

Letter to the Editor

Risk Prevention Officer for Europe

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Abstract

In 1991 the Commission of the European Communities presented the Council a proposal for a council directive on the "appointment of an officer for the prevention of the risks inherent in the carriage of dangerous goods in undertakings which transport such goods, and on the vocational qualification of such officers". Since 1991 such a 'Risk Prevention Officer' is well-known in Germany. Risk Prevention Officers have the duties to control the observation of all legal regulations concerning the transport of dangerous goods and to train the staff. Germany has gained good experiences with this new person and would welcome the European directive if it would come into force in the near future.

Increasing attention is being paid to the transport of dangerous goods and to the problems involved. Within the European Community there are neither statistics on the volume of transported dangerous goods nor statistics on the number of accidents which occur every year due to the transport of dangerous goods. We must presume that approximately 1.5 thousand million tons of dangerous goods are transported every year in the twelve member states of the European Community and approximately more than 2,000 accidents occur during the transportation of dangerous goods by road, rail and inland navigation vessels. We can presume a positive correlation between the qualification of the dangerous goods transport employees (office and industrial staff), on the one hand, and the improbability of accidents happening during dangerous goods transports, on the other. In 1987, the Commission of the European Communities considered introducing a directive on the training of "Road Transport Managers" concerned with the transport of dangerous goods or wastes by road [1]. At present there is, however, still no specific, national (except in Germany), community or international provision by which companies carrying dangerous goods on own account or for hire are rewarded satisfactorily to fulfil the appropriate vocational training conditions in order to ensure that such goods are carried safely. In

1989, Germany itself passed a regulation [2], which came into effect on 1 October 1991 and contains the following: All companies with headquarters or branches in Germany which ship, pack, load and/or transport more than 50 net tons of dangerous goods a year must appoint one or several so-called Risk Prevention Officers. This Risk Prevention Officer's priority will be to make sure his company follows the regulations relating to transporting dangerous goods and to train staff concerned with transporting dangerous goods. The vocational knowledge required for these duties must be gained by regularly attending courses. Of course, it being such a short time since this regulation came into force, we still cannot determine the efficiency (measured in the decline in violation of regulations on transport of dangerous goods or accidents concerning dangerous goods). Nevertheless, in June 1991, that is before the German regulation came into effect, the Commission of the European Communities took the initiative and presented the Council a proposal for a council directive on the appointment of an officer for the prevention of the risks inherent in the carriage of dangerous goods in undertakings which transport such goods, and on the vocational qualification of such officers [3]. After the European Parliament and the Economic and Social Committee made their report the Commission amended parts of this proposal in August 1992 [4].

The Commission's amended proposal for a "Directive for Risk Prevention Officers" is made up of 12 articles and 4 annexes:

- Article 1: Aim of the Directive
- Article 2: Definitions
- Article 3: Exemptions
- Article 4: Role of the Risk Prevention Officer
- Article 5: Training certificate
- Article 6: Validity of the certificate
- Article 7: Accident report
- Article 8: Adaptation of the Directive
- Article 9: Nonapplicability of the Directive
- Article 10: Implementation
- Article 11: Notification of further Directives
- Article 12: Addressing

- Annex I: List of the duties of the Risk Prevention Officer (s. Art. 4)
- Annex II: List of subjects (s. Art. 5)
- Annex III: Accident report in line with Article 7 (specimen)
- Annex IV: Vocational training certificate in line with Article 5 (specimen)

Since this Directive is still at the proposal stage and will concern all logistics companies in the European Community which handle dangerous goods, I would like to describe and comment in more detail on the effects for the companies concerned.

1. Companies affected by the Directive

To come to the point: Obviously, the Commission itself is not completely clear about which companies should be affected by the Directive. There are two deviating statements in the Directive:

First statement: According to the Directives' heading it applies to "undertakings which transport dangerous goods" (on own account or for hire and reward), irrespective of the mode of transport, i.e. road, rail, inland navigation vessel, ocean vessel or aeroplane. Thus, the first version limits the Directive to such companies which actually *transport* dangerous goods.

Under Article 3 the Directive does not apply to

- transport under the authority of the armed forces
- companies whose main or secondary activity is not the carriage of dangerous goods but which occasionally carry dangerous goods posing little danger or pollution hazard because of their special characteristics or of the small quantities carried.

Second statement: Contrary to the heading for the Directive, Articles 1 and 2 say that the Directive applies to those companies which

- carry
- load
- unload
- store
- pack (this activity is only mentioned in Article 2, but not in Article 1) or
- dispose dangerous goods on own account or for hire and reward.

The group of companies which would be affected by the Directive is increased by including those companies which load, unload, store, pack or dispose dangerous goods instead of including only those companies which transport dangerous goods.

The Directive does not apply to companies which only forward or send (ship) dangerous goods, in particular trading and forwarding companies, which do not physically handle the dangerous goods themselves but only instruct third parties to carry dangerous goods.

In this respect the proposed Directive differs quite considerably from the present regulation in Germany which says that all those companies which forward or send (ship) dangerous goods or load, pack and/or carry them must have a Risk Prevention Officer. On the one hand, companies in Germany which unload dangerous goods, store or dispose them do not need to have a Risk Prevention Officer. While on the other hand, those companies in Germany which only forward or send (ship) dangerous goods must have a Risk Prevention Officer. Another great difference between the planned European Directive and the German Regulation in act is, that in the European directive there is no limit to the amount of dangerous goods one can deal with, but in the German directive the critical amount is 50 tons. During the course of the exploratory talks among the members of the European Community, Germany has not managed to abolish this discord between the planned European Directive and the German Regulation.

2. Duties of Risk Prevention Officer

The main task of the “officer for the prevention of the risks inherent in the transportation of dangerous goods” (in short: Risk Prevention Officer) is to seek ways and means of making sure that dangerous goods are carried in the safest possible way and to promote such measures. He shall perform the duties as listed in Annex I. According to this list the Risk Prevention Officer’s ten main duties are as follows:

- Giving his opinion before vehicles are purchased or hired for the transportation of dangerous goods and before such vehicles are fitted out;
- Inspecting the equipment used for transporting dangerous goods and checking to see that such equipment is not defective or damaged making it unsuitable for the transportation of such goods;
- Identifying dangerous goods before they are loaded and checking the conformity of the equipment to be used for their transportation;
- Monitoring compliance with the rules prohibiting the mixed loading of dangerous goods or requiring them to be loaded separately;
- Checking the presence and conformity of all documents accompanying the goods during carriage;
- Checking that carriage and related operations have been properly effected;
- Supervising the training of staff involved in the transportation or handling of dangerous goods;
- Taking appropriate measures to introduce an emergency procedure in the case accident affecting public safety, goods or the environment during the transportation of dangerous goods and, whenever appropriate, with the official emergency services;
- Giving his opinion on and formulating proposals for the policy in the undertaking concerned for the prevention of accidents linked to the transportation or handling of such goods;
- Drafting reports on accidents and incidents occurring during the transportation of dangerous goods or related operations, studying appropriate measures to avoid their recurrence and ensuring that these measures are implemented as soon as possible.

The Commission puts a lot of emphasis on the last duty, making an accident report. Under Article 7, a report must be made on an accident which occurred during transportation, loading, unloading, packing, storage or disposal carried out by the undertaking concerned causing damage to public safety, the goods or the environment; the Risk Prevention Officer must make this report in line with the specimen shown in Annex III once he has obtained all the appropriate information.

It is worth noting the fact that the Directive permits an external Risk Prevention Officer to be appointed. It will not be appropriate for some companies for various reasons to have their own Risk Prevention Officer. In such cases it will be possible to call in an external expert.

3. Appointment requirements

The Directive stipulates that the Risk Prevention Officer must take part in a training course and pass an examination. Compulsory training and examination contents

are listed in Annex II. To obtain the training certificate the candidate must have knowledge on at least the following sectors:

- (i) Physical, chemical and toxicological properties of dangerous goods and the resulting risks
- (ii) General preventive safety measures appropriate for different types of risk
- (iii) The provisions relating to the mode of transport used under national laws, community standards, international conventions and agreements concerning (23 separate points are listed)
- (iv) Modern techniques for the electronic data transmission and the monitoring of dangerous goods during carriage.

In Article 11 of the Directive of the Commission stated that they wanted to lay down a further Directive on standard conditions for training Risk Prevention Officers to have a harmonization of training in all EEC-member states.

Once the Risk Prevention Officer has passed the examination, he will receive a training certificate like the specimen shown in Annex IV. The certificates are only valid for five years at the most; they are recognized by all member states.

4. Timetable

There were 14 months between the Directive's first version (June 1991) and the second version (August 1992). Despite this delay the Commission kept to the following time schedule:

- Under Article 10 the Directive was to be effected by national law by 1/1/93, at the latest.
- Under Article 1 all companies concerned must have a Risk Prevention Officer as of 1/1/94.

This time schedule was an illusion. We cannot expect the Directive to be passed by the Council for the European Community before the end of 1994 (presidentship: Germany). The member states might then be bound to comply with this Directive by 1/1/96, at the latest, which means that the companies concerned would have to appoint a Risk Prevention Officer as of 1/1/97. So, we can assume that the data stated in the Directive will be delayed by at least three years.

This is a pity as the initiative shown by the Commission of the European Communities has very much been welcomed from the German point of view. In the member states of the European Community there is a great difference in knowledge and exercising regulations on transporting dangerous goods. The fact that all member states in the European Community (except Ireland) have signed agreements about international transportation of dangerous goods by road, rail, inland navigation vessels, etc., does not say anything about whether and to what extent the contents of these agreements are known in the member state and whether they are actually observed in practice. Due to the high rate of industrialization in the western member states in the European Community and the high level of controls carried out by state supervisory organs there is a high level of knowledge and supervision in these countries. This, of course, influences the transportation of dangerous goods in these

countries. The Commission recognized this fact when looking at the introduction of common rules on the prevention of the risks inherent in the transportation of dangerous goods which will contribute to the elimination of distortions of competition in the field of transport. The Commission wants to commit all member states to ensure that the same supervision of dangerous goods regulations outside plants [5], must be observed inside plants as well. Not only the German Government but also the German forwarders and haulers welcomed this intention. The Commission have taken further initiatives along the same line—training employees involved in transporting dangerous goods. Here we are talking about the Directive which has already come into force about training drivers of vehicles for carrying dangerous goods by road [6], as well as the proposed Directive to harmonize regulations of training dangerous goods drivers [7]. In the light of the forecasts on the development of the volume of transport (also dangerous goods) in Europe there seems to be an urgent need for more employees with standardized qualifications involved in transporting dangerous goods. The forecasted doubling of the transport volume of dangerous goods in the next ten years cannot be enforced without hard measures.

References

- [1] Commission of the European Communities: Transport of Dangerous Goods and Wastes, Final Report from the Commission (COM (87) 182 final), Brussels 1987, p. 52.
- [2] Regulation about appointing Risk Prevention Officers and training Responsible Persons in companies dated 12/12/89 (Official J. Federal Republik of Germany, Part I, No. 58 dated 19/12/89, p. 2185).
- [3] COM (91) 4 final (Official J. Eur. Communities, No. C 185 dated 17/7/91, p. 5).
- [4] COM (92) 327 final.
- [5] Regulation (EEC) No. 3356/91 by the Council dated 7/11/91 to change Regulation (EEC) No. 4060/89 about reducing customs inspections of road and inland waterway transport in member states (Official J. Eur. Communities, No. L 318 dated 20/11/91, p. 1).
- [6] Directive 89/684/EEC (Official J. Eur. Communities, No. L 398 dated 30/12/89, p. 33).
- [7] File no. VII/53/92-DE (not yet published).