

# EUROPEAN PARLIAMENT

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*Committee on Transport and Tourism*

**2007/0099(COD)**

5.11.2007

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## **DRAFT REPORT**

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)  
(COM(2007)0265 – C6-0146/2007 – 2007/0099(COD))

Committee on Transport and Tourism

Rapporteur: Mathieu Grosch

(Recasting – Rule 80a of the Rules of Procedure)

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	15



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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) (COM(2007)0265 – C6-0146/2007 – 2007/0099(COD))

(Codecision procedure: first reading – recasting)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0265),
  - having regard to Articles 251(2) and 71 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0146/2007),
  - having regard to Rules 80a and 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Legal Affairs (A6-0000/2007),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1  
Recital 12 a (new)

***(12a) Restrictions on the number and duration of cabotage operations are a necessary but intermediate stage aimed at encouraging the Member States to maximise the harmonisation of fiscal and working conditions.***

*Justification*

*This regulation is an intermediate stage. The Member States should be encouraged to maximise the harmonisation of their social standards. If this is done, it will be possible to open up the market.*

See also amendment creating a new paragraph 6b for Article 8.

Amendment 2  
Recital 12 b (new)

***(12b) There are sometimes intensive, long-standing economic links between neighbouring Member States. These Member States should therefore be allowed to grant wider access to cabotage to hauliers from the neighbouring countries in question.***

*Justification*

*Member States which have strong economic links should be able to go further in opening up the market between them. See also amendment creating a new paragraph 6b for Article 8.*

Amendment 3  
Recital 13 a (new)

***(13a) It needs to be possible to ensure that cross-trade – i.e. international transport operations between two countries neither of which is the haulier's Member State of residence – does not lead to situations whereby, owing to its regularity, continuity and systematic nature, it distorts the market by applying to it less favourable employment and working conditions than those which obtain in the two Member States between which the cross-trade is taking place.***

*Justification*

*It needs to be possible to prevent problems caused by hauliers who carry out cross-trade on a regular and systematic basis taking advantage of the less favourable social and pay conditions in their country of establishment. See also amendment creating a new Article 7a.*

Amendment 4  
Recital 14

(14) Administrative formalities should be

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reduced as far as possible without abandoning the controls and sanctions that guarantee the correct application and effective enforcement of this Regulation. To this end the existing rules on the withdrawal of the Community licence should be clarified and strengthened. The current rules should be adapted to allow the effective sanctioning of serious or repeated minor infringements committed in *a Member State* other than the Member State of establishment. Sanctions should be non-discriminatory and in proportion to the seriousness of the infringements. It should be possible to lodge an appeal in respect of any sanctions imposed.

reduced as far as possible without abandoning the controls and sanctions that guarantee the correct application and effective enforcement of this Regulation. To this end the existing rules on the withdrawal of the Community licence should be clarified and strengthened. The current rules should be adapted to allow the effective sanctioning of serious or repeated minor infringements committed in *Member States* other than the Member State of establishment. Sanctions should be non-discriminatory and in proportion to the seriousness of the infringements. It should be possible to lodge an appeal in respect of any sanctions imposed.

#### *Justification*

*Minor infringements may become 'repeated' by being committed in more than one Member State.*

#### Amendment 5 Recital 15

(15) Member States should enter in their national register of road transport undertakings all serious infringements *and repeated minor infringements* committed by carriers and which have led to the imposition of a sanction.

(15) Member States should enter in their national register of road transport undertakings all serious infringements committed by carriers and which have led to the imposition of a sanction. *Where the number, or frequency of repetition, of minor infringements are sufficient to constitute a serious infringement, this should also be entered in the register.*

#### *Justification*

*It is not appropriate to enter all minor infringements in the register: it is enough to enter serious infringements, including those resulting from a large number of minor infringements or from the repetition of such infringements.*

#### Amendment 6 Article 1, paragraph 4

4. This Regulation shall apply to *national*

4. This Regulation shall apply to *cabotage*

***carriage of goods by road undertaken on a temporary basis by a non-resident haulier as provided for in Chapter III. operations.***

*Justification*

*It needs to be made clear that this paragraph refers to cabotage operations as defined in Article 2(6), to prevent the use of other interpretations of ‘carriage on a temporary basis’.*

Amendment 7  
Article 1, paragraph 5, point a)

(a) carriage of mail as a **public** service, (a) carriage of mail as a **universal** service,

*Justification*

*In view of the changes made to the Postal Services Directive, it would be better to use the term ‘universal service’.*

Amendment 8  
Article 2, paragraph 6

6) 'cabotage operations' means national carriage for hire or reward carried out on a temporary basis in a host Member State; 6) 'cabotage operations' means national carriage for hire or reward carried out on a temporary basis in a host Member State, ***i.e. in accordance with Chapter III;***

*Justification*

*The definition of cabotage operations must refer to the conditions set out in Chapter III, to prevent the use of other interpretations of ‘carriage on a temporary basis’.*

Amendment 9  
Article 2, paragraph 7 a (new)

***7a) ‘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.***

*Justification*

*It needs to be possible to prevent problems caused by hauliers who carry out cross-trade on*

*a regular and systematic basis taking advantage of the less favourable social and pay conditions of their country of establishment. See also amendment creating a new Article 7a.*

Amendment 10  
Article 7 a (new)

**Article 7a**

***Cross-trade and posting of workers***

***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 referred to in Article 9.***

*Justification*

*It needs to be possible to prevent problems caused by hauliers who carry out cross-trade on a regular and systematic basis taking advantage of the less favourable social and pay conditions in their country of establishment. See also amendment creating a new Article 7a.*

Amendment 11  
Article 8, paragraph 2

2. Hauliers referred to in paragraph 1 shall be permitted to carry out, with the same vehicle, up to three cabotage operations consecutive to an international carriage from another Member State or from a third country to the host Member State once the goods carried in the course of the incoming international carriage have been delivered. The last unloading of a load in the course of ***a cabotage operation*** before leaving the host Member State must take place within seven days from the last unloading in the host Member State in the course of the incoming international carriage.

2. Hauliers referred to in paragraph 1 shall be permitted to carry out, with the same vehicle, up to three cabotage operations consecutive to an international carriage from another Member State or from a third country to the host Member State once the goods carried in the course of the incoming international carriage have been delivered. ***Authorisation to carry out these cabotage operations shall not be conditional on the vehicle's being completely unloaded.*** The last unloading of a load in the course of ***cabotage operations*** before leaving the host Member State must take place within seven days from the last unloading in the host Member State in the course of the incoming international carriage.

*Justification*

*Cabotage should be authorised with effect from the first unloading, even of a part-load, during an international carriage. This prevents a situation in which vehicles are unable to travel at full capacity and thus avoids journeys with half-empty vehicles.*

Amendment 12  
Article 8, paragraph 2 a (new)

***2a. 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 passes through that Member State and is carried out within seven days from the unloading in the country of delivery.***

*Justification*

*Cabotage needs to be permitted in transit countries on the homeward route, in order to avoid vehicles making unladen journeys.*

Amendment 13  
Article 8, paragraph 3

3. National road haulage services carried out in the host Member State by a non-resident haulier shall only be deemed in conformity with this Regulation if the haulier can produce clear evidence of the international carriage in the course of which he has arrived in the host Member State and of each consecutive cabotage operation carried out there.

Such evidence shall comprise ***at least*** the following details for each operation:

3. National road haulage services carried out in the host Member State by a non-resident haulier shall only be deemed in conformity with this Regulation if the haulier can produce clear evidence of the international carriage in the course of which he has arrived in the host Member State and of each consecutive cabotage operation carried out there.

Such evidence shall comprise the following details for each operation:

*Justification*

*In order to restrict unnecessary bureaucracy, it needs to be ensured that Member States do not request specific items of evidence.*

Amendment 14  
Article 8, paragraph 6 a (new)

***6a. The provisions of this regulation shall not prevent a Member State from authorising goods hauliers from one or more neighbouring Member States to carry out on its territory an unlimited number of cabotage operations, or a number in excess of that set in paragraph 2, with no time limit or with a longer time limit than that set in paragraph 2 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.***

*Justification*

*It needs to be possible for Member States with strong economic links to go further in opening up the market between them.*

Amendment 15  
Article 8, paragraph 6 b (new)

***6b. In the absence of a new proposal from the Commission based on an in-depth study of differences in fiscal and working conditions between the Member States, due to be submitted in 2012, the restrictions referred to in paragraph 2 on the number of cabotage operations and the permitted duration of cabotage will be lifted with effect from 1 January 2014.***

*Justification*

*This regulation is an intermediate stage. The Member States should be encouraged to maximise the harmonisation of their social standards. If this is done, it will be possible to open up the market.*

Amendment 16  
Article 9, paragraph 1, point e a (new)

***ea) implementation of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>1</sup>.***

***<sup>1</sup>OJ L 18, 21.1.1997, p.1.***

*Justification*

*Recital 13 explains that the Posted Workers Directive applies to cabotage operations. This should also be reflected in the articles of the regulation.*

Amendment 17  
Article 11, paragraph 3

3. ***In*** the case referred to in Article 12(1), the competent authorities of the Member State of establishment shall decide ***whether a*** sanction shall be imposed on the haulier concerned. They shall communicate to the competent authorities of the Member State in which the infringements were ascertained as soon as possible, and at the latest within three months of receiving knowledge of the infringement, which of the sanctions provided for in paragraphs 1 and 2 of this Article have been imposed.

If it has not been possible to impose such sanctions, they shall state the reasons.

3. ***Where a serious infringement is ascertained in*** the case referred to in Article 12(1), the competent authorities of the Member State of establishment shall decide ***what*** sanction shall be imposed on the haulier concerned. They shall communicate to the competent authorities of the Member State in which the infringements were ascertained as soon as possible, and at the latest within three months of receiving knowledge of the infringement, which of the sanctions provided for in paragraphs 1 and 2 of this Article have been imposed.

If it has not been possible to impose such sanctions, they shall state the reasons.

*Justification*

*In the case of serious infringements, sanctions must be imposed.*

Amendment 18  
Article 11, paragraph 3 a (new)

***3a. Where a minor infringement has been ascertained in the case referred to in***

**Article 12(1), the competent authorities of the Member State of establishment shall decide whether a sanction shall be imposed on the haulier concerned.**

*Justification*

*In the case of minor infringements, the Member State of establishment should decide whether to impose a sanction, and there is no need to provide feedback to the Member State in which the infringement was ascertained.*

Amendment 19  
Article 12, paragraph 1

1. Where the competent authorities of a Member State are aware of a serious infringement **or of repeated minor infringement** of this Regulation or of Community road transport legislation attributable to a non-resident haulier, the Member State within the territory of which the infringement is ascertained shall transmit to the competent authorities of the Member State of establishment as soon as possible, but at the latest within one month of receiving knowledge of the infringement, the following information:

1. Where the competent authorities of a Member State are aware of a serious **or minor** infringement of this Regulation or of Community road transport legislation attributable to a non-resident haulier, the Member State within the territory of which the infringement is ascertained shall transmit to the competent authorities of the Member State of establishment as soon as possible, but at the latest within one month of receiving knowledge of the infringement, the following information:

*Justification*

*The Member States of residence must be informed not only of serious infringements but also of minor infringements committed in other Member States, in order to check whether, owing to their number or frequency of repetition, they constitute a serious infringement. Since they are minor infringements, there is no need to provide feedback to the Member State in which the infringement was ascertained.*

Amendment 20  
Article 13

Member States shall ensure that serious infringements or repeated minor infringements of Community road transport legislation committed by hauliers established in their territory which have led to the imposition of a sanction by any

Member States shall ensure that serious infringements or repeated minor infringements of Community road transport legislation committed by hauliers established in their territory which have led to the imposition of a sanction by any

Member State as well as the sanctions imposed are recorded in the national register of road transport undertakings as established under Article 15 of Regulation (EC) No [...] [*establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator*]. Those entries in the register which concern a temporary or permanent withdrawal of a Community licence shall remain in the database for at least two years.

Member State as well as the sanctions imposed are recorded in the national register of road transport undertakings as established under Article 15 of Regulation (EC) No [...] [*establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator*]. ***If the number or frequency of minor infringements are sufficient in number or in frequency to constitute a serious infringement, this shall also be entered in the register.*** Those entries in the register which concern a temporary or permanent withdrawal of a Community licence shall remain in the database for at least two years.

#### *Justification*

*It is not appropriate to enter all minor infringements in the register: it is enough to enter serious infringements, including those resulting from a large number of minor infringements or from the repetition of such infringements.*

#### Amendment 21 Article 18, sub-paragraph 2

It shall apply from *[date of application]*.

It shall apply from ***1 January 2009***.

## EXPLANATORY STATEMENT

### General background

Access to the international road haulage and cabotage market is currently governed by Regulations (EC) 881/92 and (EC) 318/93 and Directive 2006/94/EC, the origins of which date back to 1962. In the Internal Market, international transport between Member States has been fully liberalised, but a number of restrictions still remain for cabotage.

The Commission proposes to merge these regulations and directive, adding certain features to improve existing practice. It proposes in particular:

- to specify the conditions under which cabotage is permitted. Cabotage, defined as national carriage for hire or reward carried out on a temporary basis in a host Member State, should be limited to a maximum of three consecutive operations within a maximum period of seven days.
- to use simplified and standardised formats for the Community licence, copies of this licence and the driver's certificate, to facilitate checks.
- to step up penalties for infringements committed in Member States other than that of establishment.

### Your rapporteur's position

Your rapporteur welcomes the Commission proposal, which seeks to simplify and clarify the rules applying to road haulage. The definition of cabotage will result in a more harmonised application of this principle. However, your rapporteur would suggest some changes to the Commission proposal:

1. On **cabotage**, the proposed regime should be temporary. In a market with more harmonised fiscal and social conditions, restrictions on cabotage would no longer be necessary. That being so, it should remain possible for neighbouring Member States to conclude agreements going further in opening their markets to cabotage. Cabotage should also be permitted in a Member State of transit on the homeward route from unloading in a third country, and after a partial unloading of the total load.

There is a need to avoid differing interpretations from one Member State to another of the definition of cabotage and of the details of the evidence which has to be supplied by a haulier carrying out cabotage.

2. It is important to specify the conditions for **cross-trading**, i.e. trading between two Member States neither of which is the Member State of establishment of the haulier. If such cross-trading takes place on a regular, continual and/or systematic basis, it risks distorting the national market of one of the host Member States. These host Member States should therefore be entitled to require the application of the working and employment conditions applicable to their own national hauliers.

3. Regarding **infringements committed in other Member States**, the distinction needs to be drawn between serious and minor infringements. For minor infringements it would be enough for the Member State in which the infringement was ascertained to inform the Member State of establishment, which would then decide *whether* a sanction was to be imposed. For serious infringements, the Member State of establishment would decide *what* sanction to impose and notify its decision to the Member State in which the infringement was ascertained. It also needs to be specified that, in accordance with the regulation on access to the profession, a series of minor infringements may constitute a serious infringement. For that reason, Member States in which minor infringements are ascertained should also notify such infringements to the haulier's Member State of establishment. Serious infringements should be entered in the national register. Minor infringements, on the other hand, should only be entered in the national register once they are sufficient in number and frequency of repetition to constitute a serious infringement.