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COUNCIL DIRECTIVE 94/55/EC

of 21 November 1994

on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road

(OJ L 319, 12.12.1994, p. 7)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Annexes A and B to Council Directive 94/55/EC of 21 November 1994	L 275	1	28.10.1996
► <u>M2</u>	Commission Directive 96/86/EC of 13 December 1996	L 335	43	24.12.1996
► <u>M3</u>	Amendments to Annexes A and B of Council Directive 94/55/EC as announced in Commission 96/86/EC	L 251	1	15.9.1997
► <u>M4</u>	Commission Directive 1999/47/EC of 21 May 1999	L 169	1	5.7.1999
► <u>M5</u>	Directive 2000/61/EC of the European Parliament and of the Council of 10 October 2000	L 279	40	1.11.2000
► <u>M6</u>	Commission Directive 2001/7/EC of 29 January 2001	L 30	43	1.2.2001
► <u>M7</u>	Commission Decision 2002/886/EC of 7 November 2002	L 308	45	9.11.2002

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► **C1** Corrigendum, OJ L 301, 14.12.1995, p. 47 (94/55/EC)



COUNCIL DIRECTIVE 94/55/EC

of 21 November 1994

on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189c of the Treaty ⁽³⁾,

- (1) Whereas, over the years, both the national and the international transport of dangerous goods by road have significantly increased, adding to the dangers in the event of an accident;
- (2) Whereas all Member States except Ireland are Contracting Parties to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), the geographical scope of which extends beyond the Community and which lays down uniform rules for the safe international transport of dangerous goods by road; whereas it is consequently desirable that such rules be extended to cover national traffic in order to harmonize across the Community the conditions under which dangerous goods are transported by road;
- (3) Whereas no Community legislation embraces the full range of measures required to ensure the safe transport of dangerous goods and the relevant national measures vary from one Member State to another; whereas those divergences are an obstacle to the free provision of transport services and, moreover, to the free movement of vehicles and transport equipment; whereas in order to overcome that obstacle uniform rules applicable to all intra-Community transport should be defined;
- (4) Whereas an action of this nature must be carried out at Community level to ensure consistency with other Community legislation, to ensure a satisfactory degree of harmonization to facilitate the free movement of goods and services and to ensure a high level of safety for national and international transport operations;
- (5) Whereas the provisions of this Directive are without prejudice to the commitment entered into by the Community and its Member States, in accordance with the goals set under Agenda 21, Chapter 19, at the UnCED conference of June 1992 in Rio de Janeiro, to strive for the future harmonization of systems for the classification of dangerous substances;
- (6) Whereas no specific Community legislation yet governs the safety conditions under which biological agents and genetically modified micro-organisms, regulated under Council Directives 90/219/EEC ⁽⁴⁾, 90/220/EEC ⁽⁵⁾ and 90/679/EEC ⁽⁶⁾, should be transported;

⁽¹⁾ OJ No C 17, 20. 1. 1994, p. 6.

⁽²⁾ OJ No C 195, 18. 7. 1994, p. 15.

⁽³⁾ European Parliament opinion of 3 May 1994 (OJ No C 205, 25. 7. 1994, p. 54), Council common position of 19 September 1994 (OJ No C 301, 27. 10. 1994, p. 25) and European Parliament decision of 17 November 1994 (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 117, 8. 5. 1990, p. 1.

⁽⁵⁾ OJ No L 117, 8. 5. 1990, p. 15.

⁽⁶⁾ OJ No L 374, 31. 12. 1990, p. 1.

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- (7) Whereas this Directive takes account of other Community policies in the fields of worker safety, vehicle construction and environmental protection;
- (8) Whereas the Member States remain free to regulate any operation for the transport of dangerous goods carried out within their territory by a vehicle not covered by the Directive regardless of where the vehicle is registered;
- (9) Whereas the Member States must be able to apply specific road-traffic regulations to the transport of dangerous goods within their territories;
- (10) Whereas the Member States must be able to maintain their quality-control requirements as regards certain national transport operations until the Commission reports to the Council on these matters;
- (11) Whereas the provisions of the ADR authorize the conclusion of agreements derogating therefrom, and whereas the large number of agreements concluded bilaterally between Member States impedes the free provisions of dangerous-goods transport services; whereas including the necessary provisions in the Annexes to this Directive should overcome the need for such derogations; whereas provision should be made for a transitional period during which the Member States may continue to apply existing agreements amongst themselves;
- (12) Whereas it is necessary to transpose into Community law the provisions of the ADR, including the requirements concerning the construction of vehicles transporting dangerous goods; whereas, in this context, provision should be made for a transitional period so that the Member States may temporarily maintain certain specific national provisions on construction requirements for nationally registered vehicles;
- (13) Whereas existing information procedures in the field of related national legislative proposals must be used in order to increase transparency for all economical operators;
- (14) Whereas as regards national transport, the Member States must retain the right to apply rules complying with the United Nations multimodal Recommendations on the Transport of Dangerous Goods, in so far as the ADR is not yet harmonized with those rules, the purpose of which is to facilitate the inter-modal transport of dangerous goods;
- (15) Whereas the Member States must be able to regulate or prohibit the transport by road of certain dangerous goods within their territories, but only for reasons other than transport safety; whereas in this context the Member States may retain the right in the case of certain transports of very dangerous substances to impose the use of transport by rail or inland waterway or may maintain very specific packaging for certain very dangerous substances;
- (16) Whereas for the purposes of this Directive the Member States must be able to apply more stringent or more lenient rules to certain transport operations performed within their territories by means of vehicles registered there;
- (17) Whereas the harmonization of conditions should take account of specific national circumstances and therefore this Directive must be sufficiently flexible in providing the Member States with the possibility of granting certain derogations; whereas the application of new technological and industrial developments must not be impeded and provision must therefore be made for temporary derogations;
- (18) Whereas vehicles registered in non-member countries must be allowed to perform international transport within the territories of Member States if they comply with the ADR;
- (19) Whereas it must be possible to adapt this Directive rapidly to technical progress, in order to take account of new provisions

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incorporated in the ADR and to decide upon the application and implementation of emergency measures in the event of accidents or incidents; whereas a committee should be created for that purpose and a procedure should be established for close cooperation between the Member States and the Commission within that committee;

- (20) Whereas the Annexes to this Directive contain provisions covering the vocational training of certain drivers of vehicles transporting dangerous goods by road; whereas, therefore, Council Directive 89/684/EEC of 21 December 1994 on vocational training for certain drivers of vehicles carrying dangerous goods by road ⁽¹⁾ should be repealed,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

Scope, definitions and general provisions*Article 1*

1. This Directive shall apply to the transport of dangerous goods by road within or between Member States. It shall not apply to the transport of dangerous goods by vehicles belonging to or under the responsibility of the armed forces.

2. This Directive shall not, however, affect the Member States' right, with due regard to Community law, to lay down requirements as regards:

- (a) the national and international transport of dangerous goods within their territories performed by vehicles not covered by this Directive,
- (b) road-traffic regulations specific to the national and international transport of dangerous goods;

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- (c) quality controls on undertakings where they carry out national transport operations as indicated in paragraph 1 of Annex C.

The scope of the national provisions concerning the requirements set out in this point may not be extended.

The provisions in question shall cease to apply if similar measures are made obligatory under Community provisions.

At the latest two years after the entry into force of a European standard on quality control in the transport of dangerous goods, the Commission shall submit to the European Parliament and the Council a report assessing the safety aspects covered by this point together with an appropriate proposal for its continuation or repeal.

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The scope of the national provisions concerning these requirements may not be extended.

The provisions in question shall cease to apply if similar measures are made obligatory under Community provisions.

Before 31 December 1998 the Commission shall submit to the Council a report assessing the safety aspects covered by this provision together with an appropriate proposal for its continuation or repeal.

⁽¹⁾ OJ No L 398, 30. 12. 1989, p. 33.

▼B*Article 2*

For the purposes of this Directive:

- ‘ADR’ shall mean the European Agreement concerning the International Carriage of Dangerous Goods by Road, concluded at Geneva on 30 September 1957, as amended,
- ‘vehicle’ shall mean any motor vehicle intended for use on the road, being complete or incomplete, having at least four wheels and a maximum design speed exceeding 25 km/h, and its trailers, with the exception of vehicles which run on rails, and of agricultural and forestry tractors and all mobile machinery,
- ‘dangerous goods’ shall mean those substances and articles the transport of which by road is prohibited or authorized only in certain circumstances by Annexes A and B to this Directive,
- ‘transport’ shall mean any road transport operation performed by a vehicle wholly or partly on public roads within the territory of a Member State, including the activity of loading and unloading, covered by Annexes A and B, without prejudice to the arrangements laid down by the laws of the Member States' concerning liability in respect of such operations.

It shall not include transport wholly performed within the perimeter of an enclosed area.

Article 3

1. Without prejudice to Article 6, dangerous goods the transport of which is prohibited by Annexes A and B to this Directive shall not be transported by road.

2. Save as otherwise provided in this Directive, the transport of other dangerous goods listed in Annex A shall be authorized subject to compliance with the conditions imposed in Annexes A and B, in particular as regards:

- (a) the packaging and labelling of the goods in question; and
- (b) the construction, equipment and proper operation of the vehicle carrying the goods in question.

CHAPTER II

Derogations, restrictions and exemptions*Article 4*

Solely for the purposes of national transport operations performed by vehicles registered within its territory each Member State may retain provisions of its national law on the transport of dangerous goods by road which are consistent with the UN Recommendations on the Transport of Dangerous Goods until Annexes A and B to this Directive are revised to reflect those recommendations. The Member States concerned shall inform the Commission accordingly.

Article 5

1. Without prejudice to other Community legislation, in particular that on market access, each Member State shall retain the right, strictly for reasons other than safety during transport, such as reasons of national security or environmental protection, to regulate or prohibit the transport of certain dangerous goods within its territory.

2. Any rules imposed by a Member State on vehicles performing international transport through its territory and authorized ►**M5** by the special provision referred to in paragraph 2 of Annex C ◀ shall be limited in scope locally, shall apply to both national and international transport and may not result in any discrimination.

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3. (a) Each Member State may apply more stringent provisions concerning transport, with the exception of construction requirements, performed by vehicles registered or put into circulation within its territory.

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- (b) Member States may, however, maintain their specific national provisions on the centres of gravity of tank-vehicles registered within their territories until the amendment, if any, of the special provision referred to in paragraph 3 of Annex C, but not, in any event, after 30 June 2001 in the case of tank-vehicles covered by the special provision referred to in paragraph 3 of Annex C, in accordance with the amended version of the ADR applicable as from 1 July 2001 and not, in any event, after 30 June 2005 in the case of other tank-vehicles.
- (c) Member States in which the ambient temperature is regularly lower than -20 °C may impose more stringent standards as regards the operating temperature of materials used for plastic packaging, tanks and their equipment intended for use in the national transport of dangerous goods by road within their territory until provisions on the appropriate reference temperatures for given climatic zones are incorporated in the Annexes.

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4. If a Member State considers that the safety provisions applicable have been found to be insufficient, on the occasion of an accident or an incident, to limit the hazards involved in transport and if there is an urgent need to take action, it 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 those measures should be authorized and determine their duration.

5. The Member States may maintain any national provisions applicable on 31 December 1996 with regard to:

- the transport of Class 1.1 substances,
- the transport of toxic, unstable and/or flammable gases of Class 2,
- the transport of substances containing dioxins or furans,
- the transport in tanks or tank-containers of more than 3 000 litres of liquids of Classes 3, 4.2, 4.3, 5.1, 6.1 or 8 which do not appear under (b) or (c) in these classes.

Such provisions may concern only:

- the prohibition of such transport operations by road where it is possible for them to be carried out by rail or by inland waterway,
- a requirement to follow certain preferred routes,
- any other provisions concerning the packaging of substances containing dioxins or furans.

These provisions may not be extended or made more stringent. The Member States shall communicate these national provisions to the Commission, which shall inform the other Member States accordingly.

Article 6

1. Each Member State may authorize the transport by road within its territory of dangerous goods classified, packaged and labelled in accordance with the international requirements for maritime or air transport whenever the transport operation involves a sea or air voyage.

2. Any provisions in Annexes A and B concerning the use of languages in relevant marking or documentation shall not apply to transport operations confined to the territory of a single Member State. Member States may authorize the use of languages other than those provided for in the Annexes for transport operations performed within their territories.

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3. Within its territory each Member State may authorise the use of vehicles constructed before 1 January 1997 which do not comply with this Directive, but were constructed in accordance with national requirements in force on 31 December 1996 provided that such vehicles are maintained to the required safety levels.

Tanks and vehicles constructed on or after 1 January 1997 which do not comply with Annex B but were constructed in accordance with the requirements of this Directive that were applicable on the date of their construction may continue to be used for national transport until a date determined in accordance with the procedure laid down in Article 9.

4. ►M7 Each Member State may maintain its national provisions in force on 31 December 1996 relating to the construction, use and conditions of carriage of new pressure drums and cylinder racks within the meaning of the special provision referred to in paragraph 4 of Annex C and new tanks which do not comply with Annexes A and B, until references to standards for the construction and use of tanks, pressure drums and cylinder racks with the same binding force as the provisions of this Directive are added to Annexes A and B and in any event no later than 30 June 2003. Pressure drums, cylinder racks and tanks constructed before 1 July 2003 and other receptacles constructed before 1 July 2001 and maintained to the required safety levels may continue to be used under the original conditions. ◀

These dates shall be put back for receptacles and tanks for which there are no detailed technical requirements or for which no sufficient references to the appropriate European standards have been added to Annexes A and B.

The receptacles and tanks referred to in the second subparagraph and the latest date for the application of this Directive as regards those receptacles and tanks shall be determined in accordance with the procedure laid down in Article 9.

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5. Each Member State may maintain national provisions other than those set out in Annexes A and B with regard to the reference temperature for the transport within its territory of liquified gases or mixtures of liquified gases until provisions relating to appropriate reference temperatures for designated climatic areas are incorporated into European standards and references to those standards are added to Annexes A and B.

6. Each Member State may allow the use, for transport within its territory, of packagings constructed but not certified in accordance with the ADR before 1 January 1997 provided that such packaging shows the date of manufacture and is capable of passing the tests laid down in national legislation in force on 31 December 1996 and provided that all such packagings are maintained to the relevant safety levels (including testing and inspection where required), in accordance with the following scheme: intermediate metal bulk containers and metal drums exceeding 50 litres in capacity, for up to 15 years after their date of manufacture; other metal packagings and all plastics packagings, for up to five years after their ►C1 date of manufacture but not after 31 December 1998 ◀ ►M5 , except that in the case of plastic packaging not exceeding twenty litres in capacity, that date may be put back to 30 June 2001 at the latest ◀.

7. Each Member State may allow the transport within its territory of certain dangerous goods packaged before 1 January 1997 until 31 December 1998, provided that the goods are classified, packaged and labelled in accordance with the requirements of national legislation in force before 1 January 1997.

8. Each Member State may maintain provisions of national legislation in force on 31 December 1996 relating to the display of an emergency action code in place of the hazard identification number provided for in Annex B for transport operations performed within its territory by vehicles registered within that territory.

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9. Provided they give the Commission advance notification no later than 31 December 2002 or until two years after the last date of application of amended versions of Annexes A and B to this Directive, Member States may adopt provisions that are less stringent than those in the Annexes for the transport within their territory only of small quantities of certain dangerous goods, with the exception of substances having a medium or high level of radioactivity.

Provided they give the Commission advance notification no later than 31 December 2002 or until two years after the last date of application of amended versions of Annexes A and B to this Directive, Member States may adopt provisions different from those contained in the Annexes in respect of local transport limited to their territory.

The derogations provided for in the first and second subparagraphs shall be applied without discrimination.

Notwithstanding the above, Member States may, provided they give the Commission advance notification, at any time adopt provisions similar to provisions adopted by other Member States with reference to this paragraph.

The Commission shall examine whether the conditions laid down in this paragraph have been met and shall decide, in accordance with the procedure laid down in Article 9, whether the Member States concerned may adopt these derogations.

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10. Provided that safety is not compromised, the Member States may grant temporary derogations from Annexes A and B for the purpose of carrying out within their territories the trials necessary before the amendment of those Annexes to adapt them to technological and industrial developments. The Commission shall be informed thereof and shall inform the other Member States accordingly.

A temporary derogation agreed on between Member States' competent authorities on the basis ► M5 of the special provisions referred to in paragraph 5 of Annex C ◀ shall take the form of a multilateral agreement proposed to all Member States' competent authorities by the authority taking the initiative in respect of the agreement. The Commission shall be informed accordingly.

Any derogation such as referred to in the first and second subparagraphs shall be applied without discrimination on grounds of the nationality or the place of establishment of the consignor, haulier or consignee; they may last for up to five years and shall not be renewable.

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11. The Member States may issue authorisations, valid for their territory only, to carry out ad hoc transport operations of dangerous goods which are either prohibited by Annex A or B or are performed under conditions different from those laid down in those Annexes, on condition that these *ad hoc* transport operations are clearly defined and limited in time.

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12. Without prejudice to paragraph 2, each Member State may until 31 December 1998 at the latest apply existing agreements with other Member States that comply with the ADR, without discrimination on grounds of the nationality or the place of establishment of the consignor, haulier or consignee. Any other derogation authorized by ► M5 the special provisions referred to in paragraph 5 of Annex C ◀ shall comply with paragraph 10.

Article 7

Subject to national or Community provisions on market access, vehicles registered or put into circulation in non-member countries shall be authorized to perform the international transport of dangerous goods within the Community if the transport in question complies with the ADR.

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CHAPTER III

Final provisions*Article 8*

The amendments necessary to adapt ►M5 Annexes A, B and C ◀ to scientific and technical progress in the fields covered by this Directive in order to take account of amendments to the Annexes to the ADR shall be adopted in accordance with the procedure laid down in Article 9.

▼M5*Article 9*

1. The Commission shall be assisted by a Committee on the transport of dangerous goods.
 2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.
- The period referred to Article 5(6) of Decision 1999/468/EC shall be set at three months.
3. The Committee shall adopt its rules of procedure.

▼B*Article 10*

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

When the Member States adopt those measures they shall include references or shall accompany them with such references on their official publication. The Member States shall lay down the manner in which such references shall be made.

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

Article 11

1. Directive 89/684/EEC is hereby repealed as from the deadline for the transposition of this Directive into national legislation.
2. Provisional certificates issued by the Member States in accordance with Article 4 (2) of that Directive for national transport only shall remain valid until 31 December 1996. Certificates issued in accordance with Article 4 (4) of that Directive may continue to be used until the end of their period of validity, but not later than 1 July 1997 for dangerous goods transported in tanks or for explosives and not later than 1 January 2000 for other dangerous goods.

Article 12

This Directive is addressed to the Member States.

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ANNEX A

Provisions of Annex A to the European Agreement concerning the international carriage of dangerous goods by road (ADR) as in force from 1 July 2001, 'Member State' being substituted for 'Contracting Party'

NB: The consolidated text of the 2001 version of Annex A to the ADR will be published as soon as the text is available in all the official languages of the Community.

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ANNEX B

Provisions of Annex B to the European Agreement concerning the international carriage of dangerous goods by road (ADR) as in force from 1 July 2001, 'Member State' being substituted for 'Contracting Party'

NB: The consolidated text of the 2001 version of Annex B to the ADR will be published as soon as the text is available in all the official languages of the Community.

▼ **M5***ANNEX C***Special provisions relating to certain Articles of this Directive**

1. The national transport operations referred to in Article 1(2)(c) are as follows:
 - (i) explosive substances and articles in Class 1, where the quantity of explosive substance contained per transport unit exceeds:
 - 1 000 kg for division 1.1, or
 - 3 000 kg for division 1.2, or
 - 5 000 kg for divisions 1.3 and 1.5;
 - (ii) the following substances in tanks or in tank containers of a total capacity exceeding 3 000 litres:
 - substances in Class 2: gas assigned to the following risk groups: F, T, TF, TC, TO, TFC, TOC;
 - substances in Classes 3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1 and 8: substances not listed under (b) or (c) in those classes or listed therein but having a hazard code with three or more significant digits (not including any zero);
 - (iii) the following packages of Class 7 (radioactive materials): packages of fissile materials, packages of type B (U), package of type B (M).
2. The special provision applicable to Article 5(2) is Marginal 10 599 of Annex B.
3. The special provision applicable to Article 5(3)(b) is Marginal 211 128 of Annex B.
4. The special provision applicable to Article 6(4) is Marginal 2 211 of Annex A.
5. The special provisions applicable to Article 6(10) and (12) are Marginals 2 010 and 10 602 of Annexes A and B.