

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2007/0099(COD) Procedure completed
Access to the international road haulage market. Recast Repealing Directive 2006/94/EC Amended by	<a href="#">2004/0017(COD)</a> <a href="#">2017/0123(COD)</a>
Subject	3.20.05 Road transport: passengers and freight

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>TRAN</b> Transport and Tourism	PPE-DE <a href="#">GROSCH Mathieu</a>	19/01/2009
	Former committee responsible		
	<b>TRAN</b> Transport and Tourism	PPE-DE <a href="#">GROSCH Mathieu</a>	13/07/2007
	Former committee for opinion		
	<b>JURI</b> Legal Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Competitiveness (Internal Market, Industry, Research and Space)</a>	<a href="#">2963</a>	24/09/2009
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2877</a>	12/06/2008
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2861</a>	07/04/2008
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2835</a>	29/11/2007
European Commission	Commission DG	Commissioner	
	Energy and Transport	TAJANI Antonio	

Key events			
22/05/2007	Legislative proposal published	<a href="#">COM(2007)0265</a>	Summary
24/09/2007	Committee referral announced in Parliament, 1st reading		
29/11/2007	Debate in Council	<a href="#">2835</a>	
22/01/2008	Vote in committee, 1st reading		Summary
12/02/2008	Committee report tabled for plenary, 1st	<a href="#">A6-0038/2008</a>	

	reading		
07/04/2008	Debate in Council	<a href="#">2861</a>	Summary
20/05/2008	Debate in Parliament		
21/05/2008	Results of vote in Parliament		
21/05/2008	Decision by Parliament, 1st reading	<a href="#">T6-0218/2008</a>	Summary
08/01/2009	Council position published	<a href="#">11788/1/2008</a>	Summary
15/01/2009	Committee referral announced in Parliament, 2nd reading		
31/03/2009	Vote in committee, 2nd reading		Summary
02/04/2009	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A6-0211/2009</a>	
22/04/2009	Debate in Parliament		
23/04/2009	Decision by Parliament, 2nd reading	<a href="#">T6-0277/2009</a>	Summary
24/09/2009	Act approved by Council, 2nd reading		
21/10/2009	Final act signed		
21/10/2009	End of procedure in Parliament		
14/11/2009	Final act published in Official Journal		

### Technical information

Procedure reference	2007/0099(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Regulation
	Repealing Directive 2006/94/EC <a href="#">2004/0017(COD)</a> Amended by <a href="#">2017/0123(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 071
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/71863

### Documentation gateway

Legislative proposal	<a href="#">COM(2007)0265</a>	23/05/2007	EC	Summary
Document attached to the procedure	<a href="#">SEC(2007)0635</a>	23/05/2007	EC	
Document attached to the procedure	<a href="#">SEC(2007)0636</a>	23/05/2007	EC	
Committee draft report	<a href="#">PE396.395</a>	05/11/2007	EP	
Amendments tabled in committee	<a href="#">PE398.390</a>	08/01/2008	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0038/2008</a>	12/02/2008	EP	

Economic and Social Committee: opinion, report	<a href="#">CES0489/2008</a>	12/03/2008	ESC	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T6-0218/2008</a>	21/05/2008	EP	Summary
Commission response to text adopted in plenary	SP(2008)3593/2	12/06/2008	EC	
Council position	<a href="#">11788/1/2008</a>	09/01/2009	CSL	Summary
Council statement on its position	<a href="#">00109/2009</a>	09/01/2009	CSL	
Commission communication on Council's position	<a href="#">COM(2008)0673</a>	12/01/2009	EC	Summary
Committee draft report	<a href="#">PE418.415</a>	29/01/2009	EP	
Amendments tabled in committee	<a href="#">PE420.083</a>	26/02/2009	EP	
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A6-0211/2009</a>	02/04/2009	EP	
Text adopted by Parliament, 2nd reading	<a href="#">T6-0277/2009</a>	23/04/2009	EP	Summary
Commission opinion on Parliament's position at 2nd reading	<a href="#">COM(2009)0305</a>	23/06/2009	EC	Summary
Draft final act	<a href="#">03658/2009/LEX</a>	21/10/2009	CSL	
Follow-up document	COM(2014)0222	14/04/2014	EC	Summary
Follow-up document	SWD(2016)0350	31/10/2016	EC	
Follow-up document	SWD(2016)0351	31/10/2016	EC	

#### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

#### Final act

[Regulation 2009/1072](#)  
[OJ L 300 14.11.2009, p. 0072](#) Summary

## Access to the international road haulage market. Recast

**PURPOSE:** to consolidate and merge Regulation (EEC) No 881/92 and (EEC) No 3118/93 on access to the road transport market, in order to simplify current provisions.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**CONTENT:** this proposal is being presented alongside two related proposals all of which are seeking to modernise provisions governing road transport operators and access to the road transport market. The package of proposals includes:

1. Replacing Directive 96/26/EC on admission to the occupation of road transport operator, with a new Regulation. (For a summary of the proposal refer to: [COD/2007/0098](#)).
2. Merging Regulations (EEC) No 881/92 and (EEC) No 3118/93 on access to the road transport market. (The subject of this summary)
3. Merging Regulations (EEC) No 684/92 and (EC) No 12/98 on access to the market of coach and bus services.?(For a summary of the proposal refer to: [COD/2007/0097](#)

Experience shows that certain measures of the current legislative framework are unequally applied thanks in large part to unclear and incomplete legal provisions. Road hauliers have to cope with different national rules and a degree of legal uncertainty, which may entail additional costs when they operate in several Member States. Following an impact assessment a number of challenges to the current legislative framework have been identified and include:

- Scope: particularly concerning the transport of Community hauliers to and from third countries;

- Implementation: particularly concerning the concept of temporary cabotage. The Member States continue to implement diverging rules that are difficult to enforce and which impose additional administrative burdens on industry;

- Exchange of information: an ineffective exchange of information between the Member States results in undertakings facing few, if any, administrative sanctions;

- Lack of standardisation: the lack of uniformity vis-à-vis control documents such as the Community licence, certified copies and driver attestation creates problems during roadside checks and frequently leads to considerable time losses for operators.

The purpose of this proposal, therefore, is to enhance the clarity and enforceability of the current rules by consolidating and merging the two Regulations dealing with access to the road transport market. The modifications being proposed can be summarised as follows:

- a simpler and clearer definition of the term 'cabotage'. The new definition is expected to be easier to enforce and will allow for up to three transport operations consecutive to an international journey and within seven days. The holder will be obliged to keep documents in the vehicles such as consignment letters which show the date and place of arrivals/departures;

- a simplified and standardised Community licence, certified copies and driver attestations in a bid to reduce the administrative burden and delays at road side checks;

- enhanced legal provisions that oblige a Member State to act, when requested to do so by another Member State, in cases where a haulier commits an infringement in any EU Member State.

The proposal contributes to the simplification of the current legislative framework. Obsolete measures have been abolished and the content, presentation and formulation has been re-examined in order to avoid ambiguous interpretations.

## Access to the international road haulage market. Recast

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The Committee on Transport and Tourism adopted the report by Mathieu GROSCH (EPP-ED, BE) amending, under the first reading of the codecision procedure, the proposal for a Regulation of the European Parliament and of the Council on common rules for access to the international road haulage market (recast).

The main amendments made by the committee are as follows:

- MEPs wish to clarify that this Regulation shall apply to cabotage operations. In addition, they specify that this Regulation shall not apply to the following types of carriage and unladen journeys made in conjunction with such carriage, since they are exempt from the Community licensing scheme;

- the definition of cabotage operations, namely 'national carriage for hire or reward carried out on a temporary basis in a host Member State', must refer to the conditions set out in Chapter III, to prevent the use of other interpretations of 'carriage on a temporary basis'. The incoming or outgoing carriage of goods by road as one leg of a combined transport journey under the conditions laid down in Directive 92/106/EEC does not fall under the definition of cabotage;

- MEPs have deleted a provision which defined infringements which lead to the loss of good repute as 'a serious infringement or repeated minor infringements of Community road transport legislation';

- 'cross-trade' means international transport operations carried out by a haulier between two host Member States neither of which is the haulier's state of residence. Where cross-trade between two Member States is carried out by a haulier on a regular, continuous and/or systematic basis, one of the host Member States may call for the application of the working and employment conditions applicable to their own national hauliers;

- according to MEPs, cabotage should be authorised with effect from the first unloading, even of a part-load, during an international carriage. Furthermore, cabotage operations may also be carried out in a Member State through which the vehicle has to travel after unloading in the Member State of delivery during an international carriage, provided that the shortest homeward journey transits through that Member State and is carried out within seven days of the unloading in the country of delivery;

- a new Article specifies that the restrictions on the number and duration of cabotage operations shall gradually be lifted. Two years after this Regulation enters into force, the number of cabotage operations mentioned in the Regulation shall be increased to seven. On 1 January 2014, all restrictions on the number and duration of cabotage operations shall be lifted;

- in order to restrict unnecessary bureaucracy, it needs to be ensured that Member States do not request specific items of evidence. In this context, MEPs have introduced a new provision stipulating that Member States shall not require an additional specific document or duplicate documents proving that the terms and conditions laid down in the Regulation have been met. By 1 January 2010, the Commission shall draw up, in accordance with the regulatory and monitoring procedure, a single harmonised model for a waybill valid throughout the European Union for international haulage, national haulage and cabotage haulage. The Member States and the Commission shall ensure that the provisions laid down in other conventions concluded with third countries are brought into line with the provisions laid down in this Regulation;

- the provisions of this Regulation shall not prevent a Member State from authorising goods hauliers from one or more other Member States to carry out on its territory an unlimited number of cabotage operations, or a number in excess of that referred to in the Regulation, with no time limit or with a longer time limit than that referred to in the Regulation for the last unloading. Authorisations granted before the entry into force of this Regulation shall continue to apply. Member States shall inform the Commission of existing authorisations and of authorisations they grant after the entry into force of this Regulation;

- Recital 13 explains that the Posted Workers Directive applies to cabotage operations. MEPs believe that this should also be reflected in the articles of the Regulation;

- minor infringements should not be covered by the Regulation as they are interpreted and dealt with in different ways in Member States. To ensure that the sanctions have an appropriate effect, MEPs believe that the Regulation should make explicit provision for fines as a possible sanction. These sanctions shall be determined, once a final decision has been issued and after all the legal possibilities for review open to the haulier have been exhausted. Where a serious infringement is ascertained, the competent authorities of the Member State of establishment shall decide what sanction to impose on the haulier concerned. This sanction can range from a warning to the temporary or permanent withdrawal of the Community licence;

- the decision on the temporary withdrawal of any document (Community licence, driver attestation, certified copy) shall stipulate: (a) the period of temporary withdrawal; (b) the conditions for ending the temporary withdrawal; (c) the cases in which the Community licence is to be permanently withdrawn, because the conditions laid down pursuant to point (b) have not been satisfied during the period laid down pursuant to point (a);

- the data that are to be entered in the databases of national electronic registers should be obtained after final decisions have been taken. Only serious infringements of Community legislation should be recorded in national registers;

Lastly, the Regulation should apply from 1 January 2009.

## Access to the international road haulage market. Recast

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The Council held a public policy debate on three legislative proposals that seek to modernise, replace and merge legislation governing road transport operators and access to the road transport markets (see [COD/2007/0097](#) and [COD/2007/0098](#)).

Ministers were invited to agree in principle to the outline of the presidency compromise package on the key elements of two of the three proposals.

The Council broadly supported the presidency compromise as a good basis for further work on these proposals and invited Coreper to pursue examination of the outstanding issues with the objective of reaching a political agreement on all these proposals at the Transport, Telecommunications and Energy Council in June 2008. The presidency compromise focuses in particular on two main issues, cabotage and national electronic registers.

All delegations expressed their support in principle for the Commission proposal on access to the international road haulage market. Following the work carried out within the Council, some provisions of the Commission's proposal were adapted in order to reach consensus on most parts of the draft regulation. These modifications particularly concern scope and definitions, the format of the Community licence, certified copies and the driver attestation, mutual assistance and penalties, and a list of security features to avoid manipulation and forgery of the Community licence and driver attestation documents.

A majority of delegations supported the presidency compromise on cabotage. This compromise follows the Commission's proposal allowing for up to 3 transport operations consecutive to an international journey within 7 days. In addition, the Commission will be invited to assess, in a report, whether progress in the harmonisation of certain rules (i.e. enforcement and taxation) allows for a further opening of domestic transport markets, including in the field of cabotage.

In addition, several delegations asked to consider the possibility of including in the text additional cabotage operations on the return trip if the lorry takes the shortest route back.

## Access to the international road haulage market. Recast

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The European Parliament adopted by 494 votes to 133 with 46 abstentions, a legislative resolution amending the proposal for a Regulation of the European Parliament and of the Council on common rules for access to the international road haulage market (recast). The report had been tabled for consideration in plenary by Mathieu GROSCH (EPP-ED, BE) on behalf of the Committee on Transport and Tourism.

The main amendments - adopted in first reading of the codecision procedure - are as follows: -the Regulation shall apply to cabotage operations. It will not apply to specified types of carriage and unladen journeys made in conjunction with such carriage, since they are exempt from the Community licensing scheme;

- the definition of cabotage operations, namely "national carriage for hire or reward carried out on a temporary basis in a host Member State", must refer to the conditions set out in Chapter III, to prevent the use of other interpretations of 'carriage on a temporary basis'. The incoming or outgoing carriage of goods by road as one leg of a combined transport journey under the conditions laid down in Directive 92/106/EEC does not fall under the definition of cabotage;

-the Regulation deals with serious infringements and not with repeated minor infringements;

-'cross-trade' means international transport operations carried out by a haulier between two host Member States neither of which is the haulier's state of residence. Where cross-trade between two Member States is carried out by a haulier on a regular, continuous and/or systematic basis, one of the host Member States may call for the application of the working and employment conditions applicable to their own national hauliers;

-cabotage should be authorised with effect from the first unloading, even of a part-load, during an international carriage. Furthermore, cabotage operations may also be carried out in a Member State through which the vehicle has to travel after unloading in the Member State of delivery during an international carriage, provided that the shortest homeward journey transits through that Member State and is carried out within seven days of the unloading in the country of delivery;

- a new Article specifies that the restrictions on the number and duration of cabotage operations shall gradually be lifted. Two years after this Regulation enters into force, the number of cabotage operations mentioned above shall be increased to seven. On 1 January 2014, all restrictions on the number and duration of cabotage operations shall be lifted;

-in order to restrict unnecessary bureaucracy, it needs to be ensured that Member States do not request specific items of evidence. In this context, MEPs have introduced a new provision stipulating that Member States shall not require an additional specific document or duplicate documents proving that the terms and conditions laid down in the Regulation have been met. By 1 January 2010, the Commission shall draw up, in accordance with the regulatory procedure with scrutiny, a single harmonised model for a waybill valid throughout the EU for international haulage, national haulage and cabotage haulage. The Member States and the Commission shall ensure that the provisions laid down in other conventions concluded with third countries are brought into line with the provisions laid down in this Regulation;

-the provisions of this Regulation shall not prevent a Member State from authorising goods hauliers from one or more other Member States to

carry out on its territory an unlimited number of cabotage operations, or a number in excess of that referred to in the Regulation, with no time limit or with a longer time limit than that referred to in the Regulation for the last unloading. Authorisations granted before the entry into force of this Regulation shall continue to apply. Member States shall inform the Commission of existing authorisations and of authorisations they grant after the entry into force of the Regulation;

-the incoming or outgoing carriage of goods by road as one leg of a combined transport journey under the conditions laid down in Directive 92/106/EEC does not fall under the definition of cabotage.

-the posting of workers as set out under Directive 96/71/EC is reflected in the articles of the Regulation;

-a new Article states that after the lifting of the restrictions referred to in the text, in the event of serious disturbance of the national transport market in a given geographical area due to or aggravated by cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures and shall inform and notify it of the measures it intends to take as regards resident carriers. The terms 'serious disturbance of the national transport market in a given geographical area' and 'geographical area' are defined.

-the Commission shall examine the situation, on the basis in particular of the latest quarterly data and, after consulting the Advisory Committee set up by Article 5 of Regulation (EEC) No 3916/90, shall decide within one month of receipt of the relevant Member State's request whether or not safeguard measures are necessary and shall adopt them if they are necessary. Such measures may involve the temporary exclusion of the area concerned from the scope of the Regulation. The measures introduced in accordance with this Article shall remain in force for a period not exceeding six months, renewable once within the same limits of validity. If the Commission decides to take safeguard measures concerning one or more Member States, the competent authorities of the Member States involved shall be required to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof. These measures shall be applied at the latest as from the same date as the safeguard measures decided on by the Commission. Any Member State may submit a Commission decision to the Council within 30 days of its notification. The Council, acting by a qualified majority within 30 days of referral by a Member State or, if there are referrals by several Member States, of the first referral, may take a different decision. The time limits shall apply to the Council's decision. The competent authorities of the Member States concerned shall be required to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof. If the Council takes no decision, the Commission decision shall become final. Where the Commission considers that the measures need to be prolonged, it shall submit a proposal to the Council, which shall take a decision by qualified majority.

-minor infringements should not be covered by the Regulation as they are interpreted and dealt with in different ways in Member States. To ensure that the sanctions have an appropriate effect, MEPs believe that the Regulation should make explicit provision for fines as a possible sanction. These sanctions shall be determined, once a final decision has been issued and after all the legal possibilities for review open to the haulier have been exhausted. Where a serious infringement is ascertained, the competent authorities of the Member State of establishment shall decide what sanction to impose on the haulier concerned. This sanction can range from a warning to the temporary or permanent withdrawal of the Community licence;

-the decision on the temporary withdrawal of any document (Community licence, driver attestation, certified copy) shall stipulate: (a) the period of temporary withdrawal; (b) the conditions for ending the temporary withdrawal; (c) the cases in which the Community licence is to be permanently withdrawn, because the conditions laid down pursuant to point (b) have not been satisfied during the period laid down pursuant to point (a);

-the data that are to be entered in the databases of national electronic registers should be obtained after final decisions have been taken. Only serious infringements of Community legislation should be recorded in national registers;

Lastly, the Regulation should apply from 1 January 2009.

## Access to the international road haulage market. Recast

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The common position adopted by the Council, by qualified majority, integrated as such or in principle a certain number of the amendments adopted by the European Parliament, all of which were also acceptable as such or in principle for the Commission

The key policy issues are as follows:

Community licence and driver attestation: the Commission proposal foresees the issuing of a Community licence for a renewable period of 5 years. The common position therefore extends the validity of the renewable Community licence to "up to 10 years", introduces the (comitology) regulatory procedure with scrutiny to care for future necessary adaptations of the validity of the Community licence, and also amends accordingly the provisions concerning the verification of conditions for the issuing and renewal of the licence.

As for the recording of the serial number of the driver attestation in the national electronic register, the common position deviates from the Commission proposal and leaves this provision optional.

In order to avoid possible falsifications of these documents, the Council decided to amend Annexes I and II by adding a series of security features, of which at least two have to be used within the documents. The European Parliament decided to follow the Commission's approach and did not adopt amendments on this issue.

Cabotage: in order to avoid unladen journeys on Community roads, the common position introduces an additional provision allowing hauliers to carry out cabotage operations in transited Member States. Such operations will be limited to one per transited Member State within three days following the unladen entry into the territory of that Member State. The overall number of operations, however, will still be limited to three within seven days.

The Council also re-introduces certain safeguard measures which are currently in force and which allow Member States, following approval by the Commission, to introduce protective measures in case of serious disturbance of the national transport market in a geographical area due to or aggravated by cabotage. The common position also obliges the Commission to assess, in a future report on the state of the Community road transport market, whether the progress in the harmonisation of certain rules (i.e. enforcement and road user charges) allows further opening of the domestic transport markets, including cabotage.

The European Parliament accepted the Commission's proposal of allowing three consecutive

cabotage operations within seven days. Contrary to the approach taken by the Council and the Commission, the European Parliament voted in favour of a complete liberalisation of cabotage operations as of 1 January 2014.

Cooperation between Member States: following the Commission proposal, the common position obliges Member States to exchange information via the national contact points. Member States are also obliged to enter into their national register of road transport undertakings all serious infringements of Community transport legislation which have led to the imposition of a penalty. Moreover, the Council decided to enter into the national registers any temporary or permanent withdrawal of the Community licence or of the certified true copies. The latter entries will remain in the data base for two years.

The European Parliament decided to follow the Commission proposal and did not adopt amendments on this issue.

Sanctioning of infringements: the common position as agreed by the Council follows to a large extent the Commission's approach towards serious infringements. However, the Council agreed to leave the weighing of repeated minor infringements to the discretion of the Member States. The common position also introduces the obligation for the competent authority of the Member State of establishment of the haulier to communicate to the competent authority of the Member State in which an infringement was ascertained whether and which penalties have been imposed. The timeframe foreseen for this communication is fixed within two months after the final decision on the matter has been taken.

As regards the procedure to be followed by the Member State which ascertains a serious infringement committed by a non-resident haulier, the common position provides a delay of two months (instead of one month) to communicate the information (in minimum standard format) to the Member State of establishment. Moreover, the text does not contain any obligation for the Member State of establishment of the haulier to report on the follow-up. The European Parliament also decided against the inclusion of provisions concerning repeated minor infringement. Moreover, it voted in favour of a provision allowing the imposition of fines as a possible penalty.

The Council common position integrated fully or in principle amendments concerning a modified definition of the exception for the carriage of mail and the limitation of details contained in the evidence to be produced for the international carriage in connection with cabotage operations. The amendments not included in the common position concern:

- a recital on the relation to Directive 92/106/EEC on combined transport;
- an addition to the definition of cabotage;
- 1 January 2009 as a fixed date of application of this Regulation;
- the reference to the Directive on the posting of workers as rules applicable to cabotage;
- the possibility for Member States to regulate cross trade.

## Access to the international road haulage market. Recast

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The Commission considers that the common position reflects the main objectives of its proposal and can therefore support it. The common position adopted by the Council integrated as such or in principle a certain number of the amendments adopted by the European Parliament, all of which were also acceptable as such or in principle for the Commission. These amendments concern:

- the definition of the exception for the carriage of mail;
- the limitation of details to be contained in the evidence to be produced for the international carriage;
- the deletion of the reference to working time as mandatory rules applicable to cabotage;
- the introduction of a safeguard procedure in the event of serious disturbances due to cabotage;
- and the deletion of the reference to repeated minor infringements;
- a provision on cabotage in a transit country.

The common position did not include the following amendments, which were acceptable in principle or with redrafting for the Commission:

- a recital on the relation to the directive 92/106/EEC on combined transport;
- the clearer use of the concept of "temporary";
- the imposition of fines as one possibility of a penalty;
- the fixation of the date of application on 1 January 2009; the common position foresees to apply the regulation 24 months after its entry into force.

Other amendments, deemed as unacceptable by the Commission, have not been included in the common position. They are as follows:

- the further opening of the cabotage market;
- the authorisation of cabotage after partial unloading;
- the authorisation for closer cooperation on cabotage between certain Member States;
- the reference to the posting of workers directive as rules applicable to cabotage;
- the possibility for Member States to regulate cross trade;
- the demand for a single document for all kind of road transports.

## Access to the international road haulage market. Recast

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The Committee on Transport and Tourism adopted the report drawn up by Mathieu GROSCH (EPP-ED, BE), modifying, under the second reading of codecision procedure, the Council common position for adopting a regulation of the European Parliament and of the Council on common rules for access to the international road haulage market (recast).

The main amendments are as follows:

Market situation: a new recital states that the gradual integration of the single European market should lead to the elimination of restrictions of access to the internal market of Member States. Nevertheless, this should take into account the effectiveness of controls and the evolution of employment conditions in the profession, as well as the harmonisation of the rules in the fields, inter alia, of enforcement and road user

changes, as well as social and safety legislation. The Commission should closely monitor the market situation as well as the harmonisation mentioned above and propose, if appropriate, further opening of domestic road transport markets, including cabotage.

Roadside checks: road side checks should be carried out without discrimination, directly or indirectly, on the grounds of nationality of the road transport operator or the country of establishment of the road transport operator or of registration of the vehicle.

Cabotage: the frequency of cabotage operations and the period in which they can be performed should be more clearly defined (rather than limited.)

The Regulation is without prejudice to the provisions concerning the incoming or outgoing carriage of goods by road as one leg of a combined transport journey as laid down in Council Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States. National journeys by road within a host Member State which are not part of a combined transport operation as laid down in Council Directive 92/106/EEC fall within the definition of cabotage and should accordingly be subject to the requirements of this Regulation.

Sanctioning of infringement by Member State of establishment: the Member State of establishment of the haulier who has committed an infringement shall take the appropriate action which may include a warning, if provided for by national law.

Communication between Member States: the final decision must be notified within 6 weeks, rather than 2 months.

Application: certain articles on cabotage will only enter into force 6 months after the publication of the Regulation.

## Access to the international road haulage market. Recast

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The European Parliament adopted a legislative resolution modifying, under the second reading of the codecision procedure, the Council's common position on the proposal for a regulation of the European Parliament and of the Council on common rules for access to the international road haulage market (recast).

The amendments are the result of a compromise between Parliament and Council.

The main amendments are as follows:

Market situation: a new recital states that the gradual integration of the single European market should lead to the elimination of restrictions of access to the internal market of Member States. Nevertheless, this should take into account the effectiveness of controls and the evolution of employment conditions in the profession, as well as the harmonisation of the rules in the fields, inter alia, of enforcement and road user changes, as well as social and safety legislation. The Commission should closely monitor the market situation as well as the harmonisation mentioned above and propose, if appropriate, further opening of domestic road transport markets, including cabotage.

Roadside checks: road side checks should be carried out without discrimination, directly or indirectly, on the grounds of nationality of the road transport operator or the country of establishment of the road transport operator or of registration of the vehicle.

Cabotage: the frequency of cabotage operations and the period in which they can be performed should be more clearly defined (rather than limited.)

The Regulation is without prejudice to the provisions concerning the incoming or outgoing carriage of goods by road as one leg of a combined transport journey as laid down in Council Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States. National journeys by road within a host Member State which are not part of a combined transport operation as laid down in Council Directive 92/106/EEC fall within the definition of cabotage and should accordingly be subject to the requirements of this Regulation.

The text states that national road haulage services carried out in the host Member State by a non-resident haulier shall only be deemed to conform to this Regulation if the haulier can produce clear evidence of the incoming international carriage and of each consecutive cabotage operation carried out. The information which comprises evidence is listed in the text. No additional document shall be required in order to prove that the conditions laid down in the article have been met.

Sanctioning of infringement by Member State of establishment: the Member State of establishment of the haulier who has committed an infringement shall take the appropriate action which may include a warning, if provided for by national law.

Communication between Member States: the final decision must be notified within 6 weeks, rather than 2 months.

Application: certain articles on cabotage will only enter into force 6 months after the publication of the Regulation.

## Access to the international road haulage market. Recast

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After several months of negotiations under the Czech Presidency, Parliament and the Council agreed on a compromise at second reading, in particular concerning the definition of cabotage.

The Commission can accept the compromise amendment adopted by the European Parliament after the second reading to confirm this agreement.

## Access to the international road haulage market. Recast

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PURPOSE: to set out the rules on the international carriage of goods by road.

LEGISLATIVE ACT: Regulation (EC) No 1072/2009 of the European Parliament and of the Council on common rules for access to the international road haulage market.

CONTENT: the Council adopted three regulations that seek to modernise, replace and merge provisions governing road transport operators and access to the road transport markets, following a second reading agreement with the European Parliament under the codecision procedure. These regulations concern:

- access to the international road haulage market;
- [on access to the international market of coach and bus services](#);
- [admission to the occupation of road transport operator](#).

This Regulation on common rules for access to the international road haulage market seeks to simplify and harmonise further the current rules by consolidating and merging Regulations (EC) No 881/92, (EC) No 3118/93 and Directive 2006/94/EC on access to the road transport market.

The main objective is to eliminate legal uncertainty for Community hauliers and adapt legislation to market needs.

The main points of the Regulation are as follows:

**Cabotage:** the Regulation provides that any haulier for hire or reward who is a holder of a Community licence and whose driver, if he is a national of a third country, holds a driver attestation, shall be entitled, under the conditions laid down in the text, to carry out cabotage operations. Once the goods carried in the course of an incoming international carriage have been delivered, hauliers will be permitted to carry out up to three cabotage operations following the international carriage from another Member State or from a third country to the host Member State. The last unloading in the course of a cabotage operation before leaving the host Member State shall take place within 7 days from the last unloading in the host Member State in the course of the incoming international carriage. Hauliers may carry out some or all of these cabotage operations in any Member State under the condition that they are limited to one cabotage operation per Member State within 3 days of the unladen entry into the territory of that Member State.

**Safeguard procedure:** in the event of serious disturbance of the national transport market in a given geographical area due to, or aggravated by, cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures. It must provide the Commission with the necessary information and notify it of the measures it intends to take as regards resident hauliers. ?Serious disturbance of the national transport market in a given geographical area? is defined as the existence on the market of problems specific to it, such that there is a serious and potentially enduring excess of supply over demand, implying a threat to the financial stability and survival of a significant number of hauliers.

The Commission will examine the situation on the basis in particular of the relevant data and decide within 1 month of receipt of the Member State's request whether or not safeguard measures are necessary and shall adopt them if they are necessary. Such measures may involve the temporary exclusion of the area concerned from the scope of the Regulation.

Safeguard measures will remain in force for a period not exceeding 6 months, renewable once within the same limits of validity.

If the Commission decides to adopt safeguard measures concerning one or more Member States, the competent authorities of the Member States involved shall be required to take measures of equivalent scope in respect of resident hauliers. The Council may take a different decision from the Commission under conditions set out in the text.

**Sanctioning of infringements by the Member State of establishment:** rules on the withdrawal of the Community licence are clarified and strengthened. The Regulation provides that in the event of a serious infringement of Community road transport legislation committed in any Member State, the Member State of establishment of the haulier who has committed such infringement shall take the appropriate action which may include a warning, if provided for by national law, to pursue the matter which may lead, inter alia, to the imposition of the following administrative penalties: (a) temporary or permanent withdrawal of some or all of the certified true copies of the Community licence; (b) temporary or permanent withdrawal of the Community licence.

These penalties may be determined after the final decision on the matter has been taken and shall have regard to the seriousness of the infringement committed by the holder of the Community licence and to the total number of certified true copies of that licence that he holds in respect of international traffic.

In the event of a serious infringement regarding any misuse whatsoever of driver attestations, the Member State of establishment of the haulier who committed such infringement shall impose appropriate penalties, such as: (a) suspending the issue of driver attestations; (b) withdrawing driver attestations; (c) making the issue of driver attestations subject to additional conditions in order to prevent misuse; (d) withdrawing, temporarily or permanently, some or all of the certified true copies of the Community licence; (e) withdrawing, temporarily or permanently, the Community licence.

Member States should enter in their national electronic register of road transport undertakings all serious infringements committed by hauliers which have led to the imposition of a penalty.

**Report:** the Commission shall draw up a report on the state of the Community road transport market by the end of 2013. The report shall contain an analysis of the market situation, including an evaluation of the effectiveness of controls and the evolution of employment conditions in the profession, as well as an assessment as to whether harmonisation of the rules in the fields, inter alia, of enforcement and road user charges, as well as social and safety legislation, has progressed to such an extent that the further opening of domestic road transport markets, including cabotage, could be envisaged.

**ENTRY INTO FORCE:** 04/12/2009. It shall apply from 04/12/2011, with the exception of Articles 8 and 9 (rules applicable to sabotage operations), which shall apply from 14 May 2010.

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In accordance with Regulation (EC) No 1072/2009 on access to the international road haulage market, the Commission presents a report on the state of the Union road transport market.

The report contains:

- an analysis of the market situation, including an evaluation of the effectiveness of controls and the evolution of employment conditions in the profession ;
- an assessment on whether harmonisation of the rules of enforcement and road user charges, as well as social and safety legislation, has progressed to such an extent that the further opening of domestic road transport markets, including cabotage, could be envisaged.

Market situation: the main developments affecting the road haulage market since the adoption of Regulation (EC) No 1072/2009 consist of overarching trends such as the economic crisis and the successive enlargements of the EU.

The report makes the following points:

- although the sector appeared to be slowly recovering from the economic crisis until 2011, transport volumes have since dropped again, following developments in the rest of the economy ;
- other major trends that had been present before the economic crisis continue to play a significant part in defining transport movements, such as the growing role of freight forwarders and third party logistics providers in consolidating loads and in contractual relations with hauliers ;
- the adoption of the 2009 road package has contributed to providing hauliers and enforcers with common standards and criteria for access to the occupation and to the international road haulage market. However, certain provisions of Regulation (EC) No 1072/2009 are difficult to apply, in particular those relating to stable establishment of road haulage undertakings and to cabotage;
- the shortage of drivers is mitigated by the crisis but remains a source of concern, particularly for specialised drivers. In the future, this will create new demands for drivers and qualifications, including within an ageing workforce.
- working conditions remain difficult in the road haulage sector, while contractual relations remain marked by high levels of self-employment ;
- with a decreasing pool of available drivers, companies must reduce high levels of empty running in order to make better use of their staff.

Under these conditions, the Commission considers that improved efficiency of the road haulage sector will contribute to the competitiveness of the EU economy as a whole.

Convergence of market indicators

Gradual cost convergence: Member States have different cost structures in the road haulage sector. Whilst it is unlikely that cost differences will disappear entirely, the gap has been constantly narrowing: (i) hauliers involved in international transport are exposed to costs such as road charging and fuel costs, which are applied to users regardless of the Member

State of registration; (ii) the participation of drivers in international transport operations, in which remunerations are traditionally higher, has led to an increase in wage levels particularly in those Member States that joined the EU in 2004 and 2007.

The gradual convergence of cost levels compels hauliers to compete on efficiency and quality of services, benefitting transport users throughout the EU economy. However, it is not a competence of the EU nor is it an aim of the Single Market to equalise costs.

Legislative developments: these are leading to further harmonisation of the framework conditions in the road haulage sector. This includes the increasing use of road charging systems, additional technical harmonisation and enhanced safety of road transport vehicles, and increased cooperation between EU Member States in tackling traffic offenses.

These developments limit the risk for road safety that an increase in competitive pressure could create, notably in the case of further market opening.

The Commission considers that there is some scope for further harmonisation in enforcement of the provisions on access to the road haulage market, which continue to diverge between Member States. In particular, the provisions on cabotage in Regulation (EC) No 1072/2009 and on stable and effective establishment in Regulation (EC) No 1071/2009 do not appear to be applied in a uniform way. Addressing such shortcomings will help to limit unlawful out-flagging, which negatively affects competition and working conditions.

Next steps: the Commission suggests:

- considering a further reform to clarify the provisions on access to the EU road haulage market. Clearer rules would provide the basis for an enhanced culture of compliance and limit the possibilities for fraud (both in the fiscal or social sphere);
- review restrictions on the operation of cabotage, as domestic markets account for around two thirds of all road transport volumes moved. Gradually removing these restrictions could contribute to reducing the administrative burden that the current complex unclear rules create. In addition, this would allow a more efficient matching of transport offer and demand as this could lead to a reduction of empty runs, and would play a part in increasing the sector's economic and fuel efficiency;
- design measures aiming at restoring the attractiveness of the profession and improving the working environment of drivers. This includes measures on enforcement, control and mitigation of fiscal and social fraud, as well as improved training levels and skills.

Lastly, whenever the current and envisaged instruments and measures mentioned in the report involve the processing of personal data, this must be done in compliance with Directive 95/46/EC on the protection of personal data and the national provisions implementing it.