



COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMISSION STAFF WORKING DOCUMENT

on the continuous carriage of 45' containers in national road transport

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1. FLEET OF 45' CONTAINERS IN CIRCULATION

The global fleet of 45' containers is approximately 2 % (400.000 TEU¹) of the total global fleet of containers (approximately 20 million TEU). Forty-five-foot containers are to some extent used in the EU. European short-sea operators also own a small fleet of pallet-wide 45' containers. The International Standardisation Organisation (ISO) has recently standardised the 45' container.

2. END OF TEMPORARY DEROGATION UNDER ARTICLE 4(6) OF DIRECTIVE 96/53/EC

Directive 96/53/EC² on weights and dimensions in road transport sets out the maximum allowable vehicle and loading dimensions in national and international road transport in the EU.

Owing to the calculation methodology in the Directive, 45' containers are 9 cm (for normal containers) or 12 cm (for pallet wide containers) longer than the maximum allowable length in the Directive.

Article 4(6) allows, until 31.12.2006, in national transport operations, for vehicles registered or put into circulation before the implementation of the Directive, dimensions that exceed those in the Directive and makes it possible for 45' containers to move on the roads today. After 31.12.2006, this will not be possible any more under Article 4(6).

In other transport modes (short sea shipping, inland waterway transport and rail), 45' containers can continue circulating freely after 31.12.2006.

3. STAKEHOLDER REQUEST

Stakeholders have requested the Commission services to examine whether it would be possible to continue carrying 45' containers in road transport after the temporary derogation in Article 4(6) has ended. An acceptable solution could entail allowing 45' containers to continue circulating only in national road transport operations while short sea shipping, inland waterway transport or rail would be used over longer distances for transport operations between Member States.

¹ TEU = Twenty foot equivalent unit (equivalent to a 20' foot container).

² Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic, OJ L 235, 17.9.1996, p. 59, as amended by Directive 2002/7/EC, OJ L 067, 9.3.2002, p. 47.

Even though the number of 45' containers in circulation is relatively small, the Commission services undertook to carry out this examination without prejudice to the final outcome.

A further incentive to the examination arises from the Commission Communication on Freight Transport Logistics³ which states that “the rules on the dimensions of vehicles and loading units should match the needs of advanced logistics and sustainable mobility.”

4. OPTIONS CONSIDERED BY THE COMMISSION SERVICES

4.1. Amending Directive 96/53/EC

The first option considered was that of the Commission proposing an amendment to Directive 96/53/EC to allow 45' containers to continue circulating.

However, the legislative procedure to amend a Directive would take too long a time in relation to the end date of the current temporary derogation, i.e. 31.12.2006.

Consequently, this option was dismissed for the time being.

4.2. Using Article 4(3) of Directive 96/53/EC

Article 4(3) allows the competent authorities of the Member States to issue special permits without discrimination, or put in place similar non-discriminatory arrangements agreed on a case-by-case basis with those authorities, for vehicles or vehicle combinations to carry or be intended to carry 'indivisible loads'.

According to Article 2 of Directive 96/53/EC an "'indivisible load' shall mean a load that cannot, for the purpose of carriage by road, be divided into two or more loads without undue expense or risk of damage and which owing to its dimensions or mass cannot be carried by a motor vehicle, trailer, road train or articulated vehicle complying with this Directive in all respects”.

A container cannot be divided into smaller parts, even though its contents can be reloaded into smaller loading units. However, reloading entails expenses and risk of damage.

The Commission services find it possible to consider 45' containers as 'indivisible loads' for the purposes of Article 4(3). Consequently, these containers are able to continue circulating under this Article on the national road legs of intermodal operations.

4.3. Using Article 4(4) of Directive 96/53/EC

Article 4(4) of the Directive allows the Member States to carry out transport operations in their territories by vehicles or vehicle combinations that deviate from the maximum dimensions stipulated in Annex I to the Directive. The deviations apply to carrying out those national transport operations that do not significantly affect international competition in the transport sector.

³ Communication from the Commission: Freight Transport Logistics in Europe – the key to sustainable mobility, COM(2006) 336 final, 28.6.2006.

Article 4(4), with a particular reference to 4(4)(b), sets out a precondition for deviating, in the national territory, from the dimensions generally stipulated in the Directive in order not to seriously affect international competition, namely:

- that a Member State allowing deviations from the dimensions generally stipulated in the Directive also allows the use of a 'modular concept' in its territory. The 'modular concept' means the use of motor vehicles, trailers and semi-trailers which comply with the dimensions laid down in Annex I to the Directive to be used in such combinations that at least the loading length authorised in the relevant Member State can be achieved;

The permitted deviations listed in Article 4(4) of the Directive apply to:

- the maximum allowable dimensions of vehicles and their combinations (points 1.1, 1.2, 1.6, 1.7, 1.8, 4.2 and 4.4 of Annex I to the Directive);
- allowing an overhang by not including containers in the calculation of the maximum dimensions (point 1.4 in Annex I to the Directive);
- the turning circle (point 1.5 of Annex I to the Directive).

The deviations allowed under Article 4(4) are the same as those mentioned under 4(6) which allow 45' containers to circulate today. Article 4(4) does not have an end date but can be applied to all allowable deviations as long as the above precondition is fulfilled.

Article 4(4) allows vehicles that are only 12 cm longer than foreseen in the Directive to circulate in national transport operations as long as the Member State concerned allows the 'modular concept' to circulate in its territory and allows the deviation of 12 cm on a non-discriminatory basis. This allows 45' containers to circulate freely in the national territory.

Article 4(4) is open for any Member State to apply in their national territories by informing the Commission of the measures taken pursuant to it.

A road train of 18,75 metres prescribed in Directive 96/53/EC constitutes a 'modular concept' in accordance with the relevant definition in Article 4(4) because it is composed of 'modules' (a motor vehicle, trailer and semi-trailer) "which comply with the dimensions laid down in Annex I" to the Directive, in "such combinations as to achieve at least the loading length authorised in that Member State". Such a 'modular' road train of 18,75 metres has a loading length of 15,65 metres which is longer than the loading length needed for a 45' container (i.e. 13,72 metres). Because all Member States allow the concept of 18,75 metres to freely circulate in their territories, they can, consequently, by referring to Article 4(4) and informing the Commission of the measures taken, also allow 45' containers to be carried on articulated vehicles by road in their national territories from/to intermodal terminals.

When applying Article 4(4) of Directive 96/53/EC, the Member State would be entitled to limit the application of the Article to only those deviations that are indispensable for carrying 45' containers.

5. IN CONCLUSION

1. Forty-five-foot containers are able to continue circulating under Article 4(3) of Directive 96/53/EC (special permits or similar non-discriminatory arrangements) as 'indivisible loads' provided that the Member States concerned so decide and put in place the necessary administrative arrangements on a non-discriminatory basis.

The format of these special permits or similar non-discriminatory arrangements is not detailed in Article 4(3). Nothing in the Directive seems to prevent envisaging permits that could cover a certain number of operations or a period of time (e.g. up to 1 year). Furthermore, using similar non-discriminatory arrangements could entail other reductions of red tape, such as allowing 45' containers to circulate more freely in the national territory while respecting the fact that they are oversized loads and should be permanently marked as such to other road users for reasons of safety.

This interpretation allowing 45' containers to circulate under the concept of 'indivisible loads' should, in no way, be considered a precedent for allowing longer containers to circulate under this concept.

2. Forty-five-foot containers are able to continue circulating under Article 4(4), in particular 4(4)(b) of Directive 96/53/EC provided that the Member States concerned apply Article 4(4) on a non-discriminatory basis, accept the 'modular concept' in their respective territories, and inform the Commission of the measures taken pursuant to the paragraph.

A road train of 18,75 metres prescribed in Directive 96/53/EC also constitutes a 'modular concept' in accordance with the relevant definition in Article 4(4).

These interpretations do not have any effect on the maximum weights stipulated in Directive 96/53/EC as amended.

For carriage between Member States, intermodality (rail, short sea shipping or inland waterway transport) should be used. The first and final road legs of intermodal journeys can then be carried out nationally. This is fully in line with co-modality and can give a new incentive to multimodality.

ANNEX

Recital 17 and Extracts from Articles 2 and 4 and Annex I of Directive 96/53/EC as amended

- (17) Whereas Member States should be permitted, in national goods transport, to allow vehicles or vehicle combinations with dimensions deviating from those laid down in this Directive to circulate in their territory if the transport operations carried out by such vehicles are defined by this Directive as not significantly affecting international competition in the transport sector, i.e. operations carried out by specialized vehicles and operations carried out according to a modular concept;

Article 2

For the purposes of this Directive:

[...]

- ‘indivisible load’ shall mean a load that cannot, for the purpose of carriage by road, be divided into two or more loads without undue expense or risk of damage and which owing to its dimensions or mass cannot be carried by a motor vehicle, trailer, road train or articulated vehicle complying with this Directive in all respects;

Article 4

[...]

3. Vehicles or vehicle combinations which exceed the maximum dimensions may only be allowed to circulate on the basis of special permits issued without discrimination by the competent authorities, or on the basis of similar non-discriminatory arrangements agreed on a case-by-case basis with those authorities, where these vehicles or vehicle combinations carry or are intended to carry indivisible loads.
4. Member States may allow vehicles or vehicle combinations used for transport which carry out certain national transport operations that do not significantly affect international competition in the transport sector to circulate in their territory with dimensions deviating from those laid down in points 1.1, 1.2, 1.4 to 1.8, 4.2 and 4.4 of Annex I.

Transport operations shall be considered not significantly to affect international competition in the transport sector if one of the conditions under (a) and (b) is fulfilled:

(a) the transport operations are carried out in a Member State's territory by specialized vehicles or specialized vehicle combinations in circumstances in which they are not normally carried out by vehicles from other Member States, e.g. operations linked to logging and the forestry industry;

(b) the Member State which permits transport operations to be carried out in its territory by vehicles or vehicle combinations with dimensions deviating from those laid down in Annex I also permits motor vehicles, trailers and semi-trailers which

comply with the dimensions laid down in Annex I to be used in such combinations as to achieve at least the loading length authorized in that Member State, so that every operator may benefit from equal conditions of competition (modular concept).

[...]

The Member States shall inform the Commission of the measures taken pursuant to this paragraph.

[...]

6. Member States may allow vehicles or vehicle combinations used for goods transport and registered or put into circulation before the implementation of this Directive to circulate in their territory until 31 December 2006 with dimensions exceeding those laid down in points 1.1, 1.2, 1.4 to 1.8, 4.2 and 4.4 of Annex I by virtue of differing national provisions or methods of measurement.

Relevant points in Annex I:

- 1.1. Maximum length [...].
- 1.2. Maximum width [...].
- 1.4 Removable superstructures and standardised freight items such as containers are included in the dimensions specified in points [...].
- 1.5 Any motor vehicle or vehicle combination which is in motion must be able to turn within a swept circle having an outer radius of 12,50 m and an inner radius of 5,30 m.
- 1.6 Maximum distance between the axis of the fifth-wheel king pin and the rear of a semi-trailer 12,00 m.
- 1.7 Maximum distance measured parallel to the longitudinal axis of the road train from the foremost external point of the loading area behind the cabin to the rearmost external point of the trailer of the combination, minus the distance between the rear of the drawing vehicle and the front of the trailer 15,65 m.
- 1.8. Maximum distance measured parallel to the longitudinal axis of the road train from the foremost external point of the loading area behind the cabin to the rearmost external point of the trailer of the combination 16,40 m.
- 4.2. Road trains: The distance between the rear axle of a motor vehicle and the front axle of a trailer must not be less than 3,00 m.
- 4.4. Semi-trailers: The distance measured horizontally between the axis of the fifth-wheel king pin and any point at the front of the semi-trailer must not exceed 2,04 m.