



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE
RELATING TO MOTOR VEHICLES AND THEIR TRAILERS
WITH REGARD TO THE TRANSPORT OF
DANGEROUS GOODS BY ROAD
AND AMENDING
DIRECTIVE 70/156/EEC
IN RESPECT OF THE TYPE-APPROVAL
OF
MOTOR VEHICLES AND THEIR TRAILERS

(presented by the Commission)

EXPLANATORY MEMORANDUM

A. Objective of the proposal

The objective of this proposal for a Directive is to establish the technical requirements for motor vehicles and their trailers intended for the transport of dangerous goods by road. The Directive will contribute to ensuring that the technical conditions exist to ensure that the dangerous goods is safeguarded during their transport.

The establishment of a European system of type-approval for vehicles used for the transport of dangerous goods by road will offer significant advantages to manufacturers who will then be subject to one set of rules for the construction of vehicles. These vehicles will be accepted throughout the Union. In addition, costs will come down as the internal market for these vehicles is realised. This situation has obvious benefits also for operators and users.

B. Legal basis

The draft proposal lays down requirements on the basis of Article 100A of the Treaty and provides for total harmonisation of the relevant technical provisions of vehicles intended for the transport of dangerous goods by road. This approach is consistent with the general approach followed in the motor vehicle sector as established in the framework Directive regulating the type-approval of motor vehicles⁽¹⁾ in the European Union (Council Directive 70/156/EEC⁽²⁾ of 6 February 1970, as last amended by Directive 95/54/EC⁽³⁾).

The text is relevant for the EEA Treaty

(1) It will be recalled that at the current time, whole vehicle type-approval is only possible for cars, since it is only for this product sector that all the "separate" directives have been adopted and implemented. Whole vehicle type-approval is currently mandatory for new types of cars from 1 January 1996 in the Union.

By contrast, for all other vehicle categories, certain separate directives still have to be adopted before a whole vehicle type-approval can be envisaged. In the case of vehicles used for the transport of dangerous goods one key directive is missing, namely, a directive on the technical construction characteristics and the fitting out of those vehicles. This draft directive, which is based on article 100A of the Treaty, addresses this gap.

(2) OJ No. L 42, 23. 2. 1970, p. 1

(3) OJ No. L 266, 08. 11. 1995, p. 1

C. Background

All Member States except Ireland are Contracting Parties to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR Agreement)⁽⁴⁾.

Directive 94/55/EC⁽⁵⁾ has transposed into Community law the provisions of the ADR-Agreement which stipulates, inter alia, requirements regarding the construction of vehicles transporting dangerous goods by road. This Directive will be applied on a mandatory basis from January 1997 for the construction of vehicles to be used in national transport of dangerous goods by road and for the transport of such goods between Member States. However, this Directive does not ensure that the construction characteristics of the vehicle used to transport the dangerous goods will be accepted by other Member States. In order for this to be accomplished, a separate Directive, within the European system of type-approval, needs to be accepted so as to provide free circulation of the vehicles within the Community on the basis of harmonised construction characteristics. This Directive achieves this aim.

It is therefore a companion Directive to Council Directive 94/55/EC and lays down special provisions for

- the suitable design and construction of the base vehicle intended for the transportation of dangerous goods; and
- technical specifications regarding
 - electrical equipment,
 - braking system, (e.g. ABS and endurance braking system)
 - fire risk prevention, and
 - speed limitation

These provisions are based on the provisions of Council Directive 94/55/EC (a direct reference is made in this Directive). Compliance with all the relevant technical requirements of this Directive will ensure free circulation for the vehicles concerned within the internal market of the EU. Thus when a vehicle type obtains an approval in accordance with this Directive, Member States will be neither able to prohibit manufacturers from

⁽⁴⁾ BCE/TRANS/110 (Vol I and II), Geneva 30.09.1957

⁽⁵⁾ OJ No. L 319, 12. 12. 1994, p. 7

offering it for sale, nor to refuse its registration nor entry into service for reasons relating to its construction.

Like all other separate Directives relating to type-approval of commercial vehicles - except those on air polluting or noise emissions - this new Directive will be based on optional harmonisation. Member States may require that only the prescriptions of the EC separate Directive apply. Alternatively they may maintain national legislation on this matter in which case the manufacturer can choose between this and the harmonised requirements. Member States are free to oblige a manufacturer, who has not opted for an EC type-approval, to comply with their national requirements.

This Directive does not effect national or Community legislation addressing the use of such vehicles. The administrative provisions of the draft proposal are aligned with those of Directive 70/156/EEC, in order to ensure its continued applicability.

This Directive shall remain optional until such time as the framework Directive 92/53/EEC becomes mandatory for vehicles used for the transport of dangerous goods by road in all Member States. Whenever a manufacturer chooses to avail himself of the provisions of this Directive, he shall be permitted to do so, and other Member States shall give free circulation to vehicles, the technical requirements of which meet the conditions of this Directive.

D. Consultations of interested parties

In 1994, the Commission requested the Motor Vehicle Working Group (Motor Vehicle Working Group)⁽⁶⁾ to study a draft proposal for a Directive relating to vehicles used for the transport of dangerous goods by road which would remove existing technical barriers to the free movement of these vehicles. This Working Group has assisted the Commission with the preparation of the Annexes used for the drafting of the present proposal for a Directive.

(6) An advisory Group of Member States, international organisations and interested Industry Groups, as well as consumers and operators.

E. Content of the proposal

Articles

Generally speaking, the articles are similar to those of the other separate Directives adopted under framework Directive 70/156/EEC, and apply the provisions of the latter.

Annexes

Annex I contains the scope and the classification for five classes of vehicles, defined as follows:

- EX/II** for vehicles intended for the carriage of explosives as type II transport units;
- EX/III** for vehicles intended for the carriage of explosives as type III transport units;
- FL** for vehicles intended for the carriage of liquids with a flash-point of not more than 61°C or flammable gases, in tank-containers of more than 3000 litres capacity, fixed tanks or demountable tanks and for battery vehicles of more than 1000 litres capacity intended for the carriage of flammable gases;
- OX** for vehicles intended for the carriage of substances of class 5.1, marginal 2501, item 1°(a), in tank-containers of more than 3000 litres capacity, fixed tanks or demountable tanks;
- AT** for vehicles intended for the carriage of dangerous goods in tank-containers with a capacity of more than 3000 litres, fixed tanks or demountable tanks and for battery vehicles of more than 1000 litres capacity, other than those of types FL or OX;

In Annex II and Appendix 1 and 2 an example of the EC type-approval marking is given to be used when the approval authorities have granted type-approval in accordance with framework Directive 70/156/EEC.

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PROPOSAL FOR A EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE RELATING TO MOTOR VEHICLES AND THEIR TRAILERS, WITH REGARD TO THE TRANSPORT OF DANGEROUS GOODS BY ROAD AND AMENDING DIRECTIVE 70/156/EEC IN RESPECT OF THE TYPE-APPROVAL OF MOTOR VEHICLES AND THEIR TRAILERS.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100A thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Acting in accordance with the procedure laid down in Article 189B of the Treaty⁽²⁾

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Having regard to Council Directive 94/55/EC⁽⁴⁾ on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road,

Whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital must be ensured;

Whereas total harmonisation regarding the technical requirements for vehicles intended for the transport of dangerous goods by road is necessary in order fully to achieve that objective;

Whereas the technical requirements for motor vehicles and their trailers, pursuant to national laws relating to the transport of dangerous goods by road must be fulfilled; Whereas these requirements differ from Member State to another,

Whereas these different procedures and requirements create technical barriers to trade regarding the provisions for vehicles intended for the transport of dangerous goods by road;

Whereas in order to eliminate technical barriers to trade regarding the provisions for vehicles intended for the transport of dangerous goods by road and to allow the market organisations in questions to operate smoothly;

(1) OJ No.

(2) OJ No.

(3) OJ No.

(4) OJ No. L 319, 12. 12. 1994, p. 7

Whereas it is therefore necessary in the context of the internal market to harmonise the standards for means of transport of dangerous goods by road;

Whereas it is necessary to harmonise the approval procedures in the Member States;

Whereas this Directive will be one of the separate directives which must be fulfilled in order to comply with the EC type-approval procedure which has been established by Council Directive 70/156/EEC⁽⁵⁾, as last amended by Directive 95/54/EC⁽⁶⁾;

Whereas, consequently, the provisions laid down in Directive 70/156/EEC relating to vehicle systems, components and separate technical units apply to this Directive;

Whereas, in particular, Articles 3 (4) and 4 (3) of Directive 70/156/EEC necessitate that each separate Directive has attached to it an information document incorporating the relevant items of Annex I to that Directive and also a type-approval certificate based on Annex VI thereto in order that type approval may be computerised;

HAS ADOPTED THIS DIRECTIVE:

⁽⁵⁾ OJ No. L 42, 23.02.1970, p.1

⁽⁶⁾ OJ No. L 266, 08.11.1995, p. 1

Article 1

This Directive shall apply to vehicles of categories 'N' and 'O' intended for the transport of dangerous goods by road within or between Member States.

Article 2

For the purposes of this Directive:

- 'vehicle' shall mean any motor vehicle, other than M, and its trailers as defined in Annex IIA to Directive 70/156/EEC.
- 'ADR' shall mean the European Agreement as defined in Article 2 to Directive 94/55/EC
- 'dangerous goods' shall mean substances and articles as defined in Article 2 to Directive 94/55/EC
- 'transport' shall mean road transport operation as defined in Article 2 to Directive 94/55/EC

Article 3

Directive 70/156/EEC shall be amended by the addition of items in Part I of Annex IV as follows:

"Part I

56 Transport of dangerous goods 97/xxx/EC OJ L...etc. N₁; N₂; N₃; O₁; O₂; O₃; O₄"

Article 4

Member States may not

- refuse, in respect of a type of vehicle to grant EC type approval or to grant national type-approval,
- or
- prohibit the registration, sale or entry into service or use of vehicles

on grounds relating to the transport of dangerous goods if the requirements of the Annexes to this Directive are fulfilled.

Article 5

Any amendments necessary to adapt the requirements of the Annexes to this Directive to technical progress shall be adopted in accordance with the procedures laid down in Article 13 of Directive 70/156/EEC.

Article 6

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive on or before [1 January 1997]. They shall forthwith inform the Commission thereof.

When the Member States adopt these provisions they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Member States shall communicate to the Commission the texts of the main provisions of the national law which they adopt in the field governed by this Directive.

Article 7

Member States shall apply these provisions from [1 January 1997].

Article 8

This Directive shall enter into force the twentieth day following its publication in the *Official Journal of the European Communities*.

Article 9

This Directive is addressed to the Member States.

Done at Brussels,

For the Parliament

For the Council

LIST OF ANNEXES

- Annex I** Scope, classification, requirements
- Annex II** Administrative provisions for type-approval
- Appendix 1: Information document.
- Appendix 2: EC type-approval certificate
- Addendum