

Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001 establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers (Text with EEA relevance)

Article 1

Purpose

The purpose of this Directive is to enhance the safety of bulk carriers calling at terminals in the Member States in order to load or unload solid bulk cargoes, by reducing the risks of excessive stresses and physical damage to the ship's structure during loading or unloading, through the establishment of:

1. harmonised suitability requirements for those ships and terminals; and
2. harmonised procedures for cooperation and communication between those ships and terminals.

Article 2

Scope

This Directive shall apply to:

1. all bulk carriers, irrespective of their flag, calling at a terminal for the loading or unloading of solid bulk cargoes; and
2. all terminals in the Member States visited by bulk carriers falling under the scope of this Directive.

Without prejudice to the provisions of Regulation VI/7 of the 1974 SOLAS Convention, this Directive shall not apply to facilities that only in exceptional circumstances are used for loading and unloading dry cargo in bulk into or from bulk carriers, and shall not apply in cases where the loading or unloading is carried out solely with the equipment of the bulk carrier concerned.

Article 3

Definitions

For the purposes of this Directive:

1. 'international conventions' shall mean the conventions in force on 4 December 2001, as defined in Article 2(1) of Council Directive 95/21/EC⁽¹⁾;
2. '1974 SOLAS Convention' shall mean the International Convention for the Safety of Life at Sea, together with the Protocols and amendments thereto, [^{F1}in its up-to-date version];
3. 'BLU Code' shall mean the Code of Practice for the Safe Loading and Unloading of Bulk Carriers, as contained in the Annex to IMO Assembly Resolution A.862(20) of 27 November 1997, as it stands on 4 December 2001;

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4. 'bulk carrier' shall bear the meaning given to it in Regulation IX/1.6 of the 1974 SOLAS Convention and interpreted by Resolution 6 of the 1997 SOLAS Conference, namely:
 - a ship constructed with single deck, top-side tanks and hopper-side tanks in cargo spaces and intended primarily to carry dry cargo in bulk, or
 - an ore carrier, meaning a sea-going single deck ship having two longitudinal bulkheads and a double bottom throughout the cargo region and intended for the carriage of ore cargoes in the centre holds only, or
 - a combination carrier as defined in Regulation II-2/3.27 of the 1974 SOLAS Convention;
5. 'dry cargo in bulk' or 'solid bulk cargo' shall mean solid bulk cargo as defined in Regulation XII/1.4 of the 1974 SOLAS Convention, excluding grain;
6. 'grain' shall bear the meaning given to it in Regulation VI/8.2 of the 1974 SOLAS Convention;
7. 'terminal' shall mean any fixed, floating or mobile facility equipped and used for the loading or unloading of dry cargo in bulk into or from bulk carriers;
8. 'terminal operator' shall mean the owner of a terminal, or any organisation or person to whom the owner has transferred the responsibility for loading or unloading operations conducted at the terminal for a particular bulk carrier;
9. 'terminal representative' shall mean any person appointed by the terminal operator, who has the overall responsibility for, and authority to, control the preparation, the conduct and the completion of loading or unloading operations conducted by the terminal for a particular bulk carrier;
10. 'master' shall mean the person who has command over a bulk carrier or a ship's officer designated by the master for the loading or unloading operations;
11. 'recognised organisation' shall mean an organisation recognised in accordance with Article 4 of Council Directive 94/57/EC⁽²⁾;
12. 'administration of the flag State' shall mean the competent authorities of the State whose flag the bulk carrier is entitled to fly;
13. 'port State control authority' shall mean the competent authority of a Member State empowered to apply the control provisions of Directive 95/21/EC;
14. 'competent authority' shall mean a national, regional or local public authority in the Member State empowered by national legislation to implement and enforce the requirements of this Directive;
15. 'cargo information' shall mean the cargo information required by Regulation VI/2 of the 1974 SOLAS Convention;
16. 'loading or unloading plan' shall mean a plan as referred to in Regulation VI/7.3 of the 1974 SOLAS Convention and having the format as contained in Appendix 2 of the BLU Code;
17. 'ship/shore safety checklist' shall mean the checklist as referred to in section 4 of the BLU Code and having the format as contained in Appendix 3 of the BLU Code;

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18. 'solid bulk cargo density declaration' shall mean the information on the density of the cargo to be provided in compliance with Regulation XII/10 of the 1974 SOLAS Convention.

Textual Amendments

- F1** Substituted by [Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 amending the Directives on maritime safety and the prevention of pollution from ships \(Text with EEA relevance\)](#).

Article 4

Requirements in relation to the operational suitability of bulk carriers

Member States shall make the necessary arrangements to ensure that terminal operators are satisfied with the operational suitability of bulk carriers for loading or unloading of solid bulk cargoes, by checking compliance with the provisions of Annex I.

Article 5

Requirements in relation to the suitability of terminals

Member States shall satisfy themselves that terminal operators ensure that, as concerns terminals for which they assume responsibilities under this Directive:

1. the terminals comply with the provisions of Annex II;
2. terminal representative(s) is (are) appointed;
3. information books are prepared containing the requirements of the terminal and competent authorities and information on the port and terminal as listed in Appendix 1, paragraph 1.2, of the BLU Code, and that these books are made available to the masters of bulk carriers calling at the terminal for loading or unloading solid bulk cargoes; and
4. a quality management system is developed, implemented and maintained. Such quality management system shall be certified in accordance with the ISO 9001:2000 standards or an equivalent standard fulfilling at least all aspects of ISO 9001:2000, and it shall be audited in accordance with the guidelines of the ISO 10011:1991 or equivalent standard fulfilling all aspects of ISO 10011:1991. Directive 98/34/EC⁽³⁾ shall be complied with in relation to the said equivalent standards.

A transitional period of three years from the entry into force of this Directive shall be granted to set up the quality management system and one additional year to obtain the certification of the system.

Article 6

Temporary authorisation

By way of derogation from the requirements of Article 5(4), a temporary authorisation to operate, valid for no more than 12 months, may be issued by the competent authority

for newly established terminals. The terminal must however demonstrate its plan to implement a quality management system in accordance with the ISO 9001:2000 standard or equivalent standard, as set out in Article 5(4).

Article 7

Responsibilities of masters and terminal representatives

Member States shall make the necessary arrangements to ensure that the following principles concerning the responsibilities of masters and terminal representatives are respected and applied:

1. Responsibilities of the master:
 - (a) the master shall be responsible at all times for the safe loading and unloading of the bulk carrier under his command;
 - (b) the master shall, well in advance of the ship's estimated time of arrival at the terminal, provide the terminal with the information set out in Annex III;
 - (c) before any solid bulk cargo is loaded, the master shall ensure that he has received the cargo information required by Regulation VI/2.2 of the 1974 SOLAS Convention, and, where required, a solid bulk cargo density declaration. This information shall be contained in a cargo declaration form as set out in Appendix 5 of the BLU Code;
 - (d) prior to the start of and during loading or unloading the master shall discharge the duties listed in Annex IV.
2. Responsibilities of the terminal representative:
 - (a) upon receipt of the ship's initial notification of its estimated time of arrival, the terminal representative shall provide the master with the information mentioned in Annex V;
 - (b) the terminal representative shall be satisfied that the master has been advised as early as possible of the information contained in the cargo declaration form;
 - (c) the terminal representative shall without delay notify the master and the port State control authority of apparent deficiencies he has noted on board a bulk carrier which could endanger the safe loading or unloading of solid bulk cargoes;
 - (d) prior to the start of and during loading or unloading, the terminal representative shall discharge the duties listed in Annex VI.

Article 8

Procedures between bulk carriers and terminals

Member States shall ensure that the following procedures are applied in respect of the loading or unloading of bulk carriers with solid bulk cargoes.

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1. Before solid bulk cargoes are loaded or unloaded, the master shall agree with the terminal representative on the loading or unloading plan in accordance with the provisions of Regulation VI/7.3 of the 1974 SOLAS Convention. The loading or unloading plan shall be prepared in the form laid down in Appendix 2 of the BLU Code, it shall contain the IMO number of the bulk carrier concerned, and the master and the terminal representative shall confirm their agreement to the plan by signing it.

Any change to the plan, which according to either party may affect the safety of the vessel or crew, shall be prepared, accepted and agreed by both parties in the form of a revised plan.

The agreed loading or unloading plan and any subsequent agreed revisions shall be kept by the ship and the terminal for a period of six months for the purpose of any necessary verification by the competent authorities.
2. Before loading or unloading is commenced, the ship/shore safety checklist shall be completed and signed jointly by the master and the terminal representative in accordance with the guidelines of Appendix 4 of the BLU Code.
3. An effective communication between the ship and the terminal shall be established and maintained at all times, capable of responding to requests for information on the loading or unloading process and to ensure prompt compliance should the master or the terminal representative order the loading or unloading operations to be suspended.
4. The master and the terminal representative shall conduct the loading or unloading operations in accordance with the agreed plan. The terminal representative shall be responsible for the loading or unloading of the solid bulk cargo as regards the hold order, quantity and rate of loading or unloading stated on that plan. He shall not deviate from the agreed loading or unloading plan, otherwise than by prior consultation and written agreement with the master.
5. On completion of the loading or unloading, the master and the terminal representative shall agree in writing that the loading or unloading has been done in accordance with the loading or unloading plan, including any agreed changes. In the case of unloading, such agreement shall include a record that the cargo holds have been emptied and cleaned to the master's requirements and shall record any damage suffered by the ship and any repairs carried out.

Article 9

Role of the competent authorities

- 1 Without prejudice to the rights and obligations of the master provided under Regulation VI/7.7 of the 1974 SOLAS Convention, Member States shall ensure that their competent authorities prevent or halt the loading or unloading of solid bulk cargoes whenever they have clear indications that the safety of the ship or crew would be endangered thereby.
- 2 In cases where the competent authority is informed of disagreement between the master and the terminal representative as to the application of the procedures provided for in Article 8, the competent authority shall intervene where this is required in the interests of safety and/or the marine environment.

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Article 10

Repair of damage incurred during loading or unloading

1 If damage to the ship's structure or equipment occurs during loading or unloading, it shall be reported by the terminal representative to the master and, if necessary, repaired.

2 If the damage could impair the structural capability or watertight integrity of the hull, or the ship's essential engineering systems, the administration of the flag State, or an organisation recognised by it and acting on its behalf, and the port State control authority shall be informed by the terminal representative and/or the master. The decision as to whether immediate repair is necessary or whether it can be deferred shall be taken by the port State control authority, due account being taken of the opinion, if any, of the administration of the flag State, or the organisation recognised by it and acting on its behalf, and of the opinion of the master. Where immediate repair is considered necessary, it shall be carried out to the satisfaction of the master and the competent authority before the ship leaves the port.

3 For the purpose of taking the decision referred to in paragraph 2, a port State control authority may rely upon a recognised organisation to undertake the inspection of the damage and to advise on the necessity of carrying-out repairs or their deferral.

4 This Article applies without prejudice to Directive 95/21/EC.

Article 11

Verification and reporting

1 Member States shall regularly verify that terminals comply with the requirements of Article 5(1), Article 7(2) and Article 8. The procedure of verification shall include the carrying-out of unannounced inspections during loading or unloading operations.

In addition, Member States shall verify that terminals comply with the requirements of Article 5(4), at the end of the period provided for therein, and for newly established terminals at the end of the period provided in Article 6.

2 Member States shall provide the Commission every three years with a report on the results of such verification. The report shall also provide an assessment of the effectiveness of the harmonised procedures for cooperation and communication between bulk carriers and terminals as provided for in this Directive. The report shall be transmitted at the latest by 30 April of the year following the period of three calendar years upon which it reports.

Article 12

Evaluation

The Commission shall submit an evaluation report on the operation of the system as provided for in this Directive to the European Parliament and the Council, on the basis of the reports of the Member States provided for in Article 11(2). This report shall also include an assessment of whether it is necessary to continue the reporting by the Member States referred to in Article 11(2).

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Article 13

Notification to the IMO

The Presidency of the Council, acting on behalf of the Member States, and the Commission shall jointly inform the IMO of the adoption of this Directive, whereby reference shall be made to paragraph 1.7 of the Annex to IMO Resolution A.797(19).

[^{F2}Article 14

Committee procedure

1 The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) set up by Article 3 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council⁽⁴⁾.

2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.]

Textual Amendments

F2 Substituted by [Regulation \(EC\) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny](#)
[Adaptation to the regulatory procedure with scrutiny — Part One.](#)

Article 15

Amendment procedure

[^{F21} The definitions set out in points 1 to 6 and 15 to 18 of Article 3, the references to international conventions and codes and to IMO Resolutions and Circulars, the references to ISO standards and the references to Community instruments and the Annexes thereto may be amended in order to bring them into line with international and Community instruments which have been adopted, amended or brought into force after the adoption of this Directive, provided that the scope of this Directive is not thereby broadened. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).

2 The Commission may amend Article 8 and the Annexes for the implementation of the procedures laid down in this Directive, and may amend or repeal the reporting obligations referred to in Articles 11(2) and 12, provided that such provisions do not broaden the scope of this Directive. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).]

[^{F33} The amendments to the international instruments referred to in Article 3 may be excluded from the scope of this Directive, pursuant to Article 5 of Regulation (EC) No 2099/2002.]

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Textual Amendments

- F2** Substituted by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part One.
- F3** Inserted by Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 amending the Directives on maritime safety and the prevention of pollution from ships (Text with EEA relevance).

Article 16

Penalties

The Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 17

Implementation and application

1 Member States shall adopt and publish, before 5 August 2003, the provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

They shall apply those provisions from 1 March 2004.

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 notify to the Commission the provisions of their national law which they adopt in the field governed by this Directive.

Article 18

Entry into force

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

Article 19

Addressees

This Directive is addressed to the Member States.

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- (1) Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (OJ L 157, 7.7.1995, p. 1). Directive as last amended by Commission Directive 1999/97/EC (OJ L 331, 23.12.1999, p. 67).
- (2) Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 319, 12.12.1994, p. 20). Directive as amended by Commission Directive 97/58/EC (OJ L 274, 7.10.1997, p. 8).
- (3) Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ L 204, 21.7.1998, p. 37). Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).
- (4) [^{F2}OJ L 324, 29.11.2002, p. 1.]

Textual Amendments

- F2** Substituted by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny
Adaptation to the regulatory procedure with scrutiny — Part One.