, changed so materially that it is not possible to know in advance what subscription capacity is necessary in order to cover such a risk;

7. 'commercial premium' means the price which is charged to the purchaser of an insurance policy.

## CHAPTER II

### JOINT COMPILATIONS, TABLES, AND STUDIES

#### Article 2

#### Exemption

Pursuant to Article 101(3) of the Treaty and subject to the provisions of this Regulation, Article 101(1) of the Treaty shall not apply to agreements entered into between two or more undertakings in the insurance sector with respect to:

(a) the joint compilation and distribution of information necessary for the following purposes:

(i) calculation of the average cost of covering a specified risk in the past (hereinafter compilations);

(ii) construction of mortality tables, and tables showing the frequency of illness, accident and invalidity in connection with insurance involving an element of capitalisation (hereinafter tables);

(b) the joint carrying-out of studies on the probable impact of general circumstances external to the interested undertakings, either on the frequency or scale of future claims for a given risk or risk category or on the profitability of different types of investment (hereinafter studies), and the distribution of the results of such studies.

#### Article 3

#### Conditions for exemption

1. The exemption provided for in Article 2(a) shall apply on condition that the compilations or tables:

(a) are based on the assembly of data, spread over a number of risk years chosen as an observation period, which relate to identical or comparable risks in sufficient numbers to constitute a base which can be handled statistically and which will yield figures on the following, amongst others:

(i) the number of claims during the said period;

(ii) the number of individual risks insured in each risk year of the chosen observation period;

(iii) the total amounts paid or payable in respect of claims that have arisen during the said period;

(iv) the total amount of capital insured for each risk year during the chosen observation period;

(b) include as detailed a breakdown of the available statistics as is actuarially adequate;

(c) do not include in any way elements for contingencies, income deriving from reserves, administrative or commercial costs or fiscal or parafiscal contributions, and take into account neither revenues from investments nor anticipated profits.

2. The exemptions provided for in Article 2 shall apply on condition that the compilations, tables or study results:

- (a) do not identify the insurance undertakings concerned or any insured party;
- (b) when compiled and distributed, include a statement that they are non-binding;
- (c) do not contain any indication of the level of commercial premiums;
- (d) are made available on reasonable, affordable and non-discriminatory terms, to any insurance undertaking which requests a copy of them, including insurance undertakings which are not active on the geographic or product market to which those compilations, tables or study results refer;
- (e) except where non-disclosure is objectively justified on grounds of public security, are made available on reasonable, affordable and non-discriminatory terms, to consumer organisations or customer organisations which request access to them in specific and precise terms for a duly justified reason.

#### Article 4

##### Agreements not covered by the exemption

The exemptions provided for in Article 2 shall not apply where participating undertakings enter into an undertaking or commitment among themselves, or oblige other undertakings, not to use compilations or tables that differ from those referred to in Article 2(a), or not to depart from the results of the studies referred to in Article 2(b).

### CHAPTER III

#### COMMON COVERAGE OF CERTAIN TYPES OF RISKS

##### Article 5

##### Exemption

Pursuant to Article 101(3) of the Treaty and subject to the provisions of this Regulation, Article 101(1) of the Treaty shall not apply to agreements entered into between two or more undertakings in the insurance sector with respect to the setting-up and operation of pools of insurance undertakings or of insurance undertakings and reinsurance undertakings for the

common coverage of a specific category of risks in the form of co-insurance or co-reinsurance.

#### Article 6

##### Application of exemption and market share thresholds

1. As concerns co-insurance or co-reinsurance pools which are created in order exclusively to cover new risks, the exemption provided for in Article 5 shall apply for a period of three years from the date of the first establishment of the pool, regardless of the market share of the pool.

2. As concerns co-insurance or co-reinsurance pools which do not fall within the scope of paragraph 1, the exemption provided for in Article 5 shall apply as long as this Regulation remains in force, on condition that the combined market share held by the participating undertakings does not exceed:

(a) in the case of co-insurance pools, 20 % of any relevant market;

(b) in the case of co-reinsurance pools, 25 % of any relevant market.

3. In calculating the market share of a participating undertaking on the relevant market, account shall be taken of:

(a) the market share of the participating undertaking within the pool in question;

(b) the market share of the participating undertaking within another pool on the same relevant market as the pool in question, to which the participating undertaking is a party; and

(c) the market share of the participating undertaking on the same relevant market as the pool in question, outside any pool.

4. For the purposes of applying the market share thresholds provided for in paragraph 2, the following rules shall apply:

(a) the market share shall be calculated on the basis of gross premium income; if gross premium income data are not available, estimates based on other reliable market information, including insurance cover provided or insured risk value, may be used to establish the market share of the undertaking concerned;



(b) the market share shall be calculated on the basis of data relating to the preceding calendar year.

5. Where the market share referred to in paragraph 2(a) is initially not more than 20 % but subsequently rises above that level without exceeding 25 %, the exemption provided for in Article 5 shall continue to apply for a period of two consecutive calendar years following the year in which the 20 % threshold was first exceeded.

6. Where the market share referred to in paragraph 2(a) is initially not more than 20 % but subsequently rises above 25 %, the exemption provided for in Article 5 shall continue to apply for a period of one calendar year following the year in which the level of 25 % was first exceeded.

7. The benefit of paragraphs 5 and 6 may not be combined so as to exceed a period of two calendar years.

8. Where the market share referred to in paragraph 2(b) is initially not more than 25 % but subsequently rises above that level without exceeding 30 %, the exemption provided for in Article 5 shall continue to apply for a period of two consecutive calendar years following the year in which the 25 % threshold was first exceeded.

9. Where the market share referred to in paragraph 2(b) is initially not more than 25 % but subsequently rises above 30 %, the exemption provided for in Article 5 shall continue to apply for a period of one calendar year following the year in which the level of 30 % was first exceeded.

10. The benefit of paragraphs 8 and 9 may not be combined so as to exceed a period of two calendar years.

#### *Article 7*

#### **Conditions for exemption**

The exemption provided for in Article 5 shall apply on condition that:

- (a) each participating undertaking having given a reasonable period of notice has the right to withdraw from the pool, without incurring any sanctions;

(b) the rules of the pool do not oblige any participating undertaking of the pool to insure or reinsure through the pool and do not restrict any participating undertaking of the pool from insuring or reinsuring outside the pool, in whole or in part, any risk of the type covered by the pool;

(c) the rules of the pool do not restrict the activity of the pool or its participating undertakings to the insurance or reinsurance of risks located in any particular geographical part of the Union;

(d) the agreement does not limit output or sales;

(e) the agreement does not allocate markets or customers; and

(f) the participating undertakings of a co-reinsurance pool do not agree on the commercial premiums which they charge for direct insurance.

#### CHAPTER IV

#### **FINAL PROVISIONS**

#### *Article 8*

#### **Transitional period**

The prohibition laid down in Article 101(1) of the Treaty shall not apply during the period from 1 April 2010 to 30 September 2010 in respect of agreements already in force on 31 March 2010 which do not satisfy the conditions for exemption provided for in this Regulation but which satisfy the conditions for exemption provided for in Regulation (EC) No 358/2003.

#### *Article 9*

#### **Period of validity**

This Regulation shall enter into force on 1 April 2010.

It shall expire on 31 March 2017.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 March 2010.

*For the Commission*

*The President*

José Manuel BARROSO

**COMMISSION REGULATION (EU) No 268/2010****of 29 March 2010****implementing Directive 2007/2/EC of the European Parliament and of the Council as regards the access to spatial data sets and services of the Member States by Community institutions and bodies under harmonised conditions**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) <sup>(1)</sup>, and in particular Article 17(8) thereof,

Whereas:

- (1) Directive 2007/2/EC requires Member States to provide the institutions and bodies of the Community with access to spatial data sets and services in accordance with harmonised conditions.
- (2) In order to ensure a coherent approach to the provision of access to spatial data sets and services this Regulation should define a minimum set of conditions to be respected.
- (3) Directive 2007/2/EC allows for exceptions from data sharing according to Article 17(7). However, even where Member States apply those exceptions, they should be free to state measures, such as security measures, that the Community institutions and bodies have to take in order to still be allowed to get access to these data sets and services.
- (4) Any agreement, including licence agreements, contracts and exchanges of e-mails or any other arrangement on access by the Community institutions and bodies to spatial data sets and services of the Member States and their public authorities under this Regulation, should use the terminology defined in Article 3 of the Directive 2007/2/EC.
- (5) In order to fulfil their public tasks and contribute to the implementation of the European policies related to the environment the Community institutions and bodies should be able to make spatial data sets and services available to contractors working on their behalf.
- (6) As a general requirement arrangements should comply with this Regulation from eighteen months after its entry into force. However, since previously established arrangements may still be in force a transitional provision is needed. Therefore arrangements in place at the entry into force of this Regulation have to be brought

in compliance with this Regulation as from renewal or expiry of those arrangements, but not later than three years after the entry into force of this Regulation.

- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 22 of Directive 2007/2/EC,

HAS ADOPTED THIS REGULATION:

*Article 1***Subject matter**

This Regulation establishes harmonised conditions of access to spatial data sets and services in accordance with Article 17 of Directive 2007/2/EC.

*Article 2***Restrictions on access**

Upon request by the Community institution or body, Member States shall give reasons for any limitation of sharing pursuant to Article 17(7) of Directive 2007/2/EC.

Member States may state under which conditions access restricted in accordance with Article 17(7) can be allowed.

*Article 3***Arrangements**

1. Any arrangements concerning access to spatial data sets and services shall be fully compatible with the requirements of this Regulation.
2. The definitions laid down in Article 3 of Directive 2007/2/EC shall be used in any arrangements concerning access to spatial data sets and services.

*Article 4***Use of spatial data sets and services**

1. Institutions or bodies of the Community may make spatial data sets or services available to contractors acting on their behalf.
2. Where spatial data sets and services are made available in accordance with paragraph 1, Community institutions and bodies shall make every possible effort to avoid unauthorised use of spatial data sets and services.

<sup>(1)</sup> OJ L 108, 25.4.2007, p. 1.

3. Where a spatial data set or service has been made available pursuant to paragraph 1, the party who received it may not make the spatial data set or service available to any other party without the written consent of the original data or service provider.

#### *Article 5*

##### **Metadata**

Conditions applicable to the Community institutions and bodies in compliance with this Regulation shall be expressed in metadata element 8.1, referred to in Part B of the Annex to Commission Regulation (EC) No 1205/2008 <sup>(1)</sup>.

#### *Article 6*

##### **Transparency**

1. Where an institution or body of the Community requests the provision of access to a spatial data set or service, the Member States shall also make available, upon request, information for evaluation and use, on the mechanisms for collecting, processing, producing, quality control and obtaining access to the spatial data sets and services, where that additional information is available and it is reasonable to extract and deliver it.

2. Where requested, offers for the provision of access to spatial data sets and services to the Community institutions

and bodies made by Member States shall include the basis for charges and the factors taken into account.

#### *Article 7*

##### **Response Times**

Member States shall provide access to spatial data sets and services without delay and at the latest within 20 days after receipt of a written request, unless otherwise agreed by mutual agreement between the Member State and the institution or body of the Community.

#### *Article 8*

##### **Transitional provisions**

Member States shall ensure that arrangements comply with this Regulation from eighteen months after its entry into force.

Where arrangements for the provision of spatial data sets and services are in place on the date of entry into force of this Regulation, Member States shall ensure that those arrangements comply with this Regulation as from renewal or expiry of those arrangements, but not later than three years after the entry into force of this Regulation.

#### *Article 9*

##### **Entry into force**

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 March 2010.

*For the Commission*

*The President*

José Manuel BARROSO

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<sup>(1)</sup> OJ L 326, 4.12.2008, p. 12.

**COMMISSION REGULATION (EU) No 269/2010****of 29 March 2010****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector <sup>(2)</sup>, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 30 March 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 March 2010.

*For the Commission,  
On behalf of the President,**Jean-Luc DEMARTY  
Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**Standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	IL	156,4
	JO	64,0
	MA	141,2
	TN	160,3
	TR	101,1
	ZZ	124,6
0707 00 05	JO	75,8
	MA	87,9
	TR	126,5
	ZZ	96,7
0709 90 70	MA	143,4
	TR	108,5
	ZZ	126,0
0805 10 20	EG	46,7
	IL	56,3
	MA	53,6
	TN	47,0
	TR	65,5
	ZZ	53,8
0805 50 10	EG	66,4
	IL	91,6
	MA	49,1
	TR	68,9
	ZA	69,5
	ZZ	69,1
0808 10 80	AR	80,9
	BR	83,8
	CA	100,2
	CL	85,6
	CN	76,2
	MK	23,6
	US	130,0
	ZA	94,1
	ZZ	84,3
0808 20 50	AR	75,5
	CL	96,3
	CN	35,0
	MX	100,0
	UY	106,8
	ZA	100,8
	ZZ	85,7

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

# DECISIONS

## COUNCIL DECISION

of 16 February 2010

**making public Recommendation 2010/190/EU with a view to ending the inconsistency with the broad guidelines of the economic policies in Greece and removing the risk of jeopardising the proper functioning of the economic and monetary union**

(2010/181/EU)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty on the Functioning of European Union, and in particular Article 121(4) thereof,

Having regard to the proposal of the Commission,

Whereas:

- (1) On 16 February 2010, the Council adopted Recommendation 2010/190/EU <sup>(1)</sup> with a view to ending the inconsistency with the broad guidelines of the economic policies in Greece and removing the risk of jeopardising the proper functioning of the economic and monetary union.
- (2) Making that Recommendation public should facilitate the coordination of the economic policies of Member States and the Union, contribute to a better understanding among economic agents and facilitate the implementation of the recommended measures,

### *Article 1*

Recommendation 2010/190/EU with a view to ending the inconsistency with the broad guidelines of the economic policies in Greece and removing the risk of jeopardising the proper functioning of economic and monetary union shall be published in the *Official Journal of the European Union*.

### *Article 2*

This Decision shall take effect on 16 February 2010.

Done at Brussels, 16 February 2010.

*For the Council*  
*The President*  
E. SALGADO

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<sup>(1)</sup> See page 65 of this Official Journal.



## COUNCIL DECISION

of 16 February 2010

**giving notice to Greece to take measures for the deficit reduction judged necessary in order to remedy the situation of excessive deficit**

(2010/182/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 126(9), in conjunction with Article 136 thereof,

Having regard to the recommendation from the Commission,

Whereas:

(1) In accordance with Article 126(1) of the Treaty on the Functioning of the European Union (TFEU), Member States are to avoid excessive government deficits.

(2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.

(3) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the excessive deficit procedure. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

(4) On 27 April 2009, the Council decided, in accordance with Article 104(6) of the Treaty establishing the European Community (TEC), that an excessive deficit existed in Greece and issued recommendations to correct the excessive deficit by 2010 at the latest, in accordance with Article 104(7) TEC and Article 3(4) of Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure<sup>(1)</sup>. The Council also set a deadline of 27 October 2009 for effective action to be taken.

(5) The actual and planned government deficit and debt data notified in April 2009 by Greece were substantially revised upwards in the October 2009 notification. The deficit figure for 2008 rose to 7¾ % of GDP (from the 5 % of GDP notified in April 2009), while the debt ratio

is reported to have reached 99 % of GDP at the end of 2008 (as compared to 97,6 % reported in April 2009). In accordance with Article 15(1) of Council Regulation (EC) No 479/2009 of 25 May 2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community<sup>(2)</sup>, the Commission (Eurostat) expressed a general reservation on the quality of actual data reported by Greece, due to 'significant uncertainties' over the figures notified by Greece. The Commission (Eurostat)'s reservation on the Greek government finance statistics has not yet been withdrawn and therefore the Greek government finance statistics have not currently been validated and are subject to further revisions. According to the Commission services' autumn 2009 forecasts and the January 2010 update of the Greek stability programme (hereinafter 'the January 2010 update'), the general government deficit reached 12¾ % of GDP in 2009, compared with the target of 3,7 % of GDP in the January 2009 update. On the basis of the officially projected real GDP growth rate of -¼ % in 2010, the 2010 budgetary target stands at 8,7 % of GDP which is well above the reference value of 3 % of GDP.

(6) On 2 December 2009, the Council established, in accordance with Article 126(8) TFEU, that Greece had taken no effective action in response to the Council Recommendation under Article 104(7) TEC of 27 April 2009 (hereinafter 'the Council Recommendation of 27 April 2009').

(7) On 11 February 2010, the European Council considered the fiscal situation in Greece, supported the Greek government's efforts and commitment to do whatever is necessary, including the adoption of additional measures, to ensure that the ambitious targets set in the stability programme are met, and called on Greece to implement all measures in a rigorous and determined manner to effectively reduce the fiscal deficit ratio by 4 percentage points of GDP in 2010.

(8) In accordance with Article 126(9) TFEU, if a Member State persists in failing to put into practice the recommendations of the Council, the Council may decide to give notice to the Member State to take, within a specified time limit, measures for the deficit reduction. This is not the first time that the Council decides to give notice to Greece under Article 126(9) TFEU. On 17 February 2005, the Council decided to give notice to Greece, in accordance with Article 104(9) TEC, to take measures for the deficit reduction judged necessary in order to remedy the situation of excessive deficit.

<sup>(1)</sup> OJ L 209, 2.8.1997, p. 6.

<sup>(2)</sup> OJ L 145, 10.6.2009, p. 1.

- (9) The following factors should be taken into account in determining the content of the notice under Article 126(9) TFEU, including a deadline for the correction of the excessive deficit. First, the estimated deficit outturn for 2009 was substantially higher than expected when the Council Recommendation of 27 April 2009 was adopted and expenditure slippages and revenue shortfalls more than offset the impact of the budgetary consolidation measures implemented in the course of 2009. The total adjustment necessary to correct the excessive deficit is higher than 9¾ percentage points of GDP. Second, the nominal budgetary adjustment foreseen in the January 2010 update amounts to 4 percentage points of GDP, of which, according to the Greek authorities, two-thirds result from permanent measures.
- (10) In the light of these factors, it appears that the deadline which was set in the Council Recommendation of 27 April 2009 for the correction of the excessive deficit in Greece needs to be extended, given the sheer size of the consolidation required, by 2 years to 2012, in line with the January 2010 update.
- (11) On 16 February 2010, the Council adopted the Recommendation to Greece <sup>(1)</sup> with a view to ending the inconsistency with the broad guidelines of the economic policies in Greece and removing the risk of jeopardising the proper functioning of the economic and monetary union (hereinafter 'the Council Recommendation of 16 February 2010').
- (12) On the basis of real GDP growth rates of – ¼ % and ¾ %, according to the Commission services' autumn 2009 forecast for 2010 and 2011, and given the risks to the budgetary outlook, the rigorous implementation of the 2010 budget will be paramount to put government accounts on a path leading to the correction of the excessive deficit by 2012. The adoption of concrete permanent measures in 2011 and 2012 will be necessary to attain government deficits not exceeding 5,6 % in 2011 and 2,8 % of GDP in 2012. The fiscal effort measured in structural terms to reach such a deficit-reduction path should be at least 3½ % of GDP in 2010 and 2011 and 2½ % of GDP in 2012.
- (13) The correction of the excessive deficit requires a number of specific cuts in government expenditure (including, in particular, reductions in the wage bill, social transfers and public employment) and increases in revenue (including, in particular, a tax reform, increases in excise and real estate taxes), as well as a number of improvements in the Greek fiscal framework (such as medium-term budgeting, the adoption of fiscal rules and a number of institutional changes). Most of these measures have been outlined by the Greek authorities themselves in the January 2010 update. The full implementation of all the necessary measures within fixed deadlines should be explicitly requested since it appears strictly necessary to restore the situation of public finances in Greece in a credible and sustainable manner. Given the risks related to the planned fiscal consolidation path, Greece shall, as announced in the stability programme, stand ready to adopt additional measures and implement them in order to ensure that the adjustment path is followed.
- (14) In view of the serious and recurrent deficiencies observed in the compilation of fiscal statistics in Greece, and in order to allow for an adequate monitoring of the situation of public finances in Greece, further efforts are needed to improve the collection and processing of general government data required under the existing legal framework, in particular by enhancing the mechanisms that ensure the prompt and correct supply of these data. This includes the quarterly and annual compilation of government finance statistics in accordance with Regulations (EC) No 2223/96 <sup>(2)</sup>, (EC) No 264/2000 <sup>(3)</sup>, (EC) No 1221/2002 <sup>(4)</sup>, (EC) No 501/2004 <sup>(5)</sup>, (EC) No 1222/2004 <sup>(6)</sup>, (EC) No 1161/2005 <sup>(7)</sup> and (EC) No 479/2009 as well as the monthly publication of data on the State budget execution and the prompt availability of financial data on social security, local government and extra-budgetary funds. However, taking into account that the administrative changes required to compile reliable and trustworthy fiscal statistics may take time, it is important that the change in the government debt level be regularly monitored and that policy targets be defined both in relation to the deficit and the change in debt level.

<sup>(2)</sup> Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310, 30.11.1996, p. 1).

<sup>(3)</sup> Commission Regulation (EC) No 264/2000 of 3 February 2000 on the implementation of Council Regulation (EC) No 2223/96 with respect to short-term public finance statistics (OJ L 29, 4.2.2000, p. 4).

<sup>(4)</sup> Regulation (EC) No 1221/2002 of the European Parliament and of the Council of 10 June 2002 on quarterly non-financial accounts for general government (OJ L 179, 9.7.2002, p. 1).

<sup>(5)</sup> Regulation (EC) No 501/2004 of the European Parliament and of the Council of 10 March 2004 on quarterly financial accounts for general government (OJ L 81, 19.3.2004, p. 1).

<sup>(6)</sup> Council Regulation (EC) No 1222/2004 of 28 June 2004 concerning the compilation and transmission of data on the quarterly government debt (OJ L 233, 2.7.2004, p. 1).

<sup>(7)</sup> Regulation (EC) No 1161/2005 of the European Parliament and of the Council of 6 July 2005 on the compilation of quarterly non-financial accounts by institutional sector (OJ L 191, 22.7.2005, p. 22).

<sup>(1)</sup> See page 65 of this Official Journal.

- (15) Gross public debt at the end of 2009 is estimated to have exceeded 113 % of GDP. This is among the highest debt-to-GDP ratio in the Union, and is well above the 60 % of GDP reference value established under the TFEU. Coupled with the developments in the market and the implied re-pricing of risk, this does not only render the financing of any additional issuance more expensive, but also increases the cost of refinancing the existing stock of public debt. Moreover, the contribution to the changes in debt levels of factors other than net borrowing has been large. It is necessary for Greece to take further action to control such factors in order to reduce the debt ratio at a satisfactory pace, consistent with the projections for the general government balance and nominal GDP growth. The annual change in general government debt nominal levels in 2010-2012 should be in line with the deficit targets and with a total stock-flow adjustment of  $\frac{1}{4}$  % of GDP per year in 2010, 2011 and 2012.
- (16) Greece should submit, by 16 March 2010, a report spelling out the measures and the calendar for implementation to achieve the 2010 budgetary targets. Greece should also submit regular reports to the Council and Commission outlining how measures specified in this Decision are being implemented. Given the gravity of the fiscal situation in Greece, these reports should be submitted regularly as from 15 May 2010 and should be made public. In particular, the reports should include a description of the measures implemented, and those to be implemented in 2010, in order to consolidate public finance and improve their long-term sustainability. Given the interaction between fiscal consolidation and the need to implement structural reform and improve competitiveness, Greece should also include in these reports the measures taken in response to the Council Recommendation of 16 February 2010. Furthermore, the reports should also include information on the monthly State budget execution; the budgetary implementation by social security and local government; debt issuance; developments in public sector employment; expenditure pending payment and, at least annually, the financial situation of public enterprises. Given the interaction between fiscal consolidation and the need to implement structural reforms and improve competitiveness, the Council has invited Greece to report on measures in response to the Council Recommendation of 16 February 2010 in the context of the quarterly reports provided in this Decision. The Commission and the Council will examine the reports with a view to assessing progress made towards the correction of the excessive deficit.
- (17) The statement by the Heads of State or Government of the European Union of 11 February 2010 invited the Commission to closely monitor the implementation of this Decision in liaison with the ECB and to propose needed additional measures.
- (18) After the excessive deficit has been corrected, Greece shall take the necessary measures to ensure that the medium-term objective (MTO) of a balanced budget in structural terms is achieved as soon as possible. To this end, the Greek authorities should keep ensuring the implementation of permanent measures to control current primary expenditure, including in particular the wage bill, social transfers, subsidies and other transfers. Moreover, Greece should ensure that fiscal consolidation is also geared towards enhancing the quality of public finances and contribute to recover competitiveness of the economy, within the framework of a comprehensive reform programme, while swiftly implementing policies to further reform the tax administration. In view of the mounting level of debt and the projected increase in age-related expenditure, the Greek authorities should continue to improve the long-term sustainability of public finances,
- HAS ADOPTED THIS DECISION:
- Article 1*
1. Greece shall put an end to the present excessive deficit situation as rapidly as possible and, at the latest, by the deadline of 2012.
  2. The adjustment path towards the correction of the excessive deficit shall include a structural annual adjustment of at least  $3\frac{1}{2}$  percentage points of GDP in 2010 and 2011, and of at least  $2\frac{1}{2}$  percentage points of GDP in 2012.
  3. The adjustment path referred to in paragraph 2 requires that the general government deficit does not exceed EUR 21 270 million in 2010, EUR 14 170 million in 2011 and EUR 7 360 million in 2012.
  4. The adjustment path referred to in paragraph 2 requires that the annual change in the general government consolidated gross debt does not exceed EUR 21 760 million in 2010, EUR 14 680 million in 2011 and EUR 7 880 million in 2012.
  5. The reduction of the deficit should be accelerated if the economic or budgetary conditions turn out better than currently expected.
- Article 2*
- In order to put an end to the situation of excessive deficit and comply with the adjustment path, Greece shall implement a number of fiscal consolidation measures, including those spelled out in the stability programme, and in particular:
- A. URGENT FISCAL MEASURES TO BE TAKEN BY 15 MAY 2010
- As outlined in the stability programme, and including the fiscal measures announced on 2 February 2010, Greece shall:

## Expenditure

- (a) move 10 % of budgetary appropriations (other than wages and pensions) of the government's departments in the budget for 2010 to a contingency reserve, pending a reallocation of appropriations among departments and the identification of spending programmes to be rationalised, leading to a sizeable permanent reduction in expenditure;
- (b) reduce the wage bill, including by freezing nominal wages in central government, local governments, state agencies, and other public institutions and implementing employment cuts; stop new recruitment in 2010 and cancel vacancies in the general government sector, including temporary contracts, in particular by not replacing permanent officials who retire;
- (c) cut special allowances paid to civil servants (including from off-budget accounts) leading to a cut in total remuneration in the general government sector, as a first step to improve the public wage system and streamline the public wage grid;
- (d) adopt nominal cuts in transfers paid by the social security, including through measures to restrict the indexation of benefits and entitlements;

## Revenue

- (e) implement a progressive tax scale for all sources of income and a horizontally unified treatment of income generated from labour and capital assets;
- (f) abrogate all exemptions and autonomous taxation provisions in the tax system, including income from special allowances paid to civil servants;
- (g) introduce presumptive taxation for self-employed persons;
- (h) introduce permanent levies on buildings and increase tax rates on real estate as compared to the rates as of 31 December 2009;
- (i) increase tobacco, alcohol and fuel excise duties, as compared to the rates as of 31 December 2009;
- (j) spell out in detail and implement, by the end of March 2010, the currently planned tax system reforms, while using the potential efficiency gains to further reduce the deficit.

## B. SUPPORTING MEASURES TO SAFEGUARD THE 2010 BUDGETARY TARGETS

- (a) to the extent that a number of risks associated with the deficit and debt ceilings provided in Article 1(3) and (4) materialise, Greece shall announce, in the report to be presented by 16 March 2010, measures additional to those provided in Article 2, Section A, to ensure that the 2010 budgetary target is met. Additional measures should focus on expenditure cuts (for example, cutting further current and capital expenditure, including by cancelling budgetary appropriations in the contingency reserve), but

also include revenue-increasing measures (for example, increasing VAT revenue, establishing excise duties on luxury goods, including private cars, further increasing excise duties on energy products). The first assessment in this regard will be undertaken on the occasion of the first reporting on 16 March 2010.

## C. OTHER MEASURES TO BE ADOPTED BY THE END OF 2010

### Expenditure

- (a) adopt necessary reforms to significantly reduce the budgetary impact of ageing through a reform of the healthcare and pension systems, to be validated by the Economic Policy Committee peer-review process; in particular, adopt a parametric reform of the pension system which should ensure that the pension system is financially sustainable in the light of an ageing population; to this end, the reform should include lowering the upper limits on pensions, a progressive increase in the statutory retirement age of both women and men, and a change in the pension award formula to better reflect contributions paid throughout a person's professional life and to improve generational fairness and rationalise the system of special allowances for low pensions;
- (b) reduce public sector employment in the general government by further cutting temporary contracts and implementing the rule of 1 recruitment for every 5 retirements;
- (c) reform the wage payment system for direct public administration employees, providing unified principles in setting and planning wages; streamlining the wage grid, while aiming at reducing the wage bill; wage bill savings at local level also need to be achieved; the new unified public sector wage grid has to be extended, but also refined, to apply to local governments and various other agencies and also ensure that the best performers are kept in the public sector;

### Revenue

- (d) enhance in earnest the fight against tax evasion and fraud (in particular, with regard to VAT, corporate income tax and the taxation system of the self-employed persons' income), by also strengthening the legal enforcement of tax payments and using potential returns to further reduce the deficit;
- (e) pursue the modernisation of the tax administration, including by setting up a fully accountable tax collection department, which should set annual targets and operate within monitoring assessment systems of performance for tax offices; allocate the necessary resources in terms of high-level personnel, infrastructure and equipment support, managerial organisation and information-sharing systems; which should have sufficient safeguards against political interference;



### Fiscal framework

- (f) spell out in detail the measures to be implemented in 2011 and 2012, in order to comply with the targets in the January 2010 update;
- (g) strengthen the position of the Ministry of Finance in relation to the line ministers in the course of the preparation of the annual budget legislation and reinforce its control mechanisms during budgetary execution; ensure, in addition, the effective implementation of programme-based budgeting;
- (h) pursue the reform of the General Accounting Office, including by setting up a fully accountable budget department, which should set multiannual expenditure targets and operate within monitoring assessment systems of performance; allocate the necessary resources in terms of high-level personnel, infrastructure and equipment support, managerial organisation and information-sharing systems; which should have sufficient safeguards against political interference;
- (i) adopt a medium-term budgetary framework, including binding spending ceilings based on a multiannual expenditure rule, and set up an independent fiscal policy agency, reporting publicly on the budgetary plans and execution of all public-spending entities of the general government on a timely basis;
- (j) within the medium-term budgetary framework referred to in point (i), announce without delay additional permanent expenditure-reducing measures for the medium-term;
- (k) enhance in earnest the fight against corruption in public administration, in particular in relation to public wages and allowances, public procurement, and tax assessment and collection;
- (l) take the necessary steps to avoid a reduction in the average maturity of public debt;
- (m) pursue the efforts to control factors other than net borrowing, which contribute to the change in debt levels.

### D. OTHER FISCAL MEASURES TO BE ADOPTED BY 2012

#### Expenditure

- (a) in 2011 and 2012, implement adjustment measures of a permanent nature, mainly focused on current expenditure; more specifically, adopt expenditure cuts aiming at

permanent savings in government consumption expenditure, including the wage bill, and social transfers, and reduce public employment;

#### Revenue

- (b) within a medium-term budgetary framework, continue to implement with rigor the reform of the tax administration, while allocating potential revenues to deficit reduction;

### Fiscal framework

- (c) strengthen the institutional mechanisms for providing reliable and plausible official budgetary forecasts that take into account available recent execution developments and trends; to this end, the official macroeconomic forecasts should be reviewed by external experts; the Commission services' forecast shall be taken as a benchmark;
- (d) refrain from including in the budgetary targets deficit-reducing measures of a one-off nature;
- (e) within the medium-term budgetary framework, adopt additional permanent expenditure-reducing measures aimed at achieving the MTO of close to balance or in surplus.

### Article 3

In order to allow timely and effective revenue and expenditure control and the proper monitoring of fiscal developments, Greece should:

- (a) by 15 May 2010, adopt legislation that makes it compulsory to provide public reports on budgetary execution on a monthly basis with a delay of no more than 10 days after the month-end;
- (b) enforce the current legal obligation on social security funds and hospitals to publish annual official accounts and balance sheets;
- (c) further pursue the efforts to improve the collection and processing of general government data, notably by enhancing the control mechanisms of statistical authorities and the General Accounting Office and ensuring effective personal responsibility for cases of misreporting, in order to ensure the prompt supply of high-quality general government data required by Regulations (EC) No 2223/96, (EC) No 264/2000, (EC) No 1221/2002, (EC) No 501/2004, (EC) No 1222/2004, (EC) No 1161/2005, (EC) No 223/2009<sup>(1)</sup> and (EC) No 479/2009;

<sup>(1)</sup> Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

- (d) cooperate with the Commission (Eurostat) so as to promptly agree on an action plan to tackle statistical, institutional and governance deficiencies;
- (e) cooperate with the Commission (Eurostat) and receive the appropriate resident technical assistance on the compilation of fiscal and other macroeconomic statistics.

#### Article 4

1. Greece shall submit to the Council and the Commission and shall make public, by 16 March 2010 at the latest, a report spelling out the implementation calendar of the measures established pursuant to Article 2 of this Decision in order to achieve the 2010 budgetary targets, including, the necessary measures envisaged in Article 2, Section B.
2. Greece shall submit to the Council and the Commission and shall make public, by 15 May 2010 at the latest, a report outlining the policy measures to comply with this Decision. Greece shall thereafter submit and make such reports public on a quarterly basis.
3. The reports referred to in paragraph 2 should contain detailed information on:
  - (a) concrete measures implemented by the date of the report in order to comply with this Decision, including their quantified budgetary impact;
  - (b) concrete measures planned to be implemented after the date of the report in order to comply with this Decision, their implementation calendar and estimation of their budgetary impact;
  - (c) the monthly State budget execution;
  - (d) infra-annual budgetary implementation by social security, local government and extra budgetary funds;
  - (e) government debt issuance and reimbursement;

- (f) permanent and temporary public sector employment developments;
- (g) government expenditure pending payment (cumulated arrears);
- (h) the financial situation in public undertakings and other public entities (such information should be provided on a yearly basis).

4. The Commission and the Council shall analyse the reports with a view to assessing Greece's compliance with this Decision.

In the context of these assessments, the Commission may indicate the measures needed to respect the adjustment path set by this Decision for the correction of the excessive deficit.

#### Article 5

Greece shall take effective action to comply with this Decision by 15 May 2010.

#### Article 6

This Decision shall take effect on the day of its notification.

#### Article 7

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 16 February 2010.

For the Council  
The President  
E. SALGADO



## COUNCIL DECISION

of 16 March 2010

## amending Decision 2009/459/EC providing Community medium-term financial assistance for Romania

(2010/183/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments <sup>(1)</sup> and in particular Article 5, second subparagraph, in conjunction with Article 8 thereof,

Having regard to the proposal from the Commission made after consulting the Economic and Financial Committee (EFC),

Whereas:

(1) By Decision 2009/458/EC <sup>(2)</sup>, the Council granted mutual assistance to Romania and by Decision 2009/459/EC <sup>(3)</sup>, the Council provided medium-term financial assistance for Romania.

(2) The scope and intensity of the economic recession affecting Romania calls for a revision of the economic policy conditions foreseen for the disbursement of the instalments of the financial assistance with a view to taking into account the impact of the larger-than-expected contraction of real GDP.

(3) Decision 2009/459/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2009/459/EC is hereby amended as follows:

1. in Article 3(5), point (a) shall be replaced by the following:

'(a) implementing a clearly set medium-term fiscal programme so as to bring the general government deficit below the Treaty reference value of 3 % of GDP with a time-frame and a consolidation path which are consistent with the Council recommendations to Romania adopted under the excessive deficit procedure.';

2. in Article 3(5), point (b) shall be replaced by the following:

'(b) adopting and implementing annual budgets for 2010 and beyond, consistent with the consolidation path set out in the Supplemental Memorandum of Understanding.'.

*Article 2*

This Decision shall take effect on the day of its notification.

*Article 3*

This Decision is addressed to Romania.

*Article 4*This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 16 March 2010.

*For the Council**The President*

E. SALGADO

<sup>(1)</sup> OJ L 53, 23.2.2002, p. 1.

<sup>(2)</sup> OJ L 150, 13.6.2009, p. 6.

<sup>(3)</sup> OJ L 150, 13.6.2009, p. 8.

**POLITICAL AND SECURITY COMMITTEE DECISION ATALANTA/1/2010**  
**of 5 March 2010**

**amending Political and Security Committee Decision ATALANTA/2/2009 on the acceptance of third States' contributions to the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta) and Political and Security Committee Decision ATALANTA/3/2009 on the setting up of the Committee of Contributors for the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta)**

(2010/184/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third subparagraph of Article 38 thereof,

Having regard to Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast <sup>(1)</sup>, and in particular Article 10 thereof,

Having regard to Political and Security Committee Decision Atalanta/2/2009 <sup>(2)</sup> and to Political and Security Committee Decision Atalanta/3/2009 <sup>(3)</sup>, and the addendum thereto <sup>(4)</sup>,

Whereas:

- (1) The EU Operation Commander held a Force Generation Conference on 16 December 2008.
- (2) Following the offer by Ukraine to contribute to operation Atalanta, the recommendation by the EU Operation Commander and the advice by the European Union Military Committee, the contribution from Ukraine should be accepted.
- (3) In accordance with Article 5 of Protocol No 22 on the position of Denmark, annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, Denmark does not participate in the elaboration and implementation of decisions and actions of the Union which have defence implications,

HAS ADOPTED THIS DECISION:

*Article 1*

Article 1 of Political and Security Committee Decision Atalanta/2/2009 is replaced by the following:

*'Article 1*

**Third States' contributions**

Following the Force Generation and Manning Conferences, the contributions from Norway, Croatia, Montenegro and Ukraine shall be accepted for the EU military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta)'.

*Article 2*

The Annex to Political and Security Committee Decision Atalanta/3/2009 is replaced by the text appearing in the Annex to this Decision.

*Article 3*

This Decision shall enter into force on the date of its adoption.

*Article 4*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 5 March 2010.

*For the Political and Security Committee*  
*The Chairperson*  
C. FERNÁNDEZ-ARIAS

<sup>(1)</sup> OJ L 301, 12.11.2008, p. 33.

<sup>(2)</sup> OJ L 109, 30.4.2009, p. 52.

<sup>(3)</sup> OJ L 112, 6.5.2009, p. 9.

<sup>(4)</sup> OJ L 119, 14.5.2009, p. 40.

ANNEX

'ANNEX

**LIST OF THIRD STATES REFERRED TO IN ARTICLE 2(1)**

- Norway
- Croatia
- Montenegro
- Ukraine.'

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**POLITICAL AND SECURITY COMMITTEE DECISION ATALANTA/2/2010****of 23 March 2010****on the appointment of an EU Force Commander for the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somalia coast (Atalanta)**

(2010/185/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular Article 38 thereof,

Having regard to Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somalia coast <sup>(1)</sup> (Atalanta), and in particular Article 6 thereof,

Whereas:

- (1) Pursuant to Article 6 of Joint Action 2008/851/CFSP the Council authorised the Political and Security Committee (PSC) to take decisions on the appointment of the EU Force Commander.
- (2) On 4 December 2009, the PSC adopted Decision Atalanta/8/2009 <sup>(2)</sup> appointing Rear Admiral Giovanni GUMIERO as EU Force Commander for the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somalia coast.
- (3) The EU Operation Commander has recommended the appointment of Rear Admiral (LH) Jan THÖRNQVIST as the new EU Force Commander for the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somalia coast.

(4) The EU Military Committee has supported that recommendation.

(5) In accordance with Article 5 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark does not participate in the elaboration and implementation of decisions and actions of the European Union which have defence implications,

HAS ADOPTED THIS DECISION:

*Article 1*

Rear Admiral (LH) Jan THÖRNQVIST is hereby appointed EU Force Commander for the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somalia coast.

*Article 2*

This Decision shall enter into force on 14 April 2010.

Done at Brussels, 23 March 2010.

*For the Political and Security Committee*  
*The Chairman*  
C. FERNÁNDEZ-ARIAS

<sup>(1)</sup> OJ L 301, 12.11.2008, p. 33.<sup>(2)</sup> OJ L 327, 12.12.2009, p. 40.

**COUNCIL DECISION 2010/186/CFSP****of 29 March 2010****amending Common Position 2009/788/CFSP concerning restrictive measures against the Republic of Guinea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 27 October 2009, the Council adopted Common Position 2009/788/CFSP concerning restrictive measures against the Republic of Guinea <sup>(1)</sup>.
- (2) On 22 December 2009, the Council adopted Decision 2009/1003/CFSP amending Common Position 2009/788/CFSP and including additional restrictive measures <sup>(2)</sup>.
- (3) The Council considers that there are no longer grounds for keeping certain persons on the list of persons, entities and bodies to which restrictive measures provided for in Common Position 2009/788/CFSP apply. The list set out in the Annex to Common Position 2009/788/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

The persons mentioned in the Annex to this Decision shall be removed from the list set out in the Annex to Common Position 2009/788/CFSP.

*Article 2*

This Decision shall enter into force on the date of its adoption.

*Article 3*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 29 March 2010.

*For the Council*  
*The President*  
E. ESPINOSA

<sup>(1)</sup> OJ L 281, 28.10.2009, p. 7.

<sup>(2)</sup> OJ L 346, 23.12.2009, p. 51.

## ANNEX

**List of persons referred to in Article 1**

n°2 Major-General Mamadouba (alias Mamadou) Toto CAMARA

n°3 General Sékouba KONATÉ

n°16 Commandant Kelitigui FARO

n°43 Mr Kabinet (alias Kabiné) KOMARA

## COMMISSION DECISION

of 25 March 2010

**authorising Member States to adopt certain derogations pursuant to Directive 2008/68/EC of the European Parliament and of the Council on the inland transport of dangerous goods**

*(notified under document C(2010) 1610)**(2010/187/EU)*

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods<sup>(1)</sup>, and in particular Article 6(2) and Article 6(4) thereof,

Whereas:

- (1) Annex I, Section I.3, Annex II, Section II.3 and Annex III, Section III.3 to Directive 2008/68/EC contain lists of national derogations, allowing specific national circumstances to be taken into account. Those lists should be updated to include new national derogations.
- (2) For reasons of clarity, it is appropriate to replace those Sections in their entirety.
- (3) Directive 2008/68/EC should therefore be amended accordingly.
- (4) The measures provided for in this Decision are in accordance with the opinion of the transport of dangerous goods Committee set up by Directive 2008/68/EC,

*Article 1*

The Member States listed in the Annex to this Decision are authorised to implement the derogations set out therein regarding the transport of dangerous goods within their territory.

These derogations shall be applied without discrimination.

*Article 2*

Annex I, Section I.3, Annex II, Section II.3 and Annex III, Section III.3 to Directive 2008/68/EC are amended in accordance with the Annex to this Decision.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 25 March 2010.

*For the Commission*

Siim KALLAS

*Vice-President*

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<sup>(1)</sup> OJ L 260, 30.9.2008, p. 13.



## ANNEX

Annex I, Section I.3, Annex II, Section II.3 and Annex III, Section III.3 to Directive 2008/68/EC are amended as follows:

1. Annex I, Section I.3 is replaced by the following:

**I.3. National derogations**

Derogations for Member States for the transport of dangerous goods within their territory on the basis of Article 6(2) of Directive 2008/68/EC.

Numbering of derogations: RO-a/bi/bii-MS-nn

RO = Road

a/bi/bii = Article 6(2) a/bi/bii

MS = Abbreviation of Member State

nn = order number

**Based on Article 6(2)(a) of Directive 2008/68/EC**

BE Belgium

RO-a-BE-1

Subject: Class 1 — Small quantities.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 1.1.3.6

Content of the Annex to the Directive: 1.1.3.6 limits to 20 kg the quantity of mining explosives which can be transported in an ordinary vehicle.

Content of the national legislation: Operators of depots remote from supply points may be authorised to transport 25 kg of dynamite or powerful explosives and 300 detonators at the most in ordinary motor vehicles, subject to conditions to be set by the explosives service.

Initial reference to the national legislation: *Article 111 de l'arrêté royal 23 septembre 1958 sur les produits explosifs.*

Expiry date: 30 June 2015

RO-a-BE- 2

Subject: Transport of uncleaned empty containers having contained products of different classes.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.1.6

Content of the national legislation: Indication on the transport document "uncleaned empty packages having contained products of different classes".

Initial reference to the national legislation: *Dérogation 6-97.*

Comments: Derogation registered by the European Commission as No 21 (under Article 6(10) of Directive 94/55/EC).

Expiry date: 30 June 2015

RO-a-BE-3

Subject: Adoption of RO-a-UK-4.

Initial reference to the national legislation:

Expiry date: 30 June 2015

RO-a-BE-4

Subject: exemption of all ADR requirements for the national transport of maximum 1 000 used ionic smoke detectors from private households to the treatment facility in Belgium via the collection points foreseen in the scenario for the selective collection of smoke detectors.

Reference to ADR: all requirements

Reference to Annex I, Section I.1, to Directive 2008/68/EC:

Content of the national legislation: The domestic use of ionic smoke detectors is not submitted to regulatory control from a radiological point of view once the smoke detector is of an approved type. The transport of these smoke detectors to the end user is also exempted from ADR requirements. (see 2.2.7.1.2.(d)).

The WEEE Directive 2002/96/EC (waste electric and electronic equipments) requires the selective collection of used smoke detectors for treatment of the circuit boards and, for the ionic smoke detectors, to take out the radioactive substances. To make this selective collection possible a scenario has been developed to stimulate private households to bring their used smoke detectors to a collection point from which these detectors can be carried to a treatment facility sometimes via a second collection point or an intermediate storage place.

At the collection points metal packagings will be made available wherein a maximum of 1 000 smoke detectors can be packed. From these points one such package with the smoke detectors can be transported together with others wastes to an intermediate storage or the treatment facility. The package will be labelled with the word "smoke detector".

Initial reference to the national legislation: scenario for the selective collection of smoke detectors makes part of the conditions for removal of approved instruments foreseen in article 3.1.d.2 of the royal decree of 20.7.2001: the general radiation protection regulation.

Comments: This derogation is necessary to make the selective collection of used ionic smoke detectors possible.

Expiry date: 30 June 2015

DE Germany

RO-a-DE-1

Subject: Mixed packing and mixed loading of car parts with classification 1.4G together with certain dangerous goods (n4).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 4.1.10 and 7.5.2.1

Content of the Annex to the Directive: Provisions on mixed packing and mixed loading.

Content of the national legislation: UN 0431 and UN 0503 may be loaded together with certain dangerous goods (products related to car manufacturing) in certain amounts, listed in the exemption. The value 1 000 (comparable with 1.1.3.6.4) shall not be exceeded.

Initial reference to the national legislation: *Gefahrgut-Ausnahmereverordnung – GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350); Ausnahme 28.*

Comments: The exemption is needed to provide fast delivery of safety car parts depending on local demand. Due to the wide product range storage of these products using local garages is not common.

Expiry date: 30 June 2015

RO-a-DE-2

Subject: Exemption from the requirement to carry a transport document and a shippers' declaration for certain quantities of dangerous goods as defined in 1.1.3.6 (n1).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.1.1 and 5.4.1.1.6

Content of the Annex to the Directive: contents of the transport document.

Content of the national legislation: For all classes except Class 7: no transport document is needed if the quantity of the goods transported does not exceed the quantities given in 1.1.3.6.

Initial reference to the national legislation: *Gefahrgut-Ausnahmeverordnung – GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350); Ausnahme 18.*

Comments: The information provided by the marking and labelling of packages is considered sufficient for national transport, as a transport document is not always appropriate where local distribution is involved.

Derogation registered by the European Commission as No 22 (under Article 6(10) of Directive 94/55/EC).

Expiry date: 30 June 2015

RO-a-DE-3

Subject: Transportation of measurement standards and fuel pumps (empty, non-cleaned).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Provisions for UN numbers 1202, 1203 and 1223.

Content of the Annex to the Directive: Packaging, marking, documents, transport and handling instructions, instructions for vehicle crews.

Content of the national legislation: Specification of applicable regulations and ancillary provisions for applying the derogation; up to 1 000 l: comparable with empty, non-cleaned packaging; above 1 000 l: Compliance with certain regulations for tanks; transportation empty and non-cleaned only.

Initial reference to the national legislation: *Gefahrgut-Ausnahmeverordnung – GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350); Ausnahme 24.*

Comments: List No 7, 38, 38a.

Expiry date: 30 June 2015

RO-a-DE-5

Subject: Combined packaging authorisation.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 4.1.10.4 MP2

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

Content of the national legislation: Classes 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 Classes 3 and 6.1 (UN numbers listed) as sets to be sold in combined packaging in packaging group II and in small quantities.

Initial reference to the national legislation: *Gefahrgut-Ausnahmeverordnung – GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350); Ausnahme 21.*

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

Expiry date: 30 June 2015

DK Denmark

RO-a-DK-1

Subject: Road transport of packagings or articles containing wastes or residues of dangerous goods collected from households and certain enterprises for the purpose of disposal.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Part 2, 3, 4.1, 5.2, 5.4 and 8.2.

Content of the Annex to the Directive: Principles for classification, special provisions, packing provisions, marking and labelling provisions, transport document and training.

Content of the national legislation: Inner packagings or articles containing waste or residues of dangerous goods collected from households or certain enterprises may be packed together in outer packagings. The contents of each inner packaging and/or each outer packaging must not exceed set mass or volume limits. Derogations from the provisions concerning classification, packaging, marking and labelling, documentation and training.

Initial reference to the national legislation: *Bekendtgørelse nr. 437 af 6. juni 2005 om vejtransport af farligt gods*, § 4 stk. 3.

Comments: It is not possible to carry out an accurate classification and apply all ADR provisions when wastes or residual amounts of dangerous goods are collected from households and certain enterprises for the purpose of disposal. The waste is typically contained in packagings which have been sold in retail sale.

Expiry date: 30 June 2015

RO-a-DK-2

Subject: Road transport of packaging containing explosive substances and packaging containing detonators on the same vehicle.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 7.5.2.2

Content of the Annex to the Directive: Mixed packing provisions.

Content of the national legislation: The rules in the ADR must be observed when transporting dangerous goods by road.

Initial reference to the national legislation: *Bekendtgørelse nr. 729 af 15. august 2001 om vejtransport af farligt gods* § 4, stk. 1.

Comments: There is a practical need for being able to pack explosive substances together with detonators on the same vehicle when transporting such goods from where they are stored to the workplace and back again.

When the Danish legislation concerning the transport of dangerous goods is amended, the Danish authorities will allow such transport under the following conditions:

1. Not more than 25 kg explosive substances under group D are being transported.
2. Not more than 200 pieces of detonators under group B are being transported.
3. Detonators and explosive substances must be packed separately in UN-certified packaging in accordance with the rules set out in Directive 2000/61/EC amending Directive 94/55/EC.
4. The distance between packaging that contains detonators and packaging that contains explosive substances must be at least 1 metre. This distance has to be observed even after a sudden application of the brakes. Packaging containing explosive substances and packaging containing detonators must be placed in a way that makes it possible quickly to remove them from the vehicle.
5. All other rules concerning the transport of dangerous goods by road must be observed.

Expiry date: 30 June 2015

FI Finland

RO-a-FI-1

Subject: Transport of dangerous goods in certain amounts in buses and low active radioactive materials in small quantities for the purposes of health care and research.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 4.1, 5.4.

Content of the Annex to the Directive: Packaging provisions, documentation.

Content of the national legislation: Transport of dangerous goods in certain amounts under the limit of 1.1.3.6 with a maximum net mass of not more than 200 kg in buses is allowed without using the transport document and without fulfilling all the packaging requirements. When transporting the low active radioactive materials with a weight of max 50 kg for the purposes of health care and research, the vehicle need not be marked and equipped according to the ADR.

Initial reference to the national legislation: *Liikenne- ja viestintäministeriön asetus vaarallisten aineiden kuljetuksesta tiellä* (277/2002; 313/2003; 312/2005).

Expiry date: 30 June 2015

RO-a-FI-2

Subject: Description of empty tanks in the transport document.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.1.6

Content of the Annex to the Directive: Special provisions for empty uncleaned packagings, vehicles, containers, tanks, battery-vehicles and multiple element gas containers (MEGCs).

Content of the national legislation: In the case of empty, uncleaned tank vehicles in which two or more substances with UN numbers 1202, 1203 and 1223 have been carried, the description in the transport documents may be completed by the words "Last load" together with the name of the product having the lowest flashpoint; "Empty tank vehicle, 3, last load: UN 1203 Motor spirit, II".

Initial reference to the national legislation: *Liikenne- ja viestintäministeriön asetus vaarallisten aineiden kuljetuksesta tiellä* (277/2002; 313/2003).

Expiry date: 30 June 2015

RO-a-FI-3

Subject: Labelling and marking of the transport unit for explosives.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.3.2.1.1

Content of the Annex to the Directive: General orange-coloured plate marking provisions.

Content of the national legislation: Transport units transporting (normally in vans) small amounts of explosives (maximum 1 000 kg (net)) to quarries and working sites may be labelled at the front and at the rear, using the placard in model No 1.

Initial reference to the national legislation: *Liikenne- ja viestintäministeriön asetus vaarallisten aineiden kuljetuksesta tiellä* (277/2002; 313/2003).

Expiry date: 30 June 2015

FR France

RO-a-FR-2

Subject: Transport of waste arising from care activities involving a risk of infection covered by UN 3291 with a mass less than or equal to 15 kg.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Annexes A and B.

Content of the national legislation: Exemption from the requirements of the ADR for the transport of waste arising from care activities presenting a risk of infection covered by UN 3291 with a mass less than or equal to 15 kg.

Initial reference to the national legislation: *Arrêté du 1<sup>er</sup> juin 2001 relatif au transport des marchandises dangereuses par route — Article 12.*

Expiry date: 30 June 2015

RO-a-FR-5

Subject: Transport of dangerous goods in public passenger transport vehicles (18).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 8.3.1.

Content of the Annex to the Directive: Transport of passengers and dangerous goods.

Content of the national legislation: Transport of dangerous goods other than those of class 7, authorised in public transport vehicles as hand luggage: only the provisions relating to the packaging, marking and labelling of parcels set out in 4.1, 5.2 and 3.4 apply.

Initial reference to the national legislation: *Arrêté du 29 mai 2009 relatif au transport des marchandises dangereuses par voies terrestres, annexe I paragraphe 3.1.*

Comments: Only dangerous goods for personal or own professional use are permitted to be carried in hand luggage. Portable gas receptacles are allowed for patients with respiratory problems in the necessary amount for one journey.

Expiry date: 29 February 2016

RO-a-FR-6

Subject: Own-account transport of small quantities of dangerous goods (18).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.

Content of the Annex to the Directive: Obligation to have a transport document.

Content of the national legislation: Own-account transport of small quantities of dangerous goods other than class 7, not exceeding the limits set in 1.1.3.6 is not subject to the obligation to have a transport document provided for in 5.4.1.

Initial reference to the national legislation: *Arrêté du 29 mai 2009 relatif au transport des marchandises dangereuses par voies terrestres annexe I, paragraphe 3.2.1.*

Expiry date: 29 February 2016

IE Ireland

RO-a-IE-1

Subject: Exemption from the requirement of 5.4.0 of the ADR for a transport document for the carriage of pesticides of ADR Class 3, listed under 2.2.3.3 as FT2 pesticides (f.p. < 23 °C) and ADR Class 6.1, listed under 2.2.61.3 as T6 pesticides, liquid (flash point not less than 23 °C), where the quantities of dangerous goods being carried do not exceed the quantities set out in 1.1.3.6 of the ADR.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4

Content of the Annex to the Directive: Requirement for transport document.

Content of the national legislation: A transport document is not required for the carriage of pesticides of ADR Classes 3 and 6.1, where the quantity of dangerous goods being carried does not exceed the quantities set out in 1.1.3.6 of the ADR.

Initial reference to the national legislation: *Regulation 82(9) of the "Carriage of Dangerous Goods by Road Regulations 2004".*

Comments: Unnecessary, onerous requirement for local transport and delivery of such pesticides.

Expiry date: 30 June 2015

RO-a-IE-2

Subject: Exemption from some of the provisions of the ADR on the packaging, marking and labelling of small quantities (below the limits in 1.1.3.6) of time expired pyrotechnic articles of classification codes 1.3G, 1.4G and 1.4S of Class 1 of the ADR, bearing the respective substance identification numbers UN 0092, UN 0093, UN 0191, UN 0195, UN 0197, UN 0240, UN 0312, UN 0403, UN 0404 or UN 0453 for carriage to the nearest military barracks for disposal.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 1.1.3.6, 4.1, 5.2 and 6.1.



Content of the Annex to the Directive: Disposal of out of date pyrotechnics.

Content of the national legislation: The provisions of the ADR on the packaging, marking and labelling of expired pyrotechnic articles bearing the respective UN numbers UN 0092, UN 0093, UN 0191, UN 0195, UN 0197, UN 0240, UN 0312, UN 0403, UN 0404 or UN 0453 for carriage to the nearest military barracks do not apply provided the general packaging provisions of the ADR are complied with and additional information is included in the transport document. It applies only to the local transport, to the nearest military barracks, of small quantities of these time-expired pyrotechnics for safe disposal.

Initial reference to the national legislation: Regulation 82(10) of the "Carriage of Dangerous Goods by Road Regulations 2004".

Comments: The carriage of small quantities of "time expired" marine emergency flares, especially from pleasure boat owners and ship chandlers, to military barracks for safe disposal has created difficulties, particularly in relation to packaging requirements. The derogation is for small quantities (below those specified in 1.1.3.6) for local transport.

Expiry date: 30 June 2015

RO-a-IE-3

Subject: Exemption from the requirements of 6.7 and 6.8, in relation to the transport by road of nominally empty uncleaned storage tanks (for storage at fixed locations) for the purpose of cleaning, repair, testing or scrapping.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 6.7 and 6.8.

Content of the Annex to the Directive: Requirements for the design, construction, inspection and testing of tanks.

Content of the national legislation: Exemption from the requirements of 6.7 and 6.8 of the ADR for the carriage by road of nominally empty uncleaned storage tanks (for storage at fixed premises) for the purpose of cleaning, repair, testing or scrapping, provided that (a) as much of the pipe work which was connected to the tank as was reasonably practicable to remove from it has been removed; (b) a suitable pressure relief valve, which shall remain operational during the carriage, is fitted to the tank; and (c) subject to (b) above all openings in the tank and in any pipe work attached thereto have been sealed to prevent the escape of any dangerous goods, insofar as it is reasonably practicable to do so.

Initial reference to the national legislation: Proposed amendment to "Carriage of Dangerous Goods by Road Regulations, 2004".

Comments: These tanks are used for the storage of substances at fixed premises and not for the transport of goods. They would contain very small quantities of dangerous goods while they (the tanks) were being transported to different premises for cleaning, repair, etc.

Previously under Article 6(10) of Directive 94/55/EC.

Expiry date: 30 June 2015

RO-a-IE-4

Subject: Exemption from the requirements of 5.3, 5.4, 7 and Annex B to the ADR, in relation to the carriage of gas cylinders of dispensing agents (for beverages) where they are carried on the same vehicle as the beverages (for which they are to be used).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.3, 5.4, 7 and Annex B.

Content of the Annex to the Directive: The marking of the vehicles, the documentation to be carried and the provisions concerning transport equipment and transport operations.

Content of the national legislation: Exemption from the requirements of 5.3, 5.4, 7 and Annex B to the ADR for cylinders of gases, used as dispensing agents for beverages, where these cylinders of gases are carried on the same vehicle as the beverages (for which they are to be used).

Initial reference to the national legislation: *Proposed amendment to "Carriage of Dangerous Goods by Road Regulations, 2004"*.

Comments: The main activity consists of the distribution of packages of beverages, which are not substances according to the ADR, together with small quantities of small cylinders of associated dispensing gases.

Previously under Article 6(10) of Directive 94/55/EC.

Expiry date: 30 June 2015

RO-a-IE-5

Subject: Exemption, for national transport within Ireland, from the construction and testing requirements for receptacles, and their provisions on use, contained in 6.2 and 4.1 of the ADR, for cylinders and pressure drums of gases of Class 2 that have undergone a multimodal transport journey, including maritime carriage, where (i) these cylinders and pressure drums are constructed, tested and used in accordance with the IMDG Code, (ii) these cylinders and pressure drums are not refilled in Ireland but returned nominally empty to the country of origin of the multimodal transport journey, and (iii) these cylinders and pressure drums are distributed locally in small quantities.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 1.1.4.2, 4.1 and 6.2.

Content of the Annex to the Directive: Provisions relating to multimodal transport journeys, including maritime carriage, use of cylinders and pressure drums for gases of ADR Class 2, and construction and testing of these cylinders and pressure drums for gases of ADR Class 2.

Content of the national legislation: The provisions of 4.1 and 6.2 do not apply to cylinders and pressure drums of gases of Class 2, provided (i) these cylinders and pressure drums are constructed and tested in accordance with the IMDG Code, (ii) these cylinders and pressure drums are used in accordance with the IMDG Code, (iii) these cylinders and pressure drums were transported to the consignor by means of multimodal transport, including maritime carriage, (iv) the transport of these cylinders and pressure drums to the final user consists only of a single transport journey, completed within the same day, from the consignee of the multimodal transport operation (referred to in (iii)), (v) these cylinders and pressure drums are not refilled within the State and are returned nominally empty to the country of origin of the multimodal transport operation (referred to in (iii)), and (vi) these cylinders and pressure drums are distributed locally within the State in small quantities.

Initial reference to the national legislation: *Proposed amendment to "Carriage of Dangerous Goods by Road Regulations, 2004"*.

Comments: The gases contained in these cylinders and pressure drums are of a specification, required by the final user, which results in the need to import them from outside the ADR area. Following use, these nominally empty cylinders and pressure drums are required to be returned to the country of origin, for refilling with the specially specified gases — they are not to be refilled within Ireland or indeed within any part of the ADR area. Though not in compliance with the ADR, they are in compliance with and accepted for the purposes of the IMDG Code. The multimodal transport, beginning from outside the ADR area, is intended to finish at the importer's premises, from where it is intended that these cylinders and pressure drums be distributed to the final user locally within Ireland in small quantities. This carriage, within Ireland, would fall within the amended Article 6(9) of Directive 94/55/EC.

Expiry date: 30 June 2015

LT Lithuania

RO-a-LT-1

Subject: Adoption of RO-a-UK-6

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

Expiry date: 30 June 2015

UK United Kingdom

RO-a-UK-1

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

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Most requirements of the ADR

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

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).

Initial 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).*

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

Expiry date: 30 June 2015

RO-a-UK-2

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 Annex I, Section I.1, to Directive 2008/68/EC: 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.

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

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

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

Expiry date: 30 June 2015

RO-a-UK-3

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

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 8.1.4.

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

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

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

Initial reference to the national legislation: *The Radioactive Material (Road Transport) Regulations 2002: Regulation 5(4)(d).*

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.

Expiry date: 30 June 2015

RO-a-UK-4

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 Annex I, Section I.1, to Directive 2008/68/EC: 6.1.

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

Content of national legislation: Packaging is not required to have been allocated an RID/ADR or UN mark or to be otherwise marked if it contains goods as set out in Schedule 3.

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

Comments: The requirements of the ADR 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.

Expiry date: 30 June 2015

RO-a-UK-5

Subject: To allow different "maximum total quantity per transport unit" for Class 1 goods in categories 1 and 2 of table in 1.1.3.6.3 (N10).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 1.1.3.6.3 and 1.1.3.6.4.

Content of the Annex to the Directive: Exemptions related to quantities carried per transport unit.

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

Initial reference to the national legislation: *Carriage of Explosives by Road Regulations 1996, reg. 13 and Schedule 5; reg. 14 and Schedule 4.*

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

Previously under Article 6(10) of Directive 94/55/EC.

Expiry date: 30 June 2015

RO-a-UK-6

Subject: Increase of maximum net mass of explosive articles permissible in EX/II vehicles (N13).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 7.5.5.2.

Content of the Annex to the Directive: Limitations on quantities carried for explosive substances and articles.

Content of the national legislation: Limitations on quantities carried for explosive substances and articles.

Initial reference to the national legislation: *Carriage of Explosives by Road Regulations 1996, reg. 13, Schedule 3.*

Comments: UK Regulations allow a maximum net mass of 5 000 kg in Type II vehicles for Compatibility Groups 1.1C, 1.1D, 1.1E and 1.1 J.

Many articles of Class 1.1C, 1.1D, 1.1E and 1.1 J being moved in Europe are large or bulky and exceed about 2,5 m in length. They are primarily explosive articles for military use. The limitations on the construction for EX/III vehicles (which are required to be closed vehicles) make it very difficult to load and unload such articles. Some articles would require specialist loading and unloading equipment at both ends of the journey. In practice, this equipment rarely exists. There are few EX/III vehicles in use in the UK and it would be extremely onerous on industry to require further specialist EX/III vehicles to be constructed to carry this type of explosive.

In the UK military explosives are mostly carried by commercial carriers and are thus unable to take advantage of the exemption for military vehicles in the Framework Directive. To overcome this problem, the UK has always permitted the carriage of up to 5 000 kg of such articles on EX/II vehicles. The present limit is not always sufficient because an article may contain more than 1 000 kg of explosive.

Since 1950 there have been only two incidents (both in the 1950s) involving blasting explosives with a weight above 5 000 kg. The incidents were caused by a tyre fire and a hot exhaust system setting fire to the sheeting. The fires could have occurred with a smaller load. There were no fatalities or injuries.

There is empirical evidence to suggest that correctly packaged explosive articles would be unlikely to ignite due to impact, e.g. from vehicle collisions. Evidence from military reports and from trials data on missile impact tests shows that it needs an impact velocity in excess of that created by the 12 metre drop test to bring about the ignition of cartridges.

Present safety standards would not be affected.

Expiry date: 30 June 2015

RO-a-UK-7

Subject: Exemption from supervision requirements for small quantities of certain Class 1 goods (N12).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 8.4 and 8.5 S1(6).

Content of the Annex to the Directive: Supervision requirements for vehicles carrying certain quantities of dangerous goods.

Content of the national legislation: Provides for safe parking and supervision facilities but does not require that certain Class 1 loads be supervised at all times as required in the ADR 8.5 S1(6).

Initial reference to the national legislation: *Carriage of Dangerous Goods by Road Regulations 1996, reg. 24.*

Comments: The supervision requirements of the ADR are not always feasible in a national context.

Expiry date: 30 June 2015

RO-a-UK-8

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 Annex I, Section I.1, to Directive 2008/68/EC: 7.5.2.1 and 7.5.2.2.

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

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

Initial reference to the national legislation: *Carriage of Dangerous Goods by Road Regulations 1996, Regulation 18.*

Comments: The UK wishes to permit some variations on the rules for mixing 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 dangerous goods allocated on classification the UN 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 numbers 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 in Transport Category 2 does not exceed 500 kg or l 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 kg or l 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 kg.

Expiry date: 30 June 2015

RO-a-UK-9

Subject: Alternative to display of orange plates for small consignments of radioactive material in small vehicles.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.3.2.

Content of the Annex to the Directive: Requirement for orange plates to be displayed on small vehicles carrying radioactive material.

Content of the national legislation: Permits any derogation approved under this process. The derogation requested is:

Vehicles must either:

- (a) be placarded according to the applicable provisions of ADR paragraph 5.3.2; or
- (b) in the case of a vehicle carrying not more than ten packages containing non-fissile or fissile excepted radioactive material and where the sum of the transport indexes of these packages does not exceed 3, may alternatively carry a notice complying with the requirements laid down in national legislation.

Initial reference to the national legislation: *The Radioactive Material (Road Transport) Regulations 2002, Regulation 5(4)(d)*.

Comments:

Expiry date: 30 June 2015

**Based on Article 6(2)(b)(i) of Directive 2008/68/EC**

BE Belgium

RO-bi-BE-1

Subject: Transport in close proximity of industrial sites including transport on public road.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Annexes A and B.

Content of the Annex to the Directive: Annexes A and B.

Content of the national legislation: The derogations concern the documentation, labelling and marking of packages and the driver's certificate.

Initial reference to the national legislation: *Dérogations 2-89, 4-97 et 2-2 000*.

Comments: Dangerous goods are transferred between premises

- derogation 2-89: crossing the public highway (chemicals in packages),
- derogation 4-97: distance of 2 km (ingots of pig-iron at a temperature of 600 °C),
- derogation 2-2 000: distance approx. 500 m (Intermediate Bulk Container (IBC), PG II, III Classes 3, 5.1, 6.1, 8 and 9).

Expiry date: 30 June 2015

RO–bi–BE–3

Subject: Training of drivers.

Local transport of UN 1202, 1203 and 1223 in packages and in tanks (in Belgium, radius of 75 km of the location of the registered office).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 8.2.

Content of the Annex to the Directive:

Structure of the training:

1. Training packages;
2. Training tank;
3. Special training Cl 1;
4. Special training Cl 7.

Content of the national legislation: Definitions — certificate — issue — duplicates — validity and extension — organisation of courses and examination — derogations — penalties — final provisions.

Initial reference to the national legislation: To be specified in a forthcoming regulation.

Comments: It is proposed that an initial course be given followed by an examination limited to the transport of UN 1202, 1203 and 1223 in packages and in tanks within a radius of 75 km of the location of the registered office — the length of training must meet the requirements of the ADR — after 5 years the driver must follow a refresher course and pass an examination — the certificate will stipulate “national transport of UN 1202, 1203 and 1223 pursuant to Article 6(2) of Directive 2008/68/EC”.

Expiry date: 30 June 2015

RO–bi–BE–4

Subject: Transport of dangerous goods in tanks for elimination by incineration.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 3.2.

Content of the national legislation: By derogation from the table in 3.2 it is permitted to use a tank-container with tank-code L4BH instead of tank-code L4DH for the carriage of water reactive liquid, toxic, III, n.o.s. under certain conditions.

Initial reference to the national legislation: *Dérogation 01 – 2002*.

Comments: This regulation may only be used for the short-distance transport of hazardous waste.

Expiry date: 30 June 2015

RO–bi–BE–5

Subject: Carriage of waste to waste disposal plants.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.2, 5.4, 6.1 (old regulation: A5, 2X14, 2X12).

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

Content of the national legislation: Instead of classifying waste according to the ADR, waste is assigned to different groups (flammable solvents, paints, acids, batteries, etc.) to avoid dangerous reactions within one group. The requirements for the manufacture of packaging are less restrictive.



Initial reference to the national legislation: *Arrêté royal relatif au transport des marchandises dangereuses par route.*

Comments: This regulation may be used for the carriage of small quantities of waste to disposal plants.

Expiry date: 30 June 2015

RO-bi-BE-6

Subject: Adoption of RO-bi-SE-5

Initial reference to the national legislation:

Expiry date: 30 June 2015

RO-bi-BE-7

Subject: Adoption of RO-bi-SE-6

Initial reference to the national legislation:

Expiry date: 30 June 2015

RO-bi-BE-8

Subject: Adoption of RO-bi-UK-2

Initial reference to the national legislation:

Expiry date: 30 June 2015

DE Germany

RO-bi-DE-1

Subject: Waiving of certain indications in the transport document (n2).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.1.1.

Content of the Annex to the Directive: Contents of the transport document.

Content of the national legislation: For all classes except classes 1 (except 1.4S), 5.2 and 7:

No indication needed in the transport document:

- (a) for the consignee in case of local distribution (except for full load and for transport with certain routings);
- (b) for the amount and types of packaging, if 1.1.3.6 is not applied and if the vehicle is in conformity with all the provisions of Annexes A and B;
- (c) for empty uncleaned tanks the transport document of the last load is sufficient.

Initial reference to the national legislation: *Gefahrgut-Ausnahmeverordnung — GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350); Ausnahme 18.*

Comments: Applying all provisions would not be practicable as regards the kind of traffic concerned.

Derogation was registered by the European Commission as No 22 (under Article 6(10) of Directive 94/55/EC).

Expiry date: 30 June 2015

RO–bi–DE–2

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

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 7.3.1.

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

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

Initial reference to the national legislation: *Gefahrgut-Ausnahmeverordnung* — GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350); *Ausnahme* 11.

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

See also Multilateral Agreement M137.

List No 4\*.

Expiry date: 30 June 2015

RO–bi–DE–3

Subject: Transportation of packaged hazardous waste.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 1 to 5.

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

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 packaging (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.

Initial reference to the national legislation: *Gefahrgut-Ausnahmeverordnung* — GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350); *Ausnahme* 20.

Comments: List No 6\*.

Expiry date: 30 June 2015

DK Denmark

RO–bi–DK–1

Subject: UN 1202, 1203, 1223 and Class 2 — no transport document.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.

Content of the Annex to the Directive: Transport document needed.

Content of the national legislation: When transporting mineral oil products in Class 3, UN 1202, 1203 and 1223 and gases in Class 2 in connection with distribution (goods to be delivered to two or more recipients and collection of returned goods in similar situations), a transport document is not required provided the written instructions besides the information requested in the ADR, contain information relating to the UN-No, name and class.

Initial reference to the national legislation: *Bekendtgørelse nr. 729 af 15.8.2001 om vejtransport af farligt gods*.

Comments: The reason for having the abovementioned national derogation is that the development of electronic equipment makes it possible for e.g. the oil companies using such equipment to transmit continuously to the vehicles information about the customers. As this information is not available at the beginning of the transport operation and will be forwarded to the vehicle during the transport journey, it is not possible — before the transport begins — to draw up the transport documents. These kinds of transport are restricted to limited areas.

Derogation for Denmark for a similar provision under Article 6(10) of Directive 94/55/EC.

Expiry date: 30 June 2015

RO–bi–DK–2

Subject: Adoption of RO–bi–SE–6

Initial reference to the national legislation: *Bekendtgørelse nr. 437 af 6. juni 2005 om vejtransport af farligt gods, as amended.*

Expiry date: 30 June 2015

RO–bi–DK–3

Subject: Adoption of RO–bi–UK–1

Initial reference to the national legislation: *Bekendtgørelse nr. 437 af 6. juni 2005 om vejtransport af farligt gods, as amended.*

Expiry date: 30 June 2015

EL Greece

RO–bi–EL–1

Subject: Derogation from the safety requirements for fixed tanks (tank-vehicles), registered before 31.12.2001, for the local transport or small quantities of some categories of dangerous goods.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 1.6.3.6, 6.8.2.4.2, 6.8.2.4.3, 6.8.2.4.4, 6.8.2.4.5, 6.8.2.1.17–6.8.2.1.22, 6.8.2.1.28, 6.8.2.2, 6.8.2.2.1, 6.8.2.2.2.

Content of the Annex to the Directive: Requirements for construction, equipment, type approval, inspections and tests, and marking of fixed tanks (tank-vehicles), removable tanks and tank containers and tank swap bodies, with shells made of metallic materials, and battery-vehicles and MEGCs.

Content of the national legislation: Transitional provision: Fixed tanks (tank-vehicles), removable tanks and tank containers first registered in Greece between 1.1.1985 and 31.12.2001 may be used until 31.12.2010. This transitional provision concerns vehicles for the transport of the following dangerous materials (UN: 1202, 1268, 1223, 1863, 2614, 1212, 1203, 1170, 1090, 1193, 1245, 1294, 1208, 1230, 3262, 3257). It is intended to cover small quantities or local transport for vehicles registered during the aforementioned period. This transitional provision will be in force for tank vehicles adapted according to:

1. Paragraphs of the ADR for inspection and tests: 6.8.2.4.2, 6.8.2.4.3, 6.8.2.4.4, 6.8.2.4.5, (ADR 1999: 211 151, 211 152, 211 153, 211 154).
2. Minimum shell thickness of 3 mm for tanks with a shell compartment capacity of up to 3 500 l, and at least 4 mm thickness of mild steel for tanks with compartments with a capacity of up to 6 000 l, regardless of the type or thickness of the partitions.
3. If the material used is aluminium or another metal, tanks should fulfil the requirements for thickness and other technical specifications derived from technical drawings approved by the local authority of the country where they were previously registered. In the absence of technical drawings, tanks should fulfil the requirements of 6.8.2.1.17 (211 127).
4. Tanks should fulfil the requirements of marginal paragraphs 211 128, 6.8.2.1.28 (211 129), paragraph 6.8.2.2 with subparagraphs 6.8.2.2.1 and 6.8.2.2.2 (211 130, 211 131).

More precisely, tank-vehicles with a mass of less than 4 t used for the local transport of gas oil only (UN 1202), first registered before 31.12.2002, whose shell thickness is less than 3 mm, may be used only if they are transformed according to marginal paragraph 211 127 (5)b4 (6.8.2.1.20).

Initial reference to the national legislation: *Τεχνικές Προδιαγραφές κατασκευής, εξοπλισμού και ελέγχων των δεξαμενών μεταφοράς συγκεκριμένων κατηγοριών επικινδύνων εμπορευμάτων για σταθερές δεξαμενές (οχήματα-δεξαμενές), αποσυμφορούμενες δεξαμενές που βρίσκονται σε κυκλοφορία* (Requirements for construction, equipment, inspections and tests of fixed tanks (tank-vehicles) and removable tanks in circulation, for some categories of dangerous goods).

Expiry date: 30 June 2015

RO–bi–EL–2

Subject: Derogation from base vehicle construction requirements, regarding vehicles intended for the local transport of dangerous goods first registered before 31 December 2001.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: ADR 2001: 9.2, 9.2.3.2, 9.2.3.3.

Content of the Annex to the Directive: Requirements concerning the construction of Base Vehicles.

Content of the national legislation: The derogation applies to vehicles intended for the local transport of dangerous goods (categories UN 1202, 1268, 1223, 1863, 2614, 1212, 1203, 1170, 1090, 1193, 1245, 1294, 1208, 1230, 3262 and 3257) which were first registered before 31 December 2001.

The abovementioned vehicles must comply with the requirements of 9 (9.2.1 to 9.2.6) of Annex B to the Directive 94/55/EC with the following exceptions.

Compliance with the requirements of 9.2.3.2 is necessary only if the vehicle has been equipped with an anti-lock braking system by the manufacturer; it must be fitted with an endurance braking system as defined in 9.2.3.3.1, but not necessarily complying with 9.2.3.3.2 and 9.2.3.3.3.

The electrical supply to the tachograph must be provided via a safety barrier connected directly to the battery (marginal 220 514) and the electrical equipment of the mechanism for lifting a bogie axle must be installed where it was originally installed by the vehicle manufacturer and must be protected in an appropriate sealed housing (marginal 220 517).

Specifically, tank-vehicles with a maximum mass of less than 4 tonnes intended for local transport of diesel-heating oil (UN: 1202) must comply with the requirements of 9.2.2.3, 9.2.2.6, 9.2.4.3 and 9.2.4.5 but not necessarily with the other ones.

Initial reference to the national legislation: Τεχνικές Προδιαγραφές ήδη κυκλοφορούντων οχημάτων που διενεργούν εθνικές μεταφορές ορισμένων κατηγοριών επικινδύνων εμπορευμάτων (Technical requirements of vehicles already in use, intended for local transport of certain dangerous goods categories).

Comments: The number of the abovementioned vehicles is small when compared with the total number of vehicles already registered and in addition they are intended for local transport only. The form of the derogation requested, the size of the vehicle fleet in question and the type of goods transported do not create a road safety problem.

Expiry date: 30 June 2015

ES Spain

RO–bi–ES–2

Subject: Special equipment for distribution of anhydrous ammonia.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 6.8.2.2.2.

Content of the Annex to the Directive: In order to avoid any loss of contents in the event of damage to the external fittings (pipes, lateral shut-off devices), the internal stop valve and its seating must be protected against the danger of being wrenched off by external stresses or be so designed as to resist such stresses. The filling and discharge devices (including flanges or threaded plugs) and protective caps (if any) must be capable of being secured against any unintended opening.

Content of the national legislation: Tanks used for agricultural purposes for the distribution and application of anhydrous ammonia which were brought into service before 1 January 1997 may be equipped with external, instead of internal, safety fittings, provided they offer protection at least equivalent to the protection provided by the wall of the tank.

Initial reference to the national legislation: *Real Decreto 551/2006. Anejo 1. Apartado 3.*

Comments: Before 1 January 1997 a type of tank equipped with external safety fittings was used exclusively in agriculture to apply anhydrous ammonia directly onto the land. Various tanks of this kind are still in use today. They are rarely driven, laden, on the road, but are used solely for fertiliser on large farms.

Expiry date: 29 February 2016

FI Finland

RO-bi-FI-1

Subject: Modification of information in the transport document for explosive substances.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.2.1(a)

Content of the Annex to the Directive: Special provisions for Class 1.

Content of the national legislation: In the transport document, it is permissible to use the number of detonators (1 000 detonators correspond to 1 kg explosives) instead of the actual net mass of explosive substances.

Initial reference to the national legislation: *Liikenne- ja viestintäministeriön asetus vaarallisten aineiden kuljetuksesta tiellä* (277/2002; 313/2003).

Comments: The information is considered sufficient for national transport. This derogation is used mainly for the blasting industry in respect of small amounts transported locally.

Derogation is registered by the European Commission as No 31.

Expiry date: 30 June 2015

RO-bi-FI-2

Subject: Adoption of RO-bi-SE-10

Initial reference to the national legislation:

Expiry date: 30 June 2015

RO-bi-FI-3

Subject: Adoption of RO-bi-DE-1

Initial reference to the national legislation:

Expiry date: 29 February 2016

FR France

RO-bi-FR-1

Subject: Utilisation of maritime document as transport document for short-distance trips following unloading of vessel.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1

Content of the Annex to the Directive: Information to appear in the document used as transport document for hazardous goods.

Content of the national legislation: The maritime document is used as transport document within a radius of 15 km.

Initial reference to the national legislation: *Arrêté du 1<sup>er</sup> juin 2001 relatif au transport des marchandises dangereuses par route* — Article 23-4.

Expiry date: 30 June 2015

RO-bi-FR-3

Subject: Transport of fixed LPG storage tanks (18).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Annexes A and B.

Content of the national legislation: The transport of fixed LPG storage tanks is subject to specific rules. Applicable only to short distances.

Initial reference to the national legislation: *Arrêté du 1<sup>er</sup> juin 2001 relatif au transport des marchandises dangereuses par route — Article 30.*

Expiry date: 30 June 2015

RO–bi–FR–4

Subject: Specific conditions relating to driver training and the approval of vehicles used for agricultural transport (short distances).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 6.8.3.2; 8.2.1 and 8.2.2.

Content of the Annex to the Directive: Tank equipment and driver training.

Content of the national legislation:

Specific provisions concerning the approval of vehicles.

Special training for drivers.

Initial reference to the national legislation: *Arrêté du 1<sup>er</sup> juin 2001 relatif au transport des marchandises dangereuses par route — Article 29-2 — Annex D4.*

Expiry date: 30 June 2015

IE Ireland

RO–bi–IE–1

Subject: Exemption from the requirement of 5.4.1.1.1, to have (i) the names and addresses of the consignees, (ii) the number and description of the packages, and (iii) the total quantity of dangerous goods in the transport document, where kerosene, diesel fuel or liquefied petroleum gas bearing the respective substance identification numbers UN 1223, UN 1202 and UN 1965 are being carried to the end user.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.

Content of the Annex to the Directive: Documentation.

Content of the national legislation: Where kerosene, diesel fuel or liquefied petroleum gas, bearing the respective substance identification numbers UN 1223, UN 1202 and UN 1965 as specified in Appendix B.5 of Annex B to the ADR, are being carried to the end user, it is not necessary to include the name and address of the consignee, the number and description of the packages, Intermediate Bulk Containers or receptacles, or the total quantity being carried, on the transport unit.

Initial reference to the national legislation: *Regulation 82(2) of the “Carriage of Dangerous Goods by Road Regulations, 2004”.*

Comments: In the case of delivery of home heating oil to domestic customers, it is common practice to “top up” the customer’s storage tank — hence the actual delivery is unknown and also the number of customers (in any one run) is also unknown at the time the loaded tanker begins its journey. In the case of delivery of cylinders of LPG to households, it is common practice to replace empty cylinders with full ones — hence the number of customers and their individual consignments are unknown at the beginning of the transport operation.

Expiry date: 30 June 2015

RO–bi–IE–2

Subject: Exemption to allow the transport document, required in 5.4.1.1.1, to be that for the last load in the case of the transport of empty uncleaned tanks.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.

Content of the Annex to the Directive: Documentation.

Content of the national legislation: In the case of the carriage of empty uncleaned tanks, the transport document for the last load is sufficient.

Initial reference to the national legislation: *Regulation 82(3) of the "Carriage of Dangerous Goods by Road Regulations, 2004"*.

Comments: Particularly in the case of delivery of petrol and/or diesel fuel to petrol stations, the road tanker returns directly to the oil depot (to be loaded up again for further deliveries) immediately after delivery of the last load.

Expiry date: 30 June 2015

RO-bi-IE-3

Subject: Exemption to allow the loading and unloading of dangerous goods, to which the special provision CV1 in 7.5.11 or S1 in 8.5 is assigned, in a public place without special permission from the competent authorities.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 7.5 and 8.5.

Content of the Annex to the Directive: Additional provisions concerning loading, unloading and handling.

Content of the national legislation: Loading and unloading of dangerous goods in a public place is permitted without special permission from the competent authority, in derogation from the requirements of 7.5.11 or 8.5.

Initial reference to the national legislation: *Regulation 82(5) of the "Carriage of Dangerous Goods by Road Regulations, 2004"*.

Comments: For national transport within the state, this provision places a very onerous burden on the competent authorities.

Expiry date: 30 June 2015

RO-bi-IE-5

Subject: Exemption from the "mixed loading prohibition" of 7.5.2.1 for articles of Compatibility Group B and substances and articles of Compatibility Group D on the same vehicle with dangerous goods, in tanks, of Classes 3, 5.1 and 8.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 7.5.

Content of the Annex to the Directive: Provisions concerning loading, unloading and handling.

Content of the national legislation: Packages containing articles of Compatibility Group B of ADR Class 1 and packages containing substances and articles of Compatibility Group D of ADR Class 1 may be carried on the same vehicle with dangerous goods of ADR Classes 3, 5.1 or 8 provided (a) the said packages of ADR Class 1 are carried in separate containers/compartments of a design approved, and under the conditions required, by the competent authority, and (b) the said substances of ADR Classes 3, 5.1 or 8 are carried in vessels meeting the requirements of the competent authority as regards their design, construction, testing, examination, operation and use.

Initial reference to the national legislation: *Regulation 82(7) of the "Carriage of Dangerous Goods by Road Regulations, 2004"*.

Comments: To permit, under conditions approved by the competent authority, the loading of articles and substances of Class 1 Compatibility Groups B and D on the same vehicle with dangerous goods, in tanks, of Classes 3, 5.1 and 8 — i.e. "Pump Trucks".

Expiry date: 30 June 2015

RO-bi-IE-6

Subject: Exemption from requirement in 4.3.4.2.2, which requires flexible filling and discharge pipes that are not permanently connected to the shell of a tank-vehicle to be empty during transport.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 4.3



Content of the Annex to the Directive: Use of tank-vehicles.

Content of the national legislation: Flexible hose reels (including fixed pipelines associated with them) attached to tank-vehicles engaged in the retail distribution of petroleum products with substance identification numbers, UN 1011, UN 1202, UN 1223, UN 1863 and UN 1978 are not required to be empty during carriage by road, provided adequate measures are taken to prevent any loss of contents.

Initial reference to the national legislation: Regulation 82(8) of the "Carriage of Dangerous Goods by Road Regulations, 2004".

Comments: Flexible hoses fitted to home delivery tank-vehicles must remain full at all times even during transport. The discharge system is known as a "wet-line" system that requires the tank-vehicle's meter and hose to be primed so as to ensure the customer receives the correct quantity of product.

Expiry date: 30 June 2015

RO-bi-IE-7

Subject: Exemption from some requirements of 5.4.0, 5.4.1.1.1 and 7.5.11 of the ADR for the transport in bulk of Ammonium Nitrate Fertilizer UN 2067 from ports to consignees.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.0, 5.4.1.1.1 and 7.5.11.

Content of the Annex to the Directive: The requirement for a separate transport document, with the correct total quantity for the particular load included, for each transport journey; and the requirement for the vehicle to be cleaned before and after the journey.

Content of the national legislation: Proposed derogation to allow modifications to the requirements of the ADR on the transport document and vehicle cleaning; to take account of the practicalities of bulk transport from port to consignee.

Initial reference to the national legislation: *Proposed amendment to "Carriage of Dangerous Goods by Road Regulations, 2004"*.

Comments: The provisions of the ADR require (a) a separate transport document, containing the total mass of dangerous goods carried for the particular load, and (b) the Special Provision "CV24" on cleaning for each and every load being transported between the port and the consignee during the unloading of a bulk ship. As the transport is local and as it concerns the unloading of a bulk ship, involving multiple transport loads (on the same or consecutive days) of the same substance between the bulk ship and the consignee, a single transport document, with an approximate total mass of each load, should suffice and it should not be necessary to require the Special Provision "CV24".

Expiry date: 30 June 2015

LT Lithuania

RO-bi-LT-1

Subject: Adoption of RO-bi-EL-1

Initial 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).

Expiry date: 30 June 2015

RO-bi-LT-2

Subject: Adoption of RO-bi-EL-2.

Initial 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).

Expiry date: 30 June 2015

NL *The Netherlands*

RO-bi-NL-13

Subject: Scheme for transport of domestic hazardous waste 2004.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 1.1.3.6, 3.3, 4.1.4, 4.1.6, 4.1.8, 4.1.10, 5.1.2, 5.4.0, 5.4.1, 5.4.3, 6.1, 7.5.4, 7.5.7, 7.5.9, 8 and 9.

Content of the Annex to the Directive: Exemptions for certain quantities; special provisions; use of packaging; use of over-packaging; documentation; construction and testing of packaging; loading, unloading and handling; manning; equipment; operation; vehicles and documentation; construction and approval of vehicles.

Content of the national legislation: 17 substantive provisions relating to the transport of small collected domestic hazardous waste. Given the small quantities involved in each instance and given the diverse nature of the various substances, it is not possible to conduct the transport operations in total compliance with ADR rules. Accordingly, a simplified variant deviating from a number of provisions in the ADR is therefore stipulated under the abovementioned scheme.

Initial reference to the national legislation: *Scheme for transport of domestic hazardous waste 2004*.

Comments: The scheme was set up to enable individuals to deposit small chemical waste at a single location. The substances in question therefore consist of residues such as paint waste. The danger level is minimised by the choice of means of transport, involving, inter alia, the use of special transport elements and "no smoking" notices plus a yellow flashing light clearly visible to members of the public. The crucial point as far as transport is concerned is that safety is guaranteed. This can be achieved by, for instance, having the substances transported in sealed packagings so as to avoid dispersal, or the risk of toxic vapours leaking or accumulating in the vehicle. Incorporated in the vehicle are units suitable for storing the various categories of waste and providing protection against shunting and accidental displacement as well as inadvertent opening. At the same time, notwithstanding the small quantities of waste presented, the transport operator must have a certificate of professional competence, given the diverse nature of the substances involved. Because of the lack of knowledge on the part of private individuals regarding the danger levels associated with these substances, written instructions should be provided, as stipulated in the Annex to the scheme.

Expiry date: 30 June 2015

PT *Portugal*

RO-bi-PT-1

Subject: Transport documentation for UN 1965

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.

Content of the Annex to the Directive: Requirements for transport documentation.

Content of the national legislation: The proper shipping name to be indicated in the transport document, as provided for in Section 5.4.1 of the RPE (Regulamento Nacional de Transporte de Mercadorias Perigosas por Estrada), for commercial butane and propane gases covered by the collective heading "UN No 1965 hydrocarbon gas mixture, liquefied, n.o.s.", transported in cylinders, may be replaced by other trade names as follows:

"UN 1965 Butane" in the case of mixtures A, A01, A02 and A0, as described in subsection 2.2.2.3 of the RPE, transported in cylinders;

"UN 1965 Propane" in the case of mixture C, as described in subsection 2.2.2.3 of the RPE, transported in cylinders.

Initial reference to the national legislation: *Despacho DGT 7560/2004, 16 April 2004, under Article 5, No 1, of Decreto-Lei No 267-A/2003 of 27 October*.

Comments: The importance of making it easier for economic operators to fill in transport documents for dangerous goods is recognised, provided that the safety of these operations is not affected.

Expiry date: 30 June 2015

RO–bi–PT–2

Subject: Transport documentation for empty uncleaned tanks and containers.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.

Content of the Annex to the Directive: Requirements for transport documentation

Content of the national legislation: For the return journeys of empty tanks and containers that have transported dangerous goods, the transport document referred to in Section 5.4.1 of the RPE may be replaced by the transport document issued for the immediately preceding journey made to deliver the goods.

Initial reference to the national legislation: *Despacho DGTT 15162/2004, 28 July 2004, under Article 5, No 1, of Decreto-Lei No 267-A/2003, of 27 October.*

Comments: The obligation that the transport of empty tanks and containers that have contained dangerous goods be accompanied by a transport document in accordance with the RPE causes, in certain cases, practical difficulties, which can be kept to the minimum without prejudice to safety.

Expiry date: 30 June 2015

SE Sweden

RO–bi–SE–1

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

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 2, 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.

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 the ADR, it is assigned to different waste groups. Each waste group contains substances that can, in accordance with the ADR, be packed together (mixed packing).

Each package must be marked with the relevant waste group code instead of the UN number.

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

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

Expiry date: 30 June 2015

RO–bi–SE–2

Subject: The name and address of the consignor in the transport document.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.1.

Content of the Annex to the Directive: General information required in the transport document.

Content of the national legislation: National legislation states that the name and address of the consignor is not required if empty, uncleaned packaging is returned as part of a distribution system.

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

Comments: Empty uncleaned packaging being returned will in most cases still contain small quantities of dangerous goods.

This derogation is mainly used by industries when returning empty uncleaned gas receptacles in exchange for full ones.

Expiry date: 30 June 2015

RO-bi-SE-3

Subject: Transport of dangerous goods in the close proximity of industrial site(s), including transport on public roads between various parts of the site(s).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Annexes A and B.

Content of the Annex to the Directive: Requirements for the transport of dangerous goods on public roads.

Content of the national legislation: Transport in the close proximity of industrial site(s), including transport on public roads between various parts of the site(s). The derogations concern the labelling and marking of packages, transport documents, driver's certificate and certificate of approval according to 9.

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

Comments: There are several situations in which dangerous goods are transferred between premises situated on opposite sides of a public road. This form of transport does not constitute carriage of dangerous goods on a private road and should therefore be associated with the relevant requirements. Compare also with the Directive 96/49/EC, Article 6(14).

Expiry date: 30 June 2015

RO-bi-SE-4

Subject: Transport of dangerous goods that have been seized by the authorities.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Annexes A and B.

Content of the Annex to the Directive: Requirements for the transport of dangerous goods by road.

Content of the national legislation: Deviations from the regulations may be permitted if they are motivated by reasons of labour protection, unloading risks, submission of evidence etc.

Deviations from the regulations are permitted only if satisfactory safety levels are met during normal conditions of carriage.

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

Comments: These derogations may be applied only by authorities seizing dangerous goods.

This derogation is intended for local transport e.g. of goods that have been seized by the police, such as explosives or stolen property. The problem with these types of goods is that one can never be sure of classifications. In addition, the goods are often not packed, marked or labelled in accordance with the ADR. There are several hundred such transportations carried out by the police every year. In the case of smuggled liquor, this must be transported from the place where it is seized to a facility where evidence is stored and then on to a facility for destruction; the latter two may be quite far apart from each other. The deviations permitted are: (a) each package does not need to be labelled, and (b) approved packages do not need to be used. However, each pallet containing such packages must be correctly labelled. All other requirements must be fulfilled. There are approximately 20 such transportations each year.

Expiry date: 30 June 2015

RO-bi-SE-5

Subject: Transport of dangerous goods in and in close proximity to ports.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 8.1.2, 8.1.5, 9.1.2

Content of the Annex to the Directive: Documents to be carried on the transport unit; every transport unit carrying dangerous goods must be equipped with the specified equipment; vehicle approval.

Content of the national legislation:

Documents (except for the driver's certificate) need not be carried on the transport unit.

A transport unit need not be equipped with the equipment specified in 8.1.5.

Tractors need not have a certificate of approval.

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

Comments: Compare Directive 96/49/EC, Article 6(14).

Expiry date: 30 June 2015

RO-bi-SE-6

Subject: Inspectors' ADR training certificate.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 8.2.1.

Content of the Annex to the Directive: Drivers of vehicles must attend training courses.

Content of the national legislation: Inspectors who perform the yearly technical inspection of the vehicle do not need to attend the training courses mentioned in 8.2 or hold the ADR training certificate.

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

Comments: In some cases, vehicles being tested in the technical inspection may be carrying dangerous goods as load, e.g. uncleaned, empty tanks.

The requirements in 1.3 and 8.2.3 are still applicable.

Expiry date: 30 June 2015

RO-bi-SE-7

Subject: Local distribution of UN 1202, 1203 and 1223 in tankers.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4.1.1.6, 5.4.1.4.1.

Content of the Annex to the Directive: For empty uncleaned tanks and tank-containers the description shall be in accordance with 5.4.1.1.6. The name and address of multiple consignees may be entered in other documents.

Content of the national legislation: For empty, uncleaned tanks or tank-containers the description in the transport document according to 5.4.1.1.6 is not needed if the amount of the substance in the loading plan is marked with 0. The name and address of the consignees are not required in any document on board the vehicle.

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

Expiry date: 30 June 2015

RO–bi–SE–9

Subject: Local transport in relation to agricultural sites or construction sites.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 5.4, 6.8 and 9.1.2.

Content of the Annex to the Directive: Transport document; Construction of tanks; Certificate of approval.

Content of the national legislation: Local transport in relation to agricultural sites or construction sites need not comply with some regulations:

- (a) the dangerous goods declaration is not required;
- (b) older tanks/containers not constructed according to 6.8 but according to older national legislation and fitted on crew wagons may still be used;
- (c) older tankers, not fulfilling the requirements in 6.7 or 6.8, intended for the transport of substances of UN 1268, 1999, 3256 and 3257, with or without road surface coating equipment, may still be used for local transport and in close proximity to road work places;
- (d) certificates of approval for crew wagons and tankers with or without road surface coating equipment are not required.

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

Comments: A crew wagon is a kind of caravan for a work crew with a crew room and fitted with a non-approved tank/container for diesel fuel intended for the operation of forestry tractors.

Expiry date: 30 June 2015

RO–bi–SE–10

Subject: Tank transport of explosives.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 4.1.4.

Content of the Annex to the Directive: Explosives may be packaged only in accordance with 4.1.4.

Content of the national legislation: The competent national authority will approve vehicles intended for tank transport of explosives. Tank transport is permissible only for those explosives listed in the regulation or by special authorisation from the competent authority.

A vehicle loaded with explosives in tanks must be marked and labelled in accordance with 5.3.2.1.1, 5.3.1.1.2 and 5.3.1.4. Only one vehicle in the transport unit may contain dangerous goods.

Initial 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 and the Swedish regulation SÄIFS 1993:4.*

Comments: This is applicable only to domestic transport and when the transport operation is mostly of a local nature. The regulations in question were in force before Sweden joined the European Union.

Only two companies perform transport operations with explosives in tank-vehicles. In the near future transition to emulsions is expected.

Old derogation No 84.

Expiry date: 30 June 2015

RO-bi-SE-11

Subject: Driver's licence

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 8.2.

Content of the Annex to the Directive: Requirements concerning the training of the vehicle crew.

Content of the national legislation: Driver training is not permitted with any vehicle referred to in 8.2.1.1.

Initial 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.*

Comments: Local transport.

Expiry date: 30 June 2015

RO-bi-SE-12

Subject: Carriage of UN 0335 fireworks.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Annex B, 7.2.4, V2 (1)

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

Content of the national legislation: When carrying UN 0335 fireworks, Special Provision V2 (1) in 7.2.4 is applicable only to a net explosive content of more than 3 000 kg (4 000 kg with trailer), provided the fireworks have 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.

Initial 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.*

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 consignors to terminals can be effected by the present fleet of EX-approved vehicles without great problems. However, the distribution both of fireworks from terminals to shopping areas and of the surplus back to the terminal is limited due to a lack of EX-approved vehicles. The carriers are not interested in investing in such approvals because they cannot recover their costs. This places the whole existence of consignors of fireworks in jeopardy because they cannot get their products on the market.

When using this derogation, the classification of the fireworks must be made on the basis of the default list in the UN Recommendations, in order to get the most up-to-date classification possible.

A similar type of exception exists for UN 0336 fireworks incorporated in Special Provision 651, 3.3.1 of the ADR 2005.

Expiry date: 30 June 2015

UK United Kingdom

RO-bi-UK-1

Subject: Crossing of public roads by vehicles carrying dangerous goods (N8).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Annexes A and B.

Content of the Annex to the Directive: Requirements for the carriage of dangerous goods on public roads.



Content of the national legislation: Disapplication of the dangerous goods regulations to carriage within private premises separated by a road. For Class 7 this derogation does not apply to any provisions of the Radioactive Material (Road Transport) Regulations 2002.

Initial reference to the national legislation: *Carriage of Dangerous Goods by Road Regulations 1996, reg. 3 Schedule 2(3)(b); Carriage of Explosives by Road Regulations 1996, reg. 3(3)(b)*.

Comments: A situation can easily occur where goods are transferred between private premises situated on both sides of a road. This does not constitute carriage of dangerous goods on a public road in the normal sense of the term, and none of the provisions of the dangerous goods regulations should apply in such a case.

Expiry date: 30 June 2015

RO–bi–UK–2

Subject: Exemption from prohibition on driver or driver's assistant opening packages of dangerous goods in a local distribution chain from a local distribution depot to a retailer or end user and from the retailer to the end user (except for Class 7) (N11).

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 8.3.3.

Content of the Annex to the Directive: Prohibition on driver or driver's assistant opening packages of dangerous goods.

Content of the national legislation: Prohibition of opening packages is qualified by the proviso "Unless authorised to do so by the operator of the vehicle".

Initial reference to the national legislation: *Carriage of Dangerous Goods by Road Regulations 1996, reg. 12 (3)*.

Comments: If taken literally, the prohibition in the Annex as worded can create serious problems for retail distribution.

Expiry date: 30 June 2015

RO–bi–UK–3

Subject: Alternative carriage provisions for wooden casks containing UN 3065 of Packing Group III.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: 1.4, 4.1, 5.2 and 5.3.

Content of the Annex to the Directive: Packaging and labelling requirements.

Content of the national legislation: Permits the carriage of alcoholic beverages of more than 24 %, but not more than 70 % alcohol by volume (Packing Group III) in non-UN approved wooden casks without danger labels, subject to more stringent loading and vehicle requirements.

Initial reference to the national legislation: *The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004: Regulation 7 (13) and (14)*.

Comments: This is a high-value product subject to government excise duty which must be moved between the distillery and bonded warehouses in secure sealed vehicles bearing government duty seals. The relaxation on packaging and labelling is taken into account in the additional requirements to ensure safety.

Expiry date: 30 June 2015

RO–bi–UK–4

Subject: Adoption of RO–bi–SE–12

Initial reference to the national legislation: *The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2007 Part 1*.

Expiry date: 30 June 2015

RO-bi-UK-5

Subject: Collection of used batteries for disposal or recycling.

Reference to Annex I, Section I.1, to Directive 2008/68/EC: Annexes A and B.

Content of the Annex to the Directive: Special Provision 636

Content of the national legislation: Permits the following alternative conditions for Special Provision 636 of Chapter 3.3:

Used lithium cells and batteries (UN 3090 and UN 3091) collected and presented for carriage for disposal between the consumer collecting point and the intermediate processing facility, together with other non-lithium cells or batteries (UN 2800 and UN 3028), are not subject to the other provisions of ADR if they meet the following conditions:

They shall be packed in IH2 drums or 4H2 boxes conforming to the packing group II performance level for solids;

Not more than 5 % of each package shall be lithium and lithium ion batteries;

The maximum gross mass of each package shall not exceed 25 kg;

The total quantity of packages per Transport Unit shall not exceed 333 kg;

No other dangerous goods may be carried.

Initial reference to the national legislation: *The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment 2007 part 1.*

Comments: Consumer collection points are usually in retail outlets and it is not practical to train large numbers of people to sort and package used batteries in accordance with ADR. The UK system would operate under guidelines set by the UK Waste and Resources Action Programme and would involve the supplying suitable ADR compliant packaging and appropriate instructions.

Expiry date: 30 June 2015';

2. Annex II, Section II.3 is replaced by the following:

**II.3. National derogations**

Derogations for Member States for the transport of dangerous goods within their territory on the basis of Article 6(2) of Directive 2008/68/EC.

Numbering of derogations: RA-a/bi/bii-MS-nn

RA = Rail

a/bi/bii = Article 6(2) a/bi/bii

MS = Abbreviation of Member State

nn = order number

**Based on Article 6(2)(a) of Directive 2008/68/EC**

DE Germany

RA-a-DE-2

Subject: Combined packaging authorisation.

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 4.1.10.4 MP2.

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

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.

Initial reference to the national legislation: *Gefahrgut-Ausnahmeverordnung — GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350); Ausnahme 21.*

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

Expiry date: 30 June 2015

FR France

RA-a-FR-3

Subject: Transport for the needs of the rail carrier.

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 5.4.1.

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

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.

Initial reference to the national legislation: *Arrêté du 5 juin 2001 relatif au transport des marchandises dangereuses par chemin de fer — Article 20.2.*

Expiry date: 30 June 2015

RA-a-FR-4

Subject: Exemption from the labelling of certain mail wagons.

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 5.3.1.

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

Content of the national legislation: Only mail wagons carrying over 3 tonnes of a material in the same class (other than 1, 6.2 or 7) must be labelled.

Initial reference to the national legislation: *Arrêté du 5 juin 2001 relatif au transport des marchandises dangereuses par chemin de fer — Article 21.1.*

Expiry date: 30 June 2015

SE Sweden

RA-a-SE-1

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

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 5.3.1.

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

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

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

Comments: There are quantity limits in the RID for goods designated as express goods. Therefore it is a small quantity issue.

Expiry date: 30 June 2015

UK United Kingdom

RA-a-UK-1

Subject: Carriage of items containing certain low-hazard radioactive material such as clocks, watches, smoke detectors, compass dials.

Reference to Annex II, Section II.1, to Directive 2008/68/EC: Most requirements of the RID.

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

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

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

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

Expiry date: 30 June 2015

RA-a-UK-2

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 Annex II, Section II.1, to Directive 2008/68/EC: 7.5.2.1 and 7.5.2.2.

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

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

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

Comments: The UK 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 be permitted only if "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 UN number 1942. The quantity of UN 1942 that may be carried shall be limited by deeming it to be an explosive of 1.1D.
2. Explosives allocated on classification to UN numbers 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 in transport category 2 does not exceed 500 kg or l 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 kg or l 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 kg.

Expiry date: 30 June 2015

RA-a-UK-3

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 Annex II, Section II.1, to Directive 2008/68/EC: 1.1.3.1.

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

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

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

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.

Expiry date: 30 June 2015

RA-a-UK-4

Subject: Adoption of RA-a-FR-6.

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 5.3.1.3.2.

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

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

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

Comments: This has always been a UK national provision.

Expiry date: 30 June 2015

RA-a-UK-5

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.

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 6.1.

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

Content of the national legislation: Packagings are not required to have been allocated an RID/ADR or UN mark.

Initial reference to the national legislation: *The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2007: Regulation 26*.

Comments: RID 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 rail leg of a local distribution journey without an outer packaging.

Expiry date: 30 June 2015

**Based on Article 6(2)(b)(i) of Directive 2008/68/EC**

DE Germany

RA-bi-DE-2

Subject: Transportation of packaged hazardous waste.

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 1 to 5.

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

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.

Initial reference to the national legislation: *Gefahrgut-Ausnahmeverordnung — GGAV 2002 vom 6.11.2002 (BGBl. I S. 4350); Ausnahme 20.*

Comments: List No 6\*.

Expiry date: 30 June 2015

DK Denmark

RA-bi-DK-1

Subject: Carriage of dangerous goods in tunnels

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 7.5

Content of the Annex to the Directive: Loading, unloading and protective distances

Content of the national legislation: The legislation provides for alternative provisions than provided for in Annex II Section II.1 to Directive 2008/68/EC regarding carriage through the rail tunnel of the fixed link across the Great Belt. These alternative provisions relate only to load volume and the distance between dangerous goods loads.

Initial reference to the national legislation: *Bestemmelser om transport af eksplosiver i jernbanetunnelerne på Storebælt og Øresund, 15 February 2005.*

Comments:

Expiry date: 30 June 2015

RA-bi-DK-2

Subject: Carriage of dangerous goods in tunnels

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 7.5

Content of the Annex to the Directive: Loading, unloading and protective distances

Content of the national legislation: The legislation provides for alternative provisions than provided for in Annex II, Section II.1 to Directive 2008/68/EC regarding carriage through the rail tunnel of the fixed link across Øresund. These alternative provisions relate only to load volume and the distance between dangerous goods loads.

Initial reference to the national legislation: *Bestemmelser om transport af eksplosiver i jernbanetunnelerne på Storebælt og Øresund, 15 February 2005.*

Comments:

Expiry date: 29 February 2016

SE Sweden

RA-bi-SE-1

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

Reference to Annex II, Section II.1, to Directive 2008/68/EC: 2, 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.

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 the RID, it is assigned to different waste groups. Each waste group contains substances that can, in accordance with the RID, be packed together (mixed packing). Each package must be marked with the relevant waste group code instead of the UN number.

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

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

Expiry date: 30 June 2015;

3. Annex III, Section III.3 is replaced by the following:

**III.3. National derogations**

— ...'

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## COMMISSION DECISION

of 29 March 2010

**amending Annex III to Decision 2003/467/EC as regards the declaration that certain administrative regions of Poland and Portugal are officially free of enzootic bovine leukosis***(notified under document C(2010) 1912)***(Text with EEA relevance)**

(2010/188/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine <sup>(1)</sup>, and in particular Annex D(I)(E) thereto,

Whereas:

- (1) Directive 64/432/EEC provides that a Member State or part of a Member State may be declared officially free of enzootic bovine leukosis as regards bovine herds subject to compliance with certain conditions set out in that Directive.
- (2) The list of regions of Member States declared free of enzootic bovine leukosis are set out in Annex III to Commission Decision 2003/467/EC of 23 June 2003 establishing the official tuberculosis, brucellosis and enzootic-bovine-leukosis-free status of certain Member States and regions of Member States as regards bovine herds <sup>(2)</sup>.
- (3) Poland has submitted to the Commission documentation demonstrating compliance with the appropriate conditions provided for in Directive 64/432/EEC as regards 25 administrative regions (powiaty) within the superior administrative units (voivodships) of Kujawsko-Pomorskie, Podlaskie and Mazowieckie in order that those regions may be considered officially enzootic-bovine-leukosis-free regions of Poland.
- (4) Following evaluation of the documentation submitted by Poland, the regions (powiaty) concerned should be declared as officially enzootic-bovine-leukosis-free regions of Poland.

(5) Portugal has submitted to the Commission documentation demonstrating compliance with the appropriate conditions provided for in Directive 64/432/EEC as regards the Autonomous Region of Azores in order that that region may be considered an officially enzootic-bovine-leukosis-free region of Portugal.

(6) Following evaluation of the documentation submitted by Portugal, the Autonomous Region of Azores should be declared as an officially enzootic-bovine-leukosis-free region of Portugal.

(7) Annex III to Decision 2003/467/EC should therefore be amended accordingly.

(8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex III to Decision 2003/467/EC is amended in accordance with the Annex to this Decision.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 29 March 2010.

*For the Commission*

John DALLI

*Member of the Commission*

<sup>(1)</sup> OJ L 121, 29.7.1964, p. 1977/64.

<sup>(2)</sup> OJ L 156, 25.6.2003, p. 74.

## ANNEX

1. in Annex III, Chapter 2, the entry for Poland is replaced by the following:

'In Poland:

— Voivodship dolnośląskie

Powiaty:	bolesławiecki, dzierzoniowski, głogowski, górowski, jaworski, jeleniogórski, Jelenia Góra, kamiennogórski, kłodzki, legnicki, Legnica, lubański, lubiński, lwówecki, milicki, oleśnicki, oławski, polkowicki, strzeliński, średzki, świdnicki, trzebnicki, wałbrzyski, Wałbrzych, wołowski, wrocławski, Wrocław, ząbkowicki, zgorzelecki, zlotoryjski.
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— Voivodship lubelskie

Powiaty:	białski, Biała Podlaska, biłgorajski, chełmski, Chełm, hrubieszowski, janowski, krasnostawski, krański, lubartowski, lubelski, Lublin, łęczyński, łukowski, opolski, parczewski, puławski, radzyński, rycki, świdnicki, tomaszowski, włodawski, zamojski, Zamość.
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— Voivodship kujawsko-pomorskie

Powiaty:	aleksandrowski, brodnicki, chełmiński, golubsko-dobrzyński, grudziądzki, lipnowski, Grudziądz, radziejowski, rypiński, toruński, Toruń, wąbrzeski, Włocławek, włocławski.
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— Voivodship łódzkie

Powiaty:	bełchatowski, brzeziński, kutnowski, łaski, łączycki, łowicki, łódzki, Łódź, opoczyński, pabianicki, pajęczński, piotrkowski, Piotrków Trybunalski, poddębicki, radomszczański, rawski, sieradzki, skierniewicki, Skierniewice, tomaszowski, wieluński, wieruszowski, zduńskowolski, zgierski.
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— Voivodship małopolskie

Powiaty:	brzeski, bocheński, chrzanowski, dąbrowski, gorlicki, krakowski, Kraków, limanowski, miechowski, myślenicki, nowosądecki, nowotarski, Nowy Sącz, oświęcimski, olkusi, proszowicki, suski, tarnowski, Tarnów, tatrzański, wadowicki, wielicki.
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— Voivodship mazowieckie

Powiaty:	białobrzegi, garwoliński, grójecki, gostyniński, grodziski, kozienicki, legionowski, lipski, łosicki, makowski, miński, nowodworski, ostrowski, otwocki, piaseczyński, Płock, płoński, pruszkowski, przysuski, Radom, radomski, Siedlce, siedlecki, sierpecki, sochaczewski, sokołowski, szydłowiecki, Warszawa, warszawski zachodni, węgrowski, wołomiński, wyszkowski, zwoleniński, żyrardowski.
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— Voivodship opolskie

Powiaty:	brzeski, głubczycki, kędzierzyńsko-kozielski, kluczborski, krapkowicki, namysłowski, nyski, oleski, opolski, Opole, prudnicki, strzelecki.
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— Voivodship podkarpackie

Powiaty:	bieszczadzki, brzozowski, dębicki, jarosławski, jasielski, kolbuszowski, krośnieński, Krosno, leski, leżajski, lubaczowski, łańcucki, mielecki, niżański, przemyski, Przemyśl, przeworski, ropczycko-sędziszowski, rzeszowski, Rzeszów, sanocki, stalowowolski, strzyżowski, Tarnobrzeg, tarnobrzeci.
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## — Voivodship podlaskie

Powiaty:	augustowski, białostocki, Białystok, bielski, grajewski, hajnowski, moniecki, sejneński, siemiatycki, sokólski, suwalski, Suwałki, wysokomazowiecki, zambrowski.
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## — Voivodship pomorskie

Powiaty:	Gdańsk, gdański, Gdynia, łęborski, Sopot, wejherowski.
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## — Voivodship śląskie

Powiaty:	będziński, bielski, Bielsko-Biała, bieruńsko-lędziński, Bytom, Chorzów, cieszyński, częstochowski, Częstochowa, Dąbrowa Górnicza, gliwicki, Gliwice, Jastrzębie Zdrój, Jaworzno, Katowice, kłobucki, lubliniecki, mikołowski, Mysłowice, myszkowski, Piekary Śląskie, pszczyński, raciborski, Ruda Śląska, rybnicki, Rybnik, Siemianowice Śląskie, Sosnowiec, Świętochłowice, tarnogórski, Tychy, wodzisławski, Zabrze, zawierciański, Żory, żywiecki.
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## — Voivodship świętokrzyskie

Powiaty:	buski, jędrzejowski, kazimierski, kielecki, Kielce, konecki, opatowski, ostrowiecki, pińczowski, sandomierski, skarżyski, starachowicki, staszowski, włoszczowski.
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## — Voivodship warmińsko-mazurskie

Powiaty:	ełcki, giżycki, gołdapski, olecki.
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## — Voivodship wielkopolskie

Powiaty:	jarociński, kaliski, Kalisz, kępiński, kolski, koniński, Konin, krotoszyński, ostrzeszowski, śłupecki, turecki, wrzesiński.
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## 2. in Annex III, Chapter 2, the following entry is added:

'In Portugal:

Autonomous Region of Azores'.

## COMMISSION DECISION

of 29 March 2010

**concerning preventive vaccination against low pathogenic avian influenza in mallard ducks in Portugal and certain measures restricting the movements of such poultry and their products**

*(notified under document C(2010) 1914)***(Only the Portuguese text is authentic)**

(2010/189/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC <sup>(1)</sup>, and in particular Article 57(2) thereof,

Whereas:

- (1) Directive 2005/94/EC sets out certain preventive measures relating to the surveillance and the early detection of avian influenza and increasing the level of the competent authorities' and the farming community's awareness of, and preparation for, the risks of that disease.
- (2) Following outbreaks of low pathogenic avian influenza in 2007 and 2008 in certain poultry holdings in central and western Portugal, in particular in holdings that keep poultry intended for restocking supplies of game, an emergency vaccination plan was carried out pursuant to Commission Decision 2008/285/EC <sup>(2)</sup> and that disease was successfully eradicated. However, based on a risk assessment it was decided that high value mallard breeding ducks kept on one holding located in the region of Lisboa e Vale do Tejo, Ribatejo Norte, Vila Nova da Barquinha were still exposed to the potential risk of avian influenza infection, in particular by possible indirect contact with wild birds (the holding).
- (3) Portugal therefore decided to continue vaccination against avian influenza as a long term measure by implementing a preventive vaccination plan on the holding which was approved by Commission Decision 2008/838/EC of 3 November 2008 concerning preventive vaccination against low pathogenic avian influenza in mallard ducks in Portugal and certain measures restricting the movements of such poultry and their products <sup>(3)</sup>. That Decision expired on 31 July 2009.

- (4) Portugal has reported on the implementation of that preventive vaccination plan to the Standing Committee on the Food Chain and Animal Health and expressed its intention to continue to implement preventive vaccination, if an appropriate vaccine should become available.
- (5) On 8 January 2010, Portugal submitted a preventive vaccination plan to the Commission for approval which is to be applied until 31 July 2011 (the preventive vaccination plan).
- (6) In its scientific opinions on the use of vaccination to control avian influenza issued by the European Food Safety Authority in 2005 <sup>(4)</sup>, 2007 <sup>(5)</sup> and 2008 <sup>(6)</sup>, the Animal Health and Welfare Panel stated that emergency and preventive vaccination against avian influenza is a valuable tool to complement the control measures for that disease.
- (7) In addition, the Commission has examined the preventive vaccination plan submitted by Portugal, and is satisfied that it conforms to the relevant Union legislation. In view of the epidemiological situation as regards low pathogenic avian influenza in Portugal, the type of holding to be vaccinated and the limited scope of the preventive vaccination plan, it should be approved.
- (8) For the purposes of the preventive vaccination plan to be carried out by Portugal, only vaccines authorised in accordance with Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products <sup>(7)</sup> or Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency <sup>(8)</sup> should be used.

<sup>(1)</sup> OJ L 10, 14.1.2006, p. 16.

<sup>(2)</sup> OJ L 92, 3.4.2008, p. 37.

<sup>(3)</sup> OJ L 299, 8.11.2008, p. 40.

<sup>(4)</sup> *The EFSA Journal* (2005) 266, 1-21, Scientific Opinion on Animal health and welfare aspects of Avian Influenza.

<sup>(5)</sup> *The EFSA Journal* (2007) 489, Scientific Opinion on Vaccination against avian influenza of H5 and H7 subtypes in domestic poultry and captive birds.

<sup>(6)</sup> *The EFSA Journal* (2008) 715, 1-161, Scientific Opinion on Animal health and welfare aspects of avian influenza and the risks of its introduction into the EU poultry holdings.

<sup>(7)</sup> OJ L 311, 28.11.2001, p. 1.

<sup>(8)</sup> OJ L 136, 30.4.2004, p. 1.

- (9) In addition, surveillance and laboratory testing in the holding keeping the vaccinated mallard ducks and in unvaccinated poultry holdings should be carried out as set out in the preventive vaccination plan.
- (10) It is also appropriate to introduce certain restrictions on the movement of vaccinated mallard ducks, their hatching eggs and mallard ducks derived from such ducks in accordance with the preventive vaccination plan. Due to the small number of mallard ducks present on the holding where preventive vaccination is to be carried out, as well as for reasons of traceability and logistics, vaccinated mallard ducks should not be moved from that holding, but killed after the end of their reproductive cycle in accordance with the requirements of Article 10(1) of Council Directive 93/119/EEC of 22 December 1993 on the protection of animals at the time of slaughter or killing <sup>(1)</sup>.
- (11) In relation to trade in poultry intended for restocking supplies of game, additional measures have been taken by Portugal pursuant to Commission Decision 2006/605/EC of 6 September 2006 on certain protection measures in relation to intra-Community trade in poultry intended for restocking of wild game supplies <sup>(2)</sup>.
- (12) In order to reduce the economic impact on the holding concerned, certain derogations from movement restrictions for mallard ducks derived from vaccinated mallard ducks should be provided for, since such movements do not pose a specific risk for the spread of disease and provided that official surveillance is carried out and that the specific animal health requirements for trade within the Union are complied with.
- (13) The preventive vaccination plan should be approved so that it can be implemented until 31 July 2011. Accordingly, this Decision should apply until that date.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

#### Article 1

##### Subject matter and scope

1. This Decision lays down certain measures to be applied in Portugal where preventive vaccination of mallard ducks (*Anas platyrhynchos*) intended for restocking supplies of game (mallard ducks) is carried out in a holding, which is exposed to the risk of avian influenza.

<sup>(1)</sup> OJ L 340, 31.12.1993, p. 21.

<sup>(2)</sup> OJ L 246, 8.9.2006, p. 12.

Those measures include certain restrictions on the movement within and dispatch from Portugal of the vaccinated mallard ducks, their hatching eggs and mallard ducks derived thereof.

2. This Decision shall apply without prejudice to the protection measures to be taken by Portugal in accordance with Directive 2005/94/EC and Decision 2006/605/EC.

#### Article 2

##### Approval of the preventive vaccination plan

1. The plan for preventive vaccination against low pathogenic avian influenza in Portugal, as submitted by Portugal to the Commission on 8 January 2010, to be implemented on a holding in the region of Lisboa e Vale do Tejo, Ribatejo Norte, Vila Nova da Barquinha until 31 July 2011 (the preventive vaccination plan) is approved.

2. The Commission shall publish the preventive vaccination plan.

#### Article 3

##### Conditions for implementing the preventive vaccination plan

1. Portugal shall ensure that the mallard ducks are vaccinated, in accordance with the preventive vaccination plan, with a monovalent inactivated heterologous vaccine containing the avian influenza subtype H5 authorised by that Member State in accordance with Directive 2001/82/EC or Regulation (EC) No 726/2004.

2. Portugal shall ensure that surveillance and laboratory testing of the holding keeping the vaccinated mallard ducks and of unvaccinated poultry holdings, as set out in the preventive vaccination plan, is carried out.

3. Portugal shall ensure that the preventive vaccination plan is implemented efficiently.

#### Article 4

##### Marking and restrictions on the movement and dispatch and disposal of vaccinated mallard ducks

The competent authority shall ensure that vaccinated mallard ducks on the holding referred to in Article 2(1) are:

- (a) marked individually;
- (b) not moved to other poultry holdings within Portugal; or
- (c) dispatched from Portugal.

After their reproductive period, such ducks shall be killed on the holding referred to in Article 2(1) of this Decision, in accordance with the requirements in Article 10(1) of Directive 93/119/EEC, and their carcasses safely disposed of.

*Article 5***Restrictions on the movement and dispatch of hatching eggs derived from mallard ducks on the holding referred to in Article 2(1)**

The competent authority shall ensure that hatching eggs derived from mallard ducks on the holding referred to in Article 2(1) may only be moved to a hatchery within Portugal and not dispatched from Portugal.

*Article 6***Restrictions on the movement and dispatch of mallard ducks derived from vaccinated mallard ducks**

1. The competent authority shall ensure that mallard ducks derived from the vaccinated mallard ducks may only be moved after hatching to a holding located in a surrounding area established by Portugal in relation to the holding referred to in Article 2(1) as set out in the preventive vaccination plan.

2. By way of derogation from paragraph 1, and provided that the mallard ducks derived from the vaccinated mallard ducks are more than four months old, they may be:

- (a) released into the wild in Portugal; or
- (b) dispatched from Portugal provided that:
  - (i) the results of the surveillance and laboratory tests as set out in the preventive vaccination plan, are favourable; and
  - (ii) the conditions for dispatch of poultry for restocking supplies of wild game laid down in Decision 2006/605/EC are met.

*Article 7***Health certification for trade within the Union in mallard ducks derived from vaccinated mallard ducks**

Portugal shall ensure that health certificates for trade within the Union in poultry intended for restocking supplies of game referred to in Article 6(2)(b) include the following sentence:

'The animal health conditions of this consignment are in accordance with Commission Decision 2010/189/EU'.

*Article 8***Reports**

Portugal shall submit to the Commission a report on the implementation of the preventive vaccination plan within one month from the date of application of this Decision and report every six months thereafter to the Standing Committee on the Food Chain and Animal Health thereafter.

*Article 9***Applicability**

This Decision shall apply until 31 July 2011.

*Article 10***Addressee**

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 29 March 2010.

*For the Commission*

John DALLI

*Member of the Commission*

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# RECOMMENDATIONS

## COUNCIL RECOMMENDATION TO GREECE

of 16 February 2010

**with a view to ending the inconsistency with the broad guidelines of the economic policies in Greece and removing the risk of jeopardising the proper functioning of the economic and monetary union**

(2010/190/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 121(4) thereof,

Having regard to the recommendation from the Commission,

Whereas:

These include budgetary surveillance in the framework of the Stability and Growth Pact and the Lisbon Strategy in which the Broad Guidelines of the Economic Policies <sup>(1)</sup>, provide a general reference framework for structural reform in the Union and in the euro area. These include recommendations to Member States to respect their medium-term budgetary objectives and to take effective action in order to ensure a prompt correction of excessive deficits, as well as to aim at correcting the current account deficit by implementing structural reforms, boosting external competitiveness and contributing to their correction via fiscal policies.

- (1) The macroeconomic and budgetary situation has deteriorated markedly in Greece over the last year and Greek public finances have worsened much beyond what could have been expected as a result of the downturn. These developments are largely due to national factors that have developed over the longer term, resulting in a deterioration of the net lending position of the Greek economy and high and persistent external imbalances, mirroring large competitiveness losses and a marked deterioration of the fiscal position.
- (2) National policies in terms of the conduct of fiscal policy, the efficiency of public administration and lack of structural reforms (where indicators show that Greece ranks poorly compared with international benchmarks) have contributed to poor economic and fiscal performance.
- (3) The current situation poses major challenges for the long-term sustainability of the Greek economy, and the economic and fiscal situation may have negative spill-over on other euro-area members, as evidenced by movements in the financial spreads of a number of Member States. The current situation also risks jeopardising the proper functioning of the economic and monetary union.
- (4) The Council and Commission have repeatedly pointed to the longer-term structural problems of the Greek economy in various multilateral surveillance exercises.
- (5) In this context, reflecting the deep structural problems in the Greek economy covering fiscal, labour and product market issues, the Council, in its Recommendation of 25 June 2009 <sup>(2)</sup>, noted that for Greece it is 'imperative to intensify efforts to address the macro-economic imbalances and structural weaknesses of the Greek economy' and directed country-specific recommendations to Greece, including that it should continue with fiscal consolidation; increase competition in professional services; reform to increase investments in R&D; use structural funds more efficiently; reform public administration and take a broad range of labour market measures within an integrated flexicurity approach. At the same time, the Council recommended that Greece, as a member of the euro area, secure the sustainability and improve the quality of public finances, modernise public administration and implement the Union's common principles of flexicurity.
- (6) Greece's economic and budgetary policies are not in line with the country-specific recommendations issued under the Broad Guidelines of the Economic Policies, nor the recommendations addressed to Member States forming part of the euro area, set out in the Council Recommendation of 14 May 2008 on the broad economic policy guidelines for the Member States and the Community.

<sup>(1)</sup> [http://ec.europa.eu/economy\\_finance/structural\\_reforms/growth\\_jobs/guidelines/index\\_en.htm](http://ec.europa.eu/economy_finance/structural_reforms/growth_jobs/guidelines/index_en.htm)

<sup>(2)</sup> Council Recommendation of 25 June 2009 on the 2009 update of the broad guidelines for the economic policies of the Member States and the Community and on the implementation of Member States' employment policies (OJ L 183, 15.7.2009, p. 1).



- (7) On 15 January 2010, Greece submitted the 2010 update of its stability programme, which contains objectives in the budgetary area for the period up to 2013 and which should be read in conjunction with the budget for 2010 adopted by the Greek Parliament on 23 December 2009; the Council delivered an opinion on 16 February 2010 on the 2010 update of the Greek stability programme in accordance with Article 5(3) of Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies<sup>(1)</sup>. On 16 February 2010, the Council also adopted a Decision under Article 126(9) TFEU giving notice to Greece to take measures for the deficit reduction judged necessary in order to remedy the situation of excessive deficit<sup>(2)</sup> (hereinafter 'the Council Decision of 16 February 2010').
- (8) The proper functioning of the coordination of economic policies in the euro area requires a timely use of instruments available under Article 121 TFEU. Article 121(4) TFEU establishes that the Commission may address a warning to the Member State concerned and may recommend the Council to make the necessary recommendations to that Member State. Given the gravity of the situation and in order to ensure consistency with the Council Decision of 16 February 2010, it is appropriate that the Council adopt the necessary recommendations. In addition, the Council may, acting on a proposal from the Commission, decide to make its recommendations public.
- (9) Although the deterioration in macroeconomic conditions in 2009 has been more pronounced than anticipated by the authorities, public finances have worsened much beyond what could have been expected as a result of the stronger-than-projected downturn. The deterioration is to a large extent the result of budgetary policies implemented by the Greek government. The general government deficit in 2009 is currently estimated at 12,75 % of GDP, compared to a target of 3,75 % of GDP in the January 2009 update of the stability programme.
- (10) The 2010 budget was adopted by the Greek Parliament on 23 December 2009 setting a deficit target of 9,1 % of GDP in 2010. In the meantime, the Greek authorities announced the intention to step up fiscal adjustment already in 2010, setting the budgetary target for 2010 at 8,7 % of GDP. The January 2010 update of the stability programme confirmed the revised budgetary target for 2010 at 8,7 % of GDP.
- (11) The long-term budgetary impact of ageing on public expenditures is well above the Union average, mainly as a result of a very high projected increase in pension expenditure as a share of GDP over the coming decades. Available indicators, as evidenced in the Commission services' 2009 sustainability report, point to very high risks to the sustainability of public finances, which, in addition to budgetary consolidation, needs to be addressed through the reform of the pension and health care systems. The Greek pension system suffers from several problems, including the fact that it is fragmented in its coverage. Although Greece has one of the highest average benefit ratios in the Union — with a negative impact on incentives to work, as reflected in particular in the low employment rate among older workers — it has one of the highest poverty rates among the elderly. There are also problems with early retirement schemes that provide alternative, but costly, pathways to retirement. The health care system also needs reform, in particular to significantly improve efficiency and management as these have been a cause of recurrent budgetary overruns. Labour market reforms should support the increased labour supply in order to increase the contribution base.
- (12) Greece should recover competitiveness losses and address large external imbalances. In this context, in accordance with the Broad Guidelines of the Economic Policies, Greece should aim at correcting the current account deficit 'by implementing structural reforms, boosting external competitiveness and (...) contributing to their correction via fiscal policies'. To this end, the Greek authorities should implement permanent measures to control current primary expenditure, including the wage cost in the public sector, and urgently implement labour and product market structural reforms. In particular, the Greek authorities should ensure that fiscal consolidation measures are also geared towards enhancing the quality of public finances within the framework of a comprehensive reform programme, while swiftly implementing policies to further reform the tax administration.
- (13) A variety of indicators and analyses confirm that Greece has been losing price competitiveness on a large and sustained basis over the past ten years. The rise in wages in excess of productivity growth is an explanatory factor. Public sector wages relative to private sector wages have risen faster in Greece compared with other euro area economies and have affected overall wage bargaining, underlining the need for the public sector to play a lead role in helping restore wage moderation. In addition, some features of the Greek collective bargaining system (for example, the intermediate level of bargaining) can also explain the misalignment of wage and productivity growth, and require adjustments

<sup>(1)</sup> OJ L 209, 2.8.1997, p. 1.

<sup>(2)</sup> OJ L 83, 30.3.2010, p. 13.

to be agreed by social partners. Looking forward, the wage bargaining system must support wage changes which more closely reflect competitiveness, productivity developments and local labour market conditions.

(14) Public administration has been a major obstacle in raising efficiency in Greece. Greece ranks poorly as regards the public sector in most international comparisons and many problems are thought to derive from insufficient administrative capacity and efficiency. The authorities have made commitments to improve its functioning. These should translate into reduced staffing, improved human resource management in public entities, reduced costs, increased transparency, increased legal certainty and the effective implementation of policies.

(15) Greece has considerable scope to improve its business environment and product market functioning. Businesses face complex, burdensome and lengthy administrative procedures. Professional services are heavily regulated, barriers to competition are amongst the highest within the Union. Moreover, the liberalisation of network industries (for example, energy) is lagging behind the Union average, as well as the opening of markets in the transport sector, especially in rail. Reforms in these areas could increase private investment and employment at little cost for public finances. Product market reforms could also help the implementation of labour market reforms by reducing cost pressures.

(16) Greece's labour market is also in need of reform in line with the common principles of flexicurity, as noted by the Council in its 2009 recommendations on the implementation of employment policies. Particular attention needs to be paid to young persons, given the difficulties they face in entering formal employment. There is serious scope for supporting labour market transitions including by improving education and training policies, upgrading the skills of the workforce, and improving the efficiency of active labour market policies, drawing also upon the support of the European Social Fund. There is also a need to ease employment protection legislation. Furthermore, policies should encourage active labour market participation. Implementation of these recommendations is of key importance for the Greek economy. The employment effects of the structural actions implemented in the economic area should thus be duly taken into account.

(17) The faster and more effective absorption of the Union's structural and cohesion funds has the potential of playing a critical role in the success of efforts to restore competitiveness and sustainable public finances. Compared to other Member States, progress with the absorption of funds has been lagging. By working with the

Commission to take measures to improve absorption capacity and the design of operational programmes, Greece could finance key public investments that support long-term growth potential whilst at the same time allowing budgetary consolidation to proceed. Particular attention should be paid to the operational programme on 'Administrative Reform' and 'Digital Convergence' as these support essential reforms in the public administration which are central to the reform strategy outlined in the January 2010 update of the stability programme. For example, the Union's structural funds under these operational programmes could be relied on to support the public sector in reforms of the health care system, public employment services, lifelong learning, fighting undeclared work, and the building up of effective regulatory control and enforcement capacities.

(18) The Greek banks appear relatively sound in terms of profitability and capital adequacy. Furthermore, the resilience of the sector has been confirmed by extensive stress-testing. In addition, the Greek banks maintain a low level of non-performing loans (approximately 7,2 % of total loans) and a relatively low loan-to-deposit ratio. However, the Greek banking sector has experienced difficulties in accessing liquidity on wholesale markets, leaving it substantially reliant on Eurosystem lending. In sum, while the Greek banking system is overall robust and suffered less than some other Member States from the global financial crisis, it is unlikely to remain immune from the difficulties in the Greek public finances. Moreover, the impact of economic and financial problems in some of Greece's neighbouring countries is a concern.

(19) In the light of the impact on the Greek economy of the global economic and financial crisis, the implied repricing of risks puts further pressure on debt burden and raises risk premia on government debt,

#### HEREBY RECOMMENDS:

1. Taking into account the institutional weaknesses of the Greek public finances and economy at large, Greece should design and implement, starting as soon as possible in 2010, a bold and comprehensive structural reforms package which goes beyond the measures outlined in the January 2010 update of the stability programme. Clear and detailed time plans should be made available for the proposed reforms and followed during implementation. More specifically, taking into account the importance of ensuring the effectiveness of the wage bargaining system and the need for overall wage moderation, against the background of competitiveness losses, Greece should:

- (a) reduce the public wage bill, so as to ensure that public sector wage policy plays a leading role to the private sector wage formation and contributes to overall wage moderation;
  - (b) streamline the wage payment system for direct public administration employees by providing unified principles in setting and planning wages and streamlining the wage grid; this wage policy should be extended to compensation rules for public enterprise employees;
  - (c) enhance flexibility of the wage-setting system by promoting more decentralised wage bargaining (for example, avoiding the administrative extension of collective agreements to enterprises not involved in the negotiations), including by decoupling from public sector wage developments; improve the implementation of the wage bargaining law to limit the use of the exemption clause.
2. Given the urgent need to reform the pension system, and in view of challenges to the long-term sustainability of public finances, Greece should:
- (a) proceed with a timely and comprehensive pension reform, which should contribute to public finance sustainability;
  - (b) ensure the alignment of statutory retirement ages between women and men and introduce additional parameters that automatically adjust the pension level and statutory retirement age to changes in underlying economic and demographic factors;
  - (c) ensure that comprehensive labour market reforms support increased labour supply and employment in order to expand the contribution base;
  - (d) adapt the pension award formula by strengthening the link between contributions paid and benefits received, and indexing pensions to prices, instead of the discretionary indexation so far;
  - (e) increase the average exit age from the labour market through stricter eligibility criteria for early retirement; reduce substantially the current excessively long list of occupations allowing for early retirement;
  - (f) simplify the fragmented pension system and introduce universally binding legislation on entitlement, contributions, accumulation and indexing;
  - (g) adopt, already in 2010, the necessary legal acts.
3. In the field of healthcare, reforms should focus on:
- (a) overhauling the excessively fragmented structure of the health care system and its governance;
  - (b) enhancing the quality and efficiency of public primary health care services;
  - (c) modernising hospital administration and accounting procedures;
  - (d) procurement procedures, by also reviewing the list of medicines purchased.
4. There is a need to enhance the efficiency of public administration. To this end, Greece should:
- (a) develop, approve and implement the strategic reform needed to ensure a significant improvement in the transparency and effectiveness of its public administration; this would be based on an independent functional review of the overall structure of public administration, in order to increase the effectiveness of public administration in several policy areas, particularly the decision-making structures, the division of responsibilities among institutions, the internal organisation of key ministries, the oversight and accountability for implementation, and the extent of staffing levels and human resource management; the upward trend in public sector employment should be reversed;
  - (b) consolidate the number of municipalities and local councils, inducing sizeable expenditure savings;
  - (c) take measures with a view to ensuring that public procurement is carried out in a cost-effective, transparent and competitive way.
5. Another priority, to be addressed already in 2010, concerns improvements in the functioning of the product market and business environment. To this end, Greece should:
- (a) achieve the objectives set in the better regulation agenda by simplifying procedures for starting, licensing and operating a business; streamlining and simplifying Greece's regulatory system by creating in each ministry specialised units for better regulation, by strengthening the role of impact assessments and in general, by speeding up the implementation of the administrative burden reduction programme;
  - (b) adopt and implement a clear and action-oriented competition policy framework including a review of priority setting rules and a reform of enforcement practices; strengthen the role and capacity of the Hellenic Competition Commission;
  - (c) swiftly and ambitiously implement the rules of the Services Directive;

- (d) take effective measures to increase competition in professional services;
- (e) further promote and monitor deregulation of the transport and energy sector, in particular by lifting price restrictions and barriers to entry in the road freight sector; by fully implementing the first railway package <sup>(1)</sup> in order to promote the market opening of the railway sector and by stepping up the liberalisation of the electricity sector by unbundling current incumbent operations;
- (f) ease regulation in the retail sector.
6. With a view to supporting productivity and employment growth, Greece should:
- (a) take immediate measures to fight undeclared work;
- (b) review labour market regulations, including employment protection legislation, with a view to increasing labour supply;
- (c) support labour demand by reinforcing targeted reductions in the cost of labour;
- (d) enact reforms in the educational system aimed at improving the level of skills of the labour force and enhancing responsiveness to labour market needs.
7. Against the background of the challenge to improve productivity, including through prioritised public investment strategies, Greece should take all necessary measures to improve the efficiency and pace of absorption of EU structural funds. In doing so, particular attention should be paid to the swift and efficient implementation of the operational programmes on 'Administrative Reform' and 'Digital Convergence', as these support essential reforms in public administration, which is central to the reform strategy outlined in the January 2010 update of the stability programme.
8. Greece is invited to report on measures taken in response to this Recommendation, and on the calendar of the implementation of the structural measures, outlined in the January 2010 update of the stability programme, in the context of the quarterly reports established by Article 4(2) of the Council Decision of 16 February 2010.
- This Recommendation is addressed to the Hellenic Republic.
- Done at Brussels, 16 February 2010.
- For the Council*  
*The President*  
E. SALGADO

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<sup>(1)</sup> Directives 91/440/EEC (OJ L 237, 24.8.1991, p. 25), 95/18/EC (OJ L 143, 27.6.1995, p. 70) and 2001/14/EC (OJ L 75, 15.3.2001, p. 29).

**COMMISSION RECOMMENDATION****of 22 March 2010****on the scope and effects of legal tender of euro banknotes and coins**

(2010/191/EU)

THE EUROPEAN COMMISSION,

(a) Mandatory acceptance:

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

The creditor of a payment obligation cannot refuse euro banknotes and coins unless the parties have agreed on other means of payment.

Whereas:

(b) Acceptance at full face value:

(1) The legal tender status of euro banknotes is laid down by Article 128 of the Treaty on the Functioning of the European Union, in the chapter on monetary policy. According to Article 3(1)(c) of the Treaty on the Functioning of the European Union, the Union shall have exclusive competence as regards monetary policy for the Member States whose currency is the euro (the participating Member States).

The monetary value of euro banknotes and coins is equal to the amount indicated on the banknotes and coins.

(c) Power to discharge from payment obligations:

(2) According to Article 11 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro <sup>(1)</sup>, the euro coins shall be the only coins which have the status of legal tender in the participating Member States.

A debtor can discharge himself from a payment obligation by tendering euro banknotes and coins to the creditor.

(3) There is currently some uncertainty at euro area level with regards to the scope of legal tender and the consequences thereof.

**2. Acceptance of payments in euro banknotes and coins in retail transactions**

The acceptance of euro banknotes and coins as means of payments in retail transactions should be the rule. A refusal thereof should be possible only if grounded on reasons related to the 'good faith principle' (for example the retailer has no change available).

(4) This recommendation is based on the main conclusions of a report prepared by a working group consisting of representatives from Ministries of Finance and National Central Banks of the euro area.

**3. Acceptance of high denomination banknotes in retail transactions**

High denomination banknotes should be accepted as means of payment in retail transactions. A refusal thereof should be possible only if grounded on reasons related to the 'good faith principle' (for example the face value of the banknote tendered is disproportionate compared to the amount owed to the creditor of the payment).

(5) The Commission will review the implementation of this recommendation three years after its adoption and assess whether regulatory measures are needed.

HAS ADOPTED THIS RECOMMENDATION:

**1. Common definition of legal tender**

Where a payment obligation exists, the legal tender of euro banknotes and coins should imply:

**4. Absence of surcharges imposed on the use of euro banknotes and coins**

No surcharges should be imposed on payments with euro banknotes and coins.

<sup>(1)</sup> OJ L 139, 11.5.1998, p. 1.



**5. Euro Banknotes stained by Intelligent banknote neutralisation systems (IBNS)**

Even if euro banknotes stained with security ink by Intelligent Banknote Neutralisation Systems (IBNS) are legal tender, Member States should communicate actively towards stakeholders (banks, retailers, general public) that stained banknotes must be brought back to National Central Banks as it is very likely that they are the product of a theft.

**6. Total destruction of issued notes and coins by individuals**

Member States should neither prohibit nor penalise total destruction of small quantities of euro banknotes or coins by individuals. They should however prohibit unauthorized destruction of large quantities of euro banknotes or coins.

**7. Mutilation of notes and coins for artistic purposes**

Member States should not encourage mutilation of euro banknotes or coins for artistic purposes but should tolerate it. Such mutilated banknotes or coins should be considered as unfit for circulation.

**8. Competence to decide on the destruction of fit euro circulation coins**

The decision to destroy fit euro circulation coins should not belong to any national authority in isolation. Prior to the destruction of fit euro circulation coins, the national competent authority should consult the Euro Coin Sub-Committee of the Economic and Financial Committee and inform the Mint Directors Working Group.

**9. Legal tender of 1 and 2 euro cent coins and rounding rules**

In Member States where rounding regimes have been adopted and prices consequently rounded to the nearest five cents, 1 and 2 euro cent coins should remain legal tender and should continue to be accepted as means of payments. Member States should however refrain from adopting new rounding rules since they affect negatively the power to discharge from a payment obligation by tendering the exact amount owed and since it may lead in some circumstances to a surcharge on cash payments.

**10. Legal tender of euro collector coins**

Member States should take all measures deemed appropriate to prevent euro collector coins from being used as means of payments (for example special packaging, clear communication, use of precious metal, sale prices above face value).

This Recommendation is addressed to all euro area Member States, the European Central Bank, European and national trade and consumer associations.

Done at Brussels, 22 March 2010.

*For the Commission*

Olli REHN

*Member of the Commission*



RECOMMENDATIONS

2010/190/EU:

- ★ **Council Recommendation to Greece of 16 February 2010 with a view to ending the inconsistency with the broad guidelines of the economic policies in Greece and removing the risk of jeopardising the proper functioning of the economic and monetary union** ..... 65

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