

COMMISSION OF THE EUROPEAN COMMUNITIES

SEC (94) 1491, 16 September 1994

Cooperation procedure. Communication from the Commission to the European Parliament in accordance with Article 189 C, point b), first subparagraph of the EC Treaty. Common position adopted by the Council 19 September 1994 with a view to the adoption of a Council Directive on the approximation of the laws of Member States with regard to the transport of dangerous goods by road.

Subject: Common position of the Council adopted on 19 September 1994 on the proposal for a Council Directive on the approximation of the laws of Member States with regard to the transport of dangerous goods by road
COM(93)548 final - SYN 477, amended by COM(94)238 final - SYN 477

1. History of the file

- Date of transmission of the proposal to the Council : 25.11.1993
- Date of opinion of the European Parliament in its 1st reading : 03.05.1994
- Date of transmission of the amended proposal : 02.06.1994
- Date of adoption of the Common Position of the Council : 19.09.1994
- Date of opinion of the Economic and Social Committee : 27.04.1994

2. Subject of the proposal of the Commission

The proposal of the Commission aims at harmonising the rules applicable to national and intra-Community transport of dangerous goods in order to ensure, on the one hand an acceptable level of safety and, on the other hand, the establishment of a single market for these transport services within the Union.

Furthermore, such harmonisation should eliminate existing obstacles to the free circulation of goods between Member States with regard to transport equipment (vehicles, cylinders, tanks, packagings, safety devices).

3. Outcome of amendments adopted by the European Parliament at its first reading

3.1 The Common Position incorporates two amendments adopted by the European Parliament at its first reading and which are acceptable to the Commission, as well as another which the Commission considered inappropriate.

These three amendments concern:

- a limit on the derogation relating to non-certified packagings to cover "national" transport only, that is to say, on the territory of a Member State;
- an exclusion from the derogation concerning small quantities, radioactive material of high or medium hazard (that is to say, those of Schedules 5 to 13 of marginal 2704 of the Annexes to the ADR).

- the possibility for Member States not only to continue to apply stricter provisions, but moreover to introduce new provisions for transport carried out² by vehicles registered on their territory, with the exception of construction requirements.

3.2 However, the other amendments were considered inappropriate in nature in a piece of legislation which attempts, as far as possible and as a first step, to transpose international legislation into Community law.

4. Common position of the Council

4.1 The work carried out at Council level led to a Common position adopted on 19 September 1994.

This maintained the main objective of the proposal, which was the transposition into Community law of the rules governing this sector, in this case the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) (Geneva, 1937). In order to maintain the level of safety as high as possible, the proposal takes account of amendments adopted in the framework of the regular updating of the ADR and the UN Recommendations on the Transport of Dangerous Goods.

4.2 In relation to the proposal of the Commission, the Common position of the Council presents divergences with regard to :

4.2.1. the date of entry into force of the Directive, that is: 1.1.1997 (Article 10, § 1);

4.2.2. the deletion of postal consignments from the exclusion from scope of the Directive (Article 1, § 1);

4.2.3. the possibility to retain specific national traffic rules relating to the transport of dangerous goods (Article 1, § 2 b);

4.2.4. inclusion of the concept of loading and unloading in the definition of "transport", as far as covered by the Annexes to the Directive (Article 2);

4.2.5. the possibility for Member States to retain, in certain very specific cases, their national legislation with regard to:

4.2.5.1. quality-assurance certification of undertakings who transport very dangerous goods (Article 1, § 2 c);

4.2.5.2. construction of vehicles, only for the centre of gravity of tank-vehicles, until 31.12.1998 (Article 5, § 3);

4.2.5.3. obligation to use certain routes or transport modes for very dangerous goods (Article 5, § 5);

4.2.5.4. the reference temperature used in the transport of liquefied gases appropriate to the climatic zone (Article 6, § 5);

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- 4.2.6. a provision relating to the emergency measures that a Member State could take in the event of an accident or incident (Article 5, § 4);
- 4.2.7. the possibility to transport for a limited period after the entry into force of the Directive, dangerous goods classified, packed and labelled in accordance with national legislation in force until the time of transposition of the Directive into national law but only until 31.12.1998 (Article 6, § 7);
- 4.2.8. the possibility to conclude multilateral agreements, on condition that safety is not compromised (article 6, § 10).

5. Commission's position

- 5.1 Regarding the date of entry into force of the Directive, the Commission considers that this could be accepted, given that this is not too far removed from the date proposed by the Commission and supported by the European Parliament.
- 5.2 Regarding the derogations aimed at maintaining national legislations in certain very specific areas, the Commission considers that:
 - in relation to the wide coverage of this proposed Directive, these derogations cover only a very small part of the transport market;
 - therefore, the main objectives of harmonisation and safety can still be met; and
 - that many of these derogations are limited to a transitional period or will be linked to possible future modifications of the ADR.

6. Conclusion

The Commission considers it expedient not to obstruct this Common position and would consequently support it.