

**Working Party on the Transport
of Dangerous Goods**
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Scope of Part 9: Extension to Vehicles Category M₁

Submitted by the Government of Austria

SUMMARY

Executive summary: The proposed objective is to clarify that part 9 shall apply also to Vehicles Category M₁

Action to be taken: Amend subsection 9.1.1.1

Related documents: TRANS/WP.15/2002/18, INF 8

Introduction: At the 72nd session of WP. 15 the revision of part 9 based on the proposal in document TRANS/WP.15/2002/18 by Italy was discussed. As to the scope of part 9 the expert of Austria questioned the actual exclusion of vehicles Category M₁ and was encouraged by other experts to make a proposal containing justification for an amendment. This is done in this paper. The proposed extension of the scope of part 9 refers to vehicles Category M₁.

<u>Proposal</u>	Amend the beginning of 9.1.1.1 to read as follows: “The provisions of PART 9 shall apply to vehicles of categories M₁ , N and O, as defined in (rest unchanged)”
<u>Justification</u>	The scope of the ADR refers to transport operations performed by vehicles defined in Article 1 (a) of the agreement. Undoubtedly this definition of “vehicle” covers also vehicles of category M. This means that in general carriage of dangerous goods in vehicles of this category, in particular vehicles Category M ₁ (vehicles used for the carriage of passengers and comprising no more than eight seats in addition to the driver’s seat) is permitted. It is also obvious that the provisions in subsection 1.1.3.6 (exemptions related to quantities carried per transport unit) are used for carriage in vehicles Category M ₁ in other words in “private cars”. Also the provision in 8.1.4.1 (b) last sentence which states that motor vehicles with a maximum permissible mass of 3.5 tonnes or less may be equipped with a smaller portable fire extinguisher would lose much of its meaning if it did not apply to vehicles Category M ₁ .

Annex B, Section 7.1.2 of ADR (which also applies to carriage under 1.1.3.6) states that vehicles used for the carriage of dangerous goods shall, as regards their design, construction and, if appropriate, their approval, conform to the relevant requirements of Part 9. Since this provision concerns also vehicles Category M₁ the reference to Part 9 and the fact that Part 9 covers only vehicles of categories N and O could have two meanings:

1. Carriage of dangerous goods in vehicles category M is - despite of the statements above on the general scope of the agreement etc. - **not** permitted or
2. carriage of dangerous goods in vehicles category M is generally permitted but not regulated by Part 9.

The first interpretation would certainly have a considerable effect on existing practice and is not justified from the viewpoint of safety. In fact the distinction between M and N vehicles primarily refers to fiscal treatment and to certain items of design that have to do with comfort in relation to the main purpose. In particular for vehicles Category M₁ the purposes of passengers and of goods carriage come together. A whole portion of the passenger car market under the denomination of “van” obviously serves such mixed purpose.

The second interpretation would have an effect on safety: In Part 9 section 9.2.1 it is inter alia stated for vehicles other than of EX/II, EX/III, FL, OX and AT that the requirements of 9.2.3.1, i.e. general provisions for braking equipment, are applicable to all vehicles first registered after 30 June 1997. If that statement does not apply to vehicles Category M₁ such vehicles would - by reversal conclusion - be permitted to carry dangerous goods without being subject to the general provisions for braking equipment.

Conclusions:

<i>Safety</i>	The proposal improves safety by clarification of the applicability of the provisions in Part 9. The present situation is uncertain. The future situation would be safe because vehicles Category M ₁ could only be used if they comply with the applicable provisions in Part 9.
<i>Feasibility</i>	The proposal clarifies the legitimacy of existing safe practices. It implies no costs.
<i>Enforceability</i>	There is no doubt that the inspection bodies can enforce the proposed amendment.