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Proposal for a

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

**amending Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic**

(Text with EEA relevance)

{SWD(2013) 108 final}

{SWD(2013) 109 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

For many years 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<sup>1</sup> has satisfactorily contributed to the smooth operation of the internal market in road transport by setting the maximum dimensions and weight for vehicles for the national and international transport of goods and passengers. It also indicates the conditions under which derogations may be granted for the traffic of vehicles that exceeds these maximum dimensions.

In the light of the evolving market and the available technologies, the question today is whether the choices made when the Directive was adopted in 1996 are still relevant. In particular, it has become crucial to reduce greenhouse gas emissions and the consumption of petroleum products in the field of transport, and even more crucial for road transport, which accounts for 82% of the energy consumption of the transport sector. The steady rise in the price of fuel is continuously increasing Europe's energy bill and prompt us to identify solutions to reduce vehicle fuel consumption. The White Paper on Transport Policy<sup>2</sup> published in 2011 set a goal of reducing greenhouse gas emissions by 60% by 2050 in comparison with 1990 levels.

In this context, the White Paper announced the revision of the Directive on the maximum dimensions and weight for road transport vehicles, with the aim of allowing more energy-efficient, aerodynamic vehicles to be put on the market. Indeed, the improvement of vehicles' aerodynamic performances and the installation of alternative propulsion systems, hybrid or electric, is only possible, within the limits of the maximum dimensions and weights authorized by the current Directive, to the detriment of the vehicle's commercial load. The hybrid engine or the batteries carry a considerable amount of excess weight. Tractor cabs which are rounded at the front to be more aerodynamic will be longer. The installation of streamlined flaps at the back of the vehicle will also increase its length. This reduction in the commercial load discourages transporters, shippers, and manufacturers from using and developing vehicles that are more energy-efficient.

The revision of the Directive also offers an opportunity to improve road safety by improving the streamlining of the cab, allowing a reduction of the driver's blind spots, adding an energy-absorbing structure in case of shocks, as well as increasing the driver's safety and comfort. This would help spare the lives of numerous vulnerable users, such as pedestrians and cyclists, who the driver does not necessarily see when making manoeuvres.

It is thus necessary to amend Directive 96/53/EC to improve the aerodynamics of vehicles and their energy efficiency, while continuing to improve road safety, and within the limits imposed by the geometry of road infrastructures.

For example, some studies<sup>3</sup> show that adding flaps of 1 m to 2 m in length at the rear of the vehicle would allow savings of between 5 and 10 % in fuel consumption at an average speed of 80 to 90 km/h.

Furthermore, since the adoption of Directive 96/53/EC, the average weight of a bus passenger has increased. Moreover, EU legislation has made onboard safety devices mandatory, the

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<sup>1</sup> OJ L 235, 17.09.1996, p. 59.

<sup>2</sup> White Paper on Transport: Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system - COM (2011) 0144

<sup>3</sup> TU Delft 2011 Study on the aerodynamics of heavy goods vehicles

weight of which must be offset by a corresponding reduction in the vehicle's payload and thus the number of passengers transported. This is counter to the aim of reducing fuel consumption per person transported and also counter to the objective aimed at shifting from individual vehicles to public transport, which is clearly better for the environment.

Fuel savings and reducing polluting emissions are not the only motives for proposing to revise Directive 96/53/EC.

Indeed, Directive 96/53/EC does not take the recent developments in containerisation and intermodal transport into account. Some containers used on rail, waterways, intercontinental maritime transport and maritime cabotage can thus currently only end their journeys by road, necessitating special permits which increase the administrative costs for transporters and administrations. Yet for the most common of these containers, which are 45 feet (13.72 m) long, the length of a truck would only need to be increased by 15 cm to avoid the need for these special permits, which would not pose any problems in terms of road safety or the geometry of infrastructures.

Finally, because the current Directive has no provisions on vehicle checks and the applicable penalties, many infringements go unpunished, which undermines the Directive's requirements. The main infringement committed is overloading the vehicle. On average, one in three vehicles checked is overloaded. These excess loads often exceed the maximum authorized weight by 10 or even 20%. This causes premature wear and tear of surfaces and increases the risk of accidents on the road. It also distorts competition between transport companies, because the fraudsters can illegally gain undue competitive advantages. Yet, there are technical filtering solutions available that make it possible to conduct more and faster and more effective checks, without needing to stop all the vehicles that are to be checked. On-board weighing systems also exist which allow the driver him- or herself to ensure the standards imposed are respected. It is therefore necessary to add provisions on controls and penalties to Directive 96/53/EC to re-establish compliance with the rules of competition between transporters, to ensure a good level of road safety and the durability of the infrastructure.

Some stakeholders raised questions about the interpretation of Article 4 of Directive 96/53/EC. In the light of these questions, Vice-President Kallas sent a letter on 13 June 2012 to the Chairman of the Committee on Transport of the European Parliament. This letter offered guidance on this subject and considered that the cross-border use of longer vehicles is lawful for journeys that only cross one border, if the two Member States concerned already allow it, and if the conditions for derogations under Article 4(3), (4) or (5) of Directive 96/53/EC are met. This use should not have any significant impact on international competition. To reflect the guidelines given in that letter, this revision includes the provisions regarding Article 4(4) in the text of the Directive.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

The Commission organised public and sectoral consultations in 2011 and 2012.

The public consultation organised from December 2011 to February 2012 yielded over a thousand contributions from citizens, Member States and different professional and non-governmental organisations. The consultation allowed the following opinions to be identified:

(i) the improved aerodynamic performance of heavy goods vehicles is unanimously welcomed as progress and most of the contributions believed that Directive 96/53/EC should be amended to allow this improvement.

(ii) The idea of facilitating the introduction of hybrid or electric engine types, and the development of containerisation and intermodality by amending Directive 96/53/EC, are largely approved.

(iii) The establishment of measures to check overloading is welcomed by the profession since it restores fair competition between transporters, and it appears essential to give the Member States the means to conduct such checks without increasing their financial burden or disrupting or delaying traffic.

Based on the results of this public consultation, the Commission held working seminars bringing together vehicle manufacturers, transporters and shippers, combined transport stakeholders, road control bodies and road safety stakeholders. Those consultations produced a consensus on targets for reducing pollution and fuel consumption and for improving road safety, and an agreement for opening up to new possibilities of intermodal transport. A consensus was also reached on the need to step up checks, particularly on possible overloading of vehicles. In the area of aerodynamic performance, more streamlined cabs and the installation at the back of vehicles of equipment to reduce the drag effect are desirable. A limited adaptation of the maximum weights and dimensions, accompanied by appropriate signposting for the dimensions, does not seem to present any risk to road safety.

The measures presented in this revision are the result of these consultations.

They were examined in an impact assessment, which allowed the best options in terms of economic and environmental efficiency to be selected. The option selected, described in detail in paragraph 4 below, combines technical harmonisation work conducted with a group of experts with a view to adopting delegated acts and a moderate regulatory approach, to avoid imposing disproportionate or inapplicable obligations, which would penalise small and medium-sized enterprises in particular.

The consultation also concerned Article 4 of Directive 96/53/EC, which determines the conditions to meet to benefit from derogations from the limits imposed by the Directive, which can be determined by the Member States in certain well-defined cases. Differences emerged concerning international traffic for vehicles which exceed the dimensions laid down in the Directive. The Commission has therefore decided to make its own orientations on the current Directive public (letter dated 13 June 2012 to the President of the Committee on Transport of the European Parliament). The guidance relative to Article 4(4) is reflected in Article 1(2) of this proposal.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

The proposal for amending Directive 96/53/EC is based on Article 91 of the Treaty on the Functioning of the European Union (TFEU). Improving the efficiency and environmental performance of road transport is indeed an essential goal of the common transport policy. The harmonisation of rules at European level is also a continuing demand of the profession.

This proposal is in keeping with the principles of subsidiarity and proportionality. Given the importance of transport for the functioning of the internal market, its increasing cross-border dimension and the increasing fuel costs and greenhouse gas emissions, provisions are essential to increase the fuel-efficiency of road transport, reduce its environmental impact, and ensure compliance with the rules.

The proposal leaves the Member States free to decide on derogations from the rules contained therein as far as national transport is concerned. It establishes a Committee to assist the Commission in drawing up the requirements in relation to aerodynamics, along with

guidelines on checking policy procedures and penalties adapted to the infringements committed. The proposal therefore does not exceed what is required to achieve its objective.

As the amendment of an existing directive is proposed, the instrument proposed is a directive. The proposal concerns a matter relevant to the European Economic Area and should therefore be extended to the EEA.

Finally, this proposal has no implications for the Union budget.

#### **4. DETAILED EXPLANATION OF THE PROPOSAL**

The Commission proposal intends first of all to grant derogations from the maximum dimensions of vehicles for the addition of aerodynamic devices to the rear of vehicles or to redefine the geometry of the cabs for tractors. These derogations open up new prospects for manufacturers of tractors, lorries and trailers but must meet certain requirements, one of which is not to increase the load capacity of vehicles. The Commission will, with the assistance of a Committee, specify these requirements at a later stage. The requirements will ensure compliance with road safety rules and the constraints imposed by infrastructure and traffic flow. In addition to the reduction of fuel consumption and greenhouse gas emissions, streamlining of cabs must also improve the drivers' field of vision, and thus save around 400 lives each year in Europe. The drivers' comfort and safety will also be increased.

The Commission will amend Commission Regulation (EU) 1230/2012 of 12 December 2012 implementing Regulation 661/2009 with regard to the requirements for the type-approval of motor vehicles, in order to make them compatible with this proposal for a Directive.

The proposed Directive plans to authorise a weight increase of one tonne for vehicles with an electric or hybrid propulsion, to take account of the weight of batteries or the dual motorisation, without prejudice to the load capacity of the vehicle. Furthermore, the maximum weight of buses will be increased by a tonne to take account of various developments such as the increase in the average weight of passengers and their baggage, of new equipment imposed by the safety regulations, and the new Euro VI class.

The amendment of Directive 96/53/EC will facilitate the development of intermodal transport by allowing a derogation of 15 cm in the length of trucks carrying 45-foot containers, which are increasingly used in intercontinental and European transport.

The proposal also confirms that cross-border use of longer vehicles is lawful for journeys that only cross one border, if the two Member States concerned already allow it and if the conditions for derogations under Article 4(3), (4) or (5) of the Directive are met. Concerning Article 4(4), these operations do not have a significant impact on international competition if the cross-border use remains limited to two Member States and the existing infrastructure and the road safety situation allow it. Article 4(4) is amended accordingly.

New provisions will be added to Directive 96/53/EC to enable the inspection authorities to better detect infringements and harmonise administrative penalties that apply to them. The Commission will publish guidelines on inspection procedures to ensure harmonisation of inspection methods between all Member States. Member States must carry out a minimum number of vehicle checks, using either weighing systems built into the road or by means of onboard sensors in vehicles which communicate remotely with roadside inspectors. These measurements will allow the inspection authorities to filter the vehicles, so that only vehicles strongly suspected of infringement are stopped for manual inspection. The Commission will define the technical standards for onboard weighing devices that can communicate with the inspection authorities, particularly the standards for the electromagnetic communication

interface. This will encourage the spread of such devices. They offer the additional advantage of enabling drivers to better control the weight of their vehicles.

Infringements of Directive 96/53/EC are classified by their degree of severity to harmonise at EU level the types of administrative penalties applicable.

In order to accelerate the introduction of vehicles that are more aerodynamic and have hybrid motorisation, the Commission will use the budgets at its disposal, in particular those allocated to trans-European networks and the EU programmes for research, development and innovation, to help industrial research, and equipping vehicle fleets.

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>4</sup>,

Having regard to the opinion of the Committee of the Regions<sup>5</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The White Paper ‘Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system’ published in 2011<sup>6</sup> emphasised the need to reduce greenhouse gas emissions, particularly carbon dioxide (CO<sub>2</sub>) emissions, by 60% in comparison with 1990 levels by 2050.
- (2) In this context, the White Paper proposed to adapt Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic in the aim of reducing energy consumption and greenhouse gas emissions, so as to adapt the legislation to technological developments and changing market needs and to facilitate intermodal transport.
- (3) Technological developments include the possibility of attaching retractable or foldable aerodynamic devices to the rear of vehicles, mainly trailers or semi-trailers, but which then exceed the maximum lengths allowed under Directive 96/53/EC. This equipment may be installed as soon as this Directive enters into force, as the products are available on the market and already used in other continents.
- (4) The improved aerodynamics of the cabs of motor vehicles would also allow significant gains on the energy performance of vehicles, in conjunction with the devices mentioned in recital 3 above. However, this improvement is impossible under the

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<sup>4</sup> OJ C , , p. .

<sup>5</sup> OJ C , , p. .

<sup>6</sup> COM (2011) 0144: -

current maximum lengths set by Directive 96/53/EC without reducing the vehicle load capacity and threatening the economic equilibrium of the sector. Therefore a derogation from this maximum length is required.

- (5) In its policy orientations on road safety 2011-2020<sup>7</sup>, the Commission set out measures to make vehicles safer and better protect vulnerable road users. The importance of visibility for vehicle drivers was also underlined in the Commission's report to the European Parliament and the Council on the implementation of Directive 2007/38/EC on the retrofitting of mirrors to heavy goods vehicles registered in the Community<sup>8</sup>. A new cab profile will also contribute to improving road safety by reducing the blind spot in the drivers' vision, including under the windscreen, which should help save the lives of many vulnerable road users such as pedestrians or cyclists. This new profile could also incorporate energy absorption structures in the event of a collision. The potential gain in the volume of the cab would also improve the driver's comfort and safety.
- (6) Aerodynamic devices and their installation in vehicles must be tested before being put on the market. To this end, Member States are to issue certificates that will be recognised by other Member States.
- (7) Longer vehicles may be used in cross-border transport if the two Member States concerned already allow it and if the conditions for derogation under Article 4(3), (4) or (5) of the Directive are met. The European Commission has already provided guidance on the application of Article 4 of the Directive. The transport operations referred to in Article 4(4) do not have a significant impact on international competition if the cross-border use remains limited to two Member States where the existing infrastructure and the road safety requirements allow it. This balances the Member States' right under the principle of subsidiarity to decide on transport solutions suited to their specific circumstances with the need to prevent such policies from distorting the internal market. The provisions of Article 4 (4) are clarified in this respect.
- (8) Using alternative engines that no longer rely only on fossil fuels and are therefore non-polluting or less polluting, such as electric or hybrid engines for heavy-duty vehicles or buses (mainly in urban or suburban environments) generates extra weight which should not be counted at the expense of the effective load of the vehicle so that the road transport sector is not penalised in economic terms.
- (9) The White Paper on Transport also stresses the need to monitor developments in intermodal transport, particularly in the area of containerisation, where 45-foot containers are increasingly used. They are transported by rail or inland waterways. But the road components of intermodal journeys can only be undertaken today if both the Member States and the transporters follow cumbersome administrative procedures or if these containers have patented chamfered corners, the cost of which is prohibitive. Increasing the length of the vehicles transporting them by 15 cm could eliminate these administrative procedures for transporters and facilitate intermodal transport, without risk or prejudice to the infrastructure or other road users. The small increase that this 15 cm represents in relation to the length of an articulated truck (16.50 m) does not constitute an additional risk to road safety. In the policy orientation of the White Paper on Transport, this increase is however authorised only for intermodal transport, for which the road component does not exceed 300 km for operations involving a rail, river or sea component. This distance appeared sufficient to link an industrial or

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<sup>7</sup> COM(2010) 389

<sup>8</sup> COM(2012) 258



commercial site with a freight terminal or a river port. To link a seaport and support the development of motorways of the sea, a longer distance is possible for a short intra-European maritime transport operation.

- (10) To further promote intermodal transport and take into account the unladen weight of 45-foot containers, the provision authorising the circulation of 44-tonne combinations of vehicles with 5 or 6 axles transporting 40-foot containers in intermodal transport should be extended to those carrying 45-foot containers.
- (11) Since the adoption of Directive 96/53/EC, the average weight of bus passengers and their luggage has increased substantially, leading to a gradual reduction in the number of passengers carried, given the weight limits imposed by the Directive. The need to promote public transport over private transport in the interests of better energy efficiency means that the previous number of bus passengers must be re-established, taking into account this increase in their weight and that of their luggage. This can be done by increasing the authorised weight for buses with two axles, within limits that nonetheless ensure that the infrastructure is not damaged through faster erosion.
- (12) The authorities responsible for enforcing road transport-related requirements note a high number of infringements, sometimes serious, particularly in relation to the weight of transport vehicles. This situation stems from the insufficient number of checks conducted under Directive 96/53/EC, or from their inefficiency. Furthermore, the procedures and rules for checks differ between Member States, creating legal uncertainty for drivers of vehicles operating in several Member States of the Union. Furthermore, transporters that do not comply with the relevant rules enjoy a significant competitive advantage over competitors that do comply with the rules, and over other modes of transport. This situation constitutes an obstacle to the proper functioning of the internal market. It is therefore important that Member States increase the pace of checks carried out, both the manual checks and the pre-selections for manual checks.
- (13) Simple technological solutions, fixed or mobile, are now available that allow inspectors to preselect vehicles suspected of infringements without stopping the vehicles in question, which is less disadvantageous in terms of traffic flow, less onerous and allows optimal safety conditions. Some devices may be installed onboard heavy goods vehicles and give the driver a way of checking whether his or her vehicle is compliant with the law. These onboard devices may also use a microwave communication interface to communicate their data to officials or to roadside automatic inspection systems without stopping the vehicle. The pre-selection should have a minimum threshold of one weighing per 2 000 vehicle kilometres to ensure the effectiveness of the roadside checks on the territory of the Union, because this would allow every vehicle to be checked on a statistical average of every three days.
- (14) The observation of a high number of infringements of the provisions of Directive 96/53/EC is to a large extent due to the non-deterrent level of penalties prescribed by Member States' legislation for violations of these rules, or even the absence of any such penalties. This weak point is further compounded by the wide variety in the levels of administrative penalties applicable in the different Member States. To remedy these weak points, the levels and categories of administrative penalties for infringements of Directive 96/53/EC should be approximated at Union level. These administrative penalties should be effective, proportionate and dissuasive.
- (15) The inspection authorities in the Member States must be able to exchange information to make checking the weight of vehicles or vehicle combinations more effective at international level, and to facilitate the smooth operation of these checks, in particular

the identification of offenders, the description of offences and penalties applied, and the state of good repute of the undertaking concerned. The contact point designated in accordance with Article 18(1) of Regulation 1071/2009/EC of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC<sup>9</sup> could serve as a relay for this exchange of information.

- (16) The European Parliament and the Council should be regularly informed of the checks on road traffic carried out by the Member States. This information, provided by the Member States, will enable the Commission to ensure compliance with this Directive by hauliers and to define whether or not additional coercive measures should be developed.
- (17) The Commission should be empowered to adopt delegated acts, in accordance with Article 290 of the Treaty on the Functioning of the European Union, to define the requirements imposed on new aerodynamic devices placed in the rear of the vehicle or the design of new motor vehicles, as well as the technical specifications to ensure full interoperability of onboard weighing devices, and guidelines on the procedures for checking the weight of vehicles in circulation. It is particularly important that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, shall ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (18) Since the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may take the necessary measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in the same Article, this Directive does not exceed what is necessary in order to achieve that objective.
- (19) Directive 96/53/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

#### *Article 1*

Directive 96/53/EC is hereby amended as follows:

- 1) The following definitions are added to the first subparagraph of Article 2:
- ‘hybrid propulsion vehicle’ means a vehicle within the meaning of Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles<sup>10</sup>, equipped with one or more traction motor(s) operated by electric power and not permanently connected to the grid and one or more traction motor(s) operated by internal combustion;
  - ‘electric vehicle’ means a vehicle within the meaning of Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate

<sup>9</sup> OJ L 300, 14.11.2009, p. 51.

<sup>10</sup> OJ L 263, 9.10.2007, p. 1.

technical units intended for such vehicles<sup>11</sup>, equipped with one or more traction motor(s) operated by electric power and not permanently connected to the grid;

- 'intermodal transport unit' means a unit belonging to one of the following categories: container, swap body, semi-trailer;

2) Article 4 is amended as follows:

(a) The word 'national' is deleted from points (a) and (b) of paragraph 1.

(b) The first phrase of the second subparagraph of Article 4(4) is replaced by the following phrase:

'Transport operations shall be considered to not significantly affect international competition in the transport sector if they take place on the territory of a Member State or, for a cross-border operation, between only two neighbouring Member States who have both adopted measures taken in application of this paragraph, and if one of the conditions under (a) and (b) is fulfilled:'

3) Article 4(6), Article 5(b) and Article 8a are deleted.

4) Article 5 is amended as follows: the words 'Without prejudice to Article 4 (6):' are deleted.

5) The references to Council Directive 70/156/EEC are replaced by a reference to Directive 2007/46/EC<sup>12</sup>.

6) Article 8 is replaced by the following:

#### *Article 8*

1. With the aim of improving the aerodynamic performance of vehicles or combinations of vehicles, vehicles or combinations of vehicles equipped with devices that meet the criteria set out below may exceed the maximum lengths provided for in point 1.1 of Annex I. The only purpose of these exceedances is to allow the addition to the rear of vehicles or vehicle combinations of devices increasing their aerodynamic characteristics.

2. The performance and safety requirements to be met by the devices referred to in the first paragraph are as follows:

- significant improvement in the aerodynamic performance of the vehicles,
- in terms of road safety and safety of intermodal transport, in particular:
  - (i) secure attachment of the devices in such a way as to reduce their risk of their detachment over time
  - (ii) day and night markings, effective even in poor weather conditions, that allows other road users to gauge the external bodywork of the vehicle,
  - (iii) a design that limits the risks for other vehicles and their passengers in the event of collision,
  - (iv) the device does not significantly increase the risk of being overturned by crosswinds;

<sup>11</sup> OJ L 263, 9.10.2007, p. 1.

<sup>12</sup> Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles

- integration into existing networks, in particular
  - (i) the maintenance of the manoeuvrability of vehicles or combinations of vehicles on urban and inter-urban road infrastructures,
  - (ii) the inclusion of the trailers and semi-trailers concerned in the rail, river and sea units during intermodal transport operations,
  - (iii) these devices can be easily folded, retracted or removed by the driver.

The exceedances of maximum lengths do not increase the capacity of vehicles or combinations of vehicles.

3. Before being put on the market, the additional aerodynamic devices and their installation on vehicles shall be authorised by the Member States, which shall issue a certificate to this effect, attesting compliance with the requirements mentioned in paragraph 2 above and indicating that the device contributes significantly to improving aerodynamic performance. The certificates of authorisation issued in one Member State shall be recognised by the other Member States.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 16, to complement the requirements referred to in paragraph 2. These shall take the form of technical characteristics, minimum levels of performance, design constraints, and procedures for the establishment of the test certificate referred to in paragraph 3.
5. Pending the adoption of the delegated acts, the vehicles or combinations of vehicles equipped with aerodynamic devices to the rear, which meet the requirements referred to in paragraph 2 and were tested in accordance with paragraph 3 may circulate if their length exceeds the length laid down in Annex I, point 1.1 by no more than two metres. This transitional measure shall apply from the date of entry into force of this Directive.
- 7) Article 9 is replaced by the following:

#### *Article 9*

1. In the aim of improving the aerodynamic performance and road safety of vehicles or combinations of vehicles, vehicles or combinations of vehicles that meet the criteria set out in paragraph 2 below may exceed the maximum lengths provided for in point 1.1 of Annex I. The main purpose of these exceedances is to allow the construction of tractor cabs improving the aerodynamic characteristics of vehicles or combinations of vehicles, and improving road safety.
2. The performance and safety requirements to be met by the cabs referred to in the first paragraph are as follows:
  - improved aerodynamic performance of the vehicles,
  - enhanced road safety and security in intermodal transport, in particular to ensure that the front of the cab
    - (i) makes vulnerable road users more visible to the driver, in particular by reducing the blind spot under the front windscreen
    - (ii) reduces the damage in the event of a collision,
  - the manoeuvrability of vehicles or vehicle combinations in infrastructure and without imposing restrictions on the use of vehicles in intermodal terminals,

- the comfort and safety of the drivers.

The exceedances of the maximum length shall not lead to the increase in the load capacity of vehicles or combinations of vehicles.

3. Before they are put on the market, the aerodynamic performance of new motor vehicle designs shall be tested by Member States, who will issue a certificate to this end. This will certify compliance with the requirements of paragraph 2 above. The test certificates issued in one Member State shall be recognised by the other Member States.
4. The requirements set out in paragraph 2 are adopted in accordance with paragraph 5 below.
5. The Commission shall be empowered to adopt delegated acts concerning the requirements which the new tractor cabs must meet in accordance with Article 16. These take the form of technical characteristics, minimum levels of performance, design constraints, and procedures for the establishment of the test certificate indicating the increase in aerodynamic performance referred to in paragraph 3.
- 8) In Article 10, the words ‘from the date in Article 11’ are replaced by the words ‘17 September 1997’.
- 9) Article 10a is replaced by the following:

#### *Article 10a*

The maximum weights of vehicles with hybrid propulsion or fully electric propulsion shall be those set out in Annex I, point 2.3.1.

The vehicles with hybrid or electric propulsion must however comply with the limits set out in Annex I point 3: maximum authorized axle weight.

- 10) Article 11 is replaced by the following:

#### *Article 11*

The maximum dimensions laid down in Annex I points 1.1 and 1.6 may be exceeded by 15 cm for vehicles or combinations of vehicles engaged in the transport of 45-foot containers or swap bodies, if the road transport of the container or swap body is part of an intermodal transport operation.

For the purposes of this Article, and of point 2.2.2(c) of Annex I, an intermodal transport operation shall include at least rail, river or sea transport at least. It shall also include a road section for its initial and/or terminal journey. Each of these road sections shall be less than 300 km in the territory of the European Union or just as far as the closest terminals between which there is a regular service. A transport operation shall also be regarded as intermodal transport if it uses intra-European short sea shipping, regardless of the lengths of the initial and terminal road journeys. The initial road journey and the terminal road journey for an operation using intra-European short sea shipping takes place from the point where the goods are loaded to the nearest appropriate seaport for the initial leg, and/or where appropriate between the nearest appropriate seaport and the point where the goods are unloaded for the final leg.

- 11) Article 12 is replaced by the following:

## Article 12

1. The Member States shall establish a system for pre-selecting and targeting checks on vehicles or combinations of vehicles in circulation, in order to ensure compliance with the requirements of this Directive.
2. After the expiry of a period of two years from the date of entry into force of this Directive, Member States shall measure the weight of vehicles or combination of vehicles in circulation. The purpose of these pre-selection measures is to identify vehicles that are likely to have committed an offence and that should be checked manually. These measures may be taken with the aid of automatic systems set up on the infrastructure, or onboard systems installed in vehicles in line with paragraph 6 below. The automatic systems must enable the identification of the vehicles suspected of exceeding the maximum authorised weights. As these automatic systems are only to be used for pre-selection purposes, and not to define an offence, they do not have to be certified by the Member States.
3. Member States shall take a number of preselection measures equivalent to at least one weighing per 2 000 vehicle kilometres per year on average.
4. Member States shall ensure that the competent authorities exchange the information necessary to make these checks more effective at EU level, and to facilitate their conduct, notably through the national contact point responsible for the exchange of information with the other Member States. This necessary information shall include in particular the identification of offenders, the description of the offences committed and penalties imposed, and the reputation of the company concerned. The contact point is designated in accordance with Article 18(1) of Regulation 1071/2009/EC.
5. Vehicles suspected of being overweight following the pre-selection procedure conducted pursuant to paragraph 2 shall be subject to at least one of the following measures:
  - (i) roadside inspection with approved measurement equipment after interception of the vehicle,
  - (ii) sending the transport company notification of the suspected overloading of the vehicle,
  - (iii) inspection of the transport company on its premises, particularly in the case of repeated infringements after the sending of the notification referred to in (ii).
6. In accordance with paragraph 1, Member States shall encourage the equipment of vehicles and vehicle combinations with onboard weighing devices (total weight and axle load) to enable the weight data to be communicated at any time from a moving vehicle to an authority carrying out roadside inspections or responsible for regulating the transport of goods. This communication shall be through the interface defined by the CEN DSRC<sup>13</sup> standards EN 12253, EN 12795, EN 12834, EN 13372 and ISO 14906.
7. The Commission shall be empowered to adopt delegated acts, in accordance with Article 16, concerning:
  - the additional technical specifications to ensure full interoperability at Union level of the on-board weighing equipment mentioned in paragraph 6 above, so

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<sup>13</sup> DSRC: Dedicated Short-Range Communications

that the authorities of all Member States can communicate in the same way with vehicles or vehicle combinations registered in any Member State and, where appropriate, exchange information received with the authorities of other Member States.

- the procedures for the pre-selection checks referred to in paragraph 2 of this Article, the technical specifications, precision requirements and instructions for use of the equipment used for these preselection checks. These procedures, specifications and instructions for use are intended to ensure that the checks are performed in the same way in all Member States, thereby ensuring equal treatment for all transporters throughout the territory of the Union.

12) Article 13 is replaced by the following:

### *Article 13*

1. Infringements of this Directive are divided into different categories according to their severity.
2. An overload of less than 5 % of the maximum authorised weight in points 2, 3, 4.1 and 4.3 of Annex 1 shall give rise to a written warning to the transport company, which could give rise to a penalty, if the national legislation provides for this type of penalty;
3. An overload of between 5 and 10 % of the maximum authorised weight in points 2, 3, 4.1 and 4.3 of Annex 1 shall be considered as a minor offence within the meaning of this Directive, and shall give rise to a financial penalty. The inspection authorities may also immobilise the vehicle for unloading until it reaches the maximum authorised weight;
4. An overload of between 10 and 20 % of the maximum authorised weight in points 2, 3, 4.1 and 4.3 of Annex 1 shall be considered a serious infringement within the meaning of this Directive. It shall give rise to a financial penalty and the immediate immobilisation of the vehicle for unloading until it reaches the maximum authorised weight,
5. An overload of more than 20 % of the maximum authorised weight in points 2, 3, 4.1 and 4.3 of Annex 1 shall be considered a very serious infringement within the meaning of this Directive, because of the increased risks incurred by other road users. This shall give rise to an immediate immobilisation of the vehicle for unloading until it reaches the maximum authorised weight, and to a financial penalty. The procedure leading to the loss of good repute of the transport company shall be implemented in accordance with Article 6 of Regulation (EC) No 1071/2009<sup>14</sup>,
6. An excess length or excess width of less than 2% of the maximum dimensions indicated in point 1 of Annex 1 shall give rise to a written warning to the transport company, which could give rise to a penalty, if the national legislation provides for such a penalty.
7. An excess length or excess width of between 2 and 20% of the maximum dimensions indicated in point 1 of Annex 1, either of the load on board or of the vehicle itself, shall give rise a financial penalty. The inspection authorities shall immobilise the vehicle until its unloading if the excess length or excess width comes from the load

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<sup>14</sup> OJ L300, 14.11.2009, p. 51.

or until the transport company obtains a special permit in accordance with Article 4(3);

8. An excess length or excess width of the load or of the vehicle of more than 20% of the maximum dimensions indicated in point 1 of Annex 1 shall be considered as a very serious infringement within the meaning of this Directive, because of the increased risks incurred by other road users. It shall give rise to a financial penalty and to the immediate immobilisation of the vehicle by the inspection authorities, until its unloading or until the transport company obtains a special permit in accordance with Article 4(3), if the excess length or excess width comes from the load. The procedure leading to the loss of good repute of the transport company shall be implemented in accordance with Article 6 of Regulation (EC) No 1071/2009.
9. The financial penalties referred to in paragraphs 3, 4, 5, 7, and 8 shall be effective, proportionate and dissuasive.
- 13) The following Article 14 is added:

#### *Article 14*

For the transport of containers, the shipper shall give the road haulier to whom it entrusts the transport of a container a statement indicating the weight of the container moved. If this information is missing or incorrect, the shipper shall incur liability in the same way as the haulier if the vehicle is overloaded.

- 14) The following Article 15 is added:

#### *Article 15*

Every two years in the first quarter of the calendar year, the Member States shall send the Commission a report on the checks carried out in the previous two calendar years, the results of these checks and the penalties imposed on the offenders. The Commission shall produce an analysis of these reports and send it to the European Parliament and the Council in the second quarter of the calendar year.

- 15) The following Article 16 is added:

#### *Article 16*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 8(4), Article 9(5) and Article 12(7) shall be conferred on the Commission for an indeterminate period of time from the [date of entry into force of this Directive]
3. The delegation of power referred to in Articles 8(4), 9(5) and 12(7) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.



5. A delegated act adopted pursuant to Article 8(4), Article 9(5) and Article 12(7) shall enter into force only if the European Parliament or the Council did not express an objection within a period of two months of notification of that act to these two institutions, or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission of their intention not to raise objections. That period can be extended by two months at the initiative of the European Parliament or the Council.
- 16) Annex I is amended as follows:
- (a) Point 1.2(b) is replaced by the following provisions:
  - ‘superstructures of conditioned vehicles or vehicles transporting conditioned intermodal transport units: 2.60 m’
  - (b) Point 2.2.2 (c) is replaced by the following:  
‘three-axle motor vehicle with two or three-axle semi-trailer carrying, in intermodal transport, one or more intermodal transport units, for a total maximum length of 40 or 45 foot: 44 tonnes.’
  - (c) Point 2.3.1 is replaced by the following:  
‘two-axle motor vehicles other than buses: 18 tonnes’  
‘two-axle motor vehicles other than buses, and with hybrid or electric propulsion: 19 tonnes’  
‘two-axle buses: 19 tonnes’

#### *Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to conform to this Directive not later than 18 months from the date of its publication in the *Official Journal of the European Union*. They shall immediately communicate to the Commission the text of those provisions.
- When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*