



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04.06.1996

COM(96) 235 final

94/0284 (SYN)

OPINION OF THE COMMISSION

**on the amendments proposed by the European Parliament
to the Council's common position 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 RAIL

(presented by the Commission pursuant to Article 189 c (d) or the EC Treaty)

On 16 April 1996 the European Parliament amended the Common Position adopted by the Council on 8 December 1995 on the above-mentioned proposal. The amendments of the Parliament are at Annex.

Under Article 189 C, sub-paragraph (d) of the EC Treaty, the Commission has re-examined its proposal and decided not to accept the amendments for the following reasons.

The first amendment, requiring notification prior to all shipments of (undefined) "extremely" dangerous goods, is considered by the Commission to be unnecessarily bureaucratic with no obvious benefit to safety. The reference to "extremely" dangerous goods introduces an element of legal uncertainty, in that it would create an additional category of goods (the "extremely" dangerous ones) to the ones referred to in the proposal.

The type of transport sought by the second amendment is already almost entirely covered by the existing derogation allowed for under Articles 6,11 and the new 6,14 of the Common Position where less stringent provisions may apply for transport within ports or airports or within or between industrial sites. Therefore this new amendment is superfluous.

The Commission therefore maintains its proposal and rejects the amendments proposed by the Parliament to the Council's Common Position.

Annex: 2 amendments of the European Parliament

Common position of the CouncilAmendments(Amendment 1)
Article 3(2a) (new)

For the transport of extremely dangerous goods, the various competent authorities shall be informed in advance.

(Amendment 2)
Article 5

1. Without prejudice to other Community provisions, each Member State shall retain the right to regulate or prohibit, strictly for reasons other than safety during transport connected in particular with national security or environmental protection, the transport of certain dangerous goods within its territory.

1. Without prejudice to other Community provisions, each Member State shall retain the right to regulate or prohibit, strictly for reasons other than safety during transport connected in particular with national security or environmental protection, the transport of certain dangerous goods within its territory.

1a. This Directive shall not restrict the right of Member States, with due regard for Community law, to adopt special rules or grant derogations for transport operations of local significance, e.g. the transport of hydrogen cyanide in purpose-built tank wagons, or for the transport of dangerous goods on narrow-gauge, dock or mountain railways.

2(a). For transport via the Channel Tunnel, France and the United Kingdom may impose more stringent provisions than those provided for in the Annex. The Commission shall be informed of such provisions and it shall inform the other Member States.

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2(b). Where a Member State considers that stricter provisions should be applied to transport through tunnels with characteristics similar to the Channel Tunnel within its territory, it shall inform the Commission. The Commission, acting in accordance with the procedure laid down in Article 9, shall decide whether the tunnel in question has similar characteristics. Provisions adopted by a Member State shall be notified to the Commission, which shall inform the other Member States.

2(b). Where a Member State considers that stricter provisions should be applied to transport through tunnels with characteristics similar to the Channel Tunnel within its territory, it shall inform the Commission. The Commission, acting in accordance with the procedure laid down in Article 9, shall decide whether the tunnel in question has similar characteristics. Provisions adopted by a Member State shall be notified to the Commission, which shall inform the other Member States.

2(c): A Member State in which the ambient temperature is regularly lower than -20°C may impose more stringent standards as regards the operating temperature of material intended for use in the national transport of dangerous goods by rail within its territory until provisions on the appropriate reference temperatures for given climatic zones are incorporated in the Annex.

3. If on the occasion of an accident or an incident, a Member State considers that the safety provisions applicable have been found to be insufficient to limit the hazards involved in the transport operation and if there is an urgent need to take action, that Member State shall notify the Commission at the planning stage of the measures which it proposes to take. Acting in accordance with the procedure laid down in Article 9, the Commission shall decide whether the implementation of the measures in question should be authorized and shall determine the duration thereof.

4. Member States may maintain all national provisions applicable on 31 December 1996 to the transport and packing of substances containing dioxins or furans.

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3. If on the occasion of an accident or an incident, a Member State considers that the safety provisions applicable have been found to be insufficient to limit the hazards involved in the transport operation and if there is an urgent need to take action, that Member State shall notify the Commission at the planning stage of the measures which it proposes to take. Acting in accordance with the procedure laid down in Article 9, the Commission shall decide whether the implementation of the measures in question should be authorized and shall determine the duration thereof.

4. Member States may maintain all national provisions applicable on 31 December 1996 to the transport and packing of substances containing dioxins or furans.

ISSN 0254-1475

COM(96) 235 final

DOCUMENTS

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06 07

Catalogue number : CB-CO-96-247-EN-C

ISBN 92-78-04519-5

Office for Official Publications of the European Communities

L-2985 Luxembourg