

EUROPEAN PARLIAMENT

2004



2009

Session document

A6-0038/2008

12.2.2008

*****I** **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

(Recast – 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

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	21
ANNEX 1: LETTER OF THE COMMITTEE ON LEGAL AFFAIRS	23
ANNEX 2: OPINION IN LETTER FORM OF THE LEGAL SERVICES' CONSULTATIVE WORKING PARTY	25
PROCEDURE.....	28

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)

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 the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts¹,
 - having regard to the letter of 20 November 2007 from the Committee on Legal Affairs pursuant to Rule 80a(3) of its Rules of Procedure,
 - having regard to Rules 80a and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0038/2008),
1. Approves the Commission proposal as amended hereunder and as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission;
 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 the Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 4 a (new)

(4a) The incoming or outgoing carriage of goods by road as one leg of a combined transport journey under the conditions laid down in Council Directive 92/106/EEC of 7

¹ OJ C 77, 28.3.2002, p. 1.

December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States¹, and therefore combined rail/road transport and/or water/road transport in both directions, does not fall under the definition of cabotage.

¹ ***OJ L 368, 17.12.1992, p. 38. Directive as last amended by Directive 2006/103/EC (OJ L 363, 20.12.2006, p. 344).***

Justification

Current practices in certain Member States do not adhere to this trend, but that cannot and must not be the intention.

Amendment 2
Recital 9

(9) A driver attestation should also be established, in order to allow Member States to check effectively whether drivers from third countries are lawfully employed or at the disposal of the haulier responsible for a given transport operation.

(9) A driver attestation should also be established, in order to allow Member States to check effectively whether drivers from third countries are lawfully employed or at the disposal of the haulier responsible for a given transport operation. ***This driver attestation should be comprehensible to any person who carries out such checks.***

Justification

For clarification.

Amendment 3
Recital 11

(11) In the past, such national transport services were authorised on a temporary basis. In practice, it has been difficult to ascertain which services are authorised. Clear and easily enforceable rules are thus needed.

(11) In the past, such national transport services were authorised on a temporary basis. In practice, it has been difficult to ascertain which services are authorised. Clear and easily enforceable rules are thus needed. ***In the longer term, however, the restrictions on cabotage are no longer justifiable. They must be completely abolished, as these restrictions do not accord with the principles of an internal market without borders where the***

freemovement of goods and services is guaranteed. The Member States should take all the necessary measures to ensure that the rules are enforced uniformly throughout the EU.

Justification

Free movement of services and a common transport policy were already provided for in the Treaties of 1957. In 1985 the EP brought proceedings against the Council before the Court of Justice because of its failure to act and formulate a common transport policy. As a result of this judgment, the first initiatives to liberalise the road haulage market were taken. We must not now turn the clock back but on the contrary should aim for complete liberalisation of the cabotage market in 2012. From the environmental point of view we should ensure that road haulage is as efficient as possible and limit the number of unladen journeys to the absolute minimum.

Amendment 4
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. The restrictions imposed under this Regulation are therefore temporary and should be lifted with effect from 1 January 2014.

Justification

In an internal market restrictions on cabotage operations should only be temporary. Therefore, a specific date has to be mentioned to encourage the harmonisation of fiscal and working conditions.

Amendment 5
Recital 12 b (new)

(12b) Some neighbouring Member States have intensive, long-standing economic links. Such Member States should therefore be allowed to grant wider access to cabotage to hauliers from the neighbouring Member States 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 6
Recital 13 a (new)

(13a) It should be possible to ensure that cross-trade – i.e. international transport operations between two Member States 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 apply 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 7
Recital 14

(14) Administrative formalities should be 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***

(14) Administrative formalities should be 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 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.

any sanctions imposed.

Justification

Imposing sanctions for repeated minor infringements committed in a Member State other than the Member State of establishment would entail minor infringements being notified to the Member State of establishment by the Member State in which the offence was committed. This would lead to a disproportionate and excessive burden on administrative capacity.

Amendment 8

Recital 15

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

Justification

So long as infringements are interpreted and dealt with in such different ways in Member States and there is for the time being no specific prospect of any speedy improvement in this respect, this regulation should not include provisions relating to repeated minor infringements.

Amendment 9

Article 1, paragraph 4

4. This Regulation shall apply to **national carriage of goods by road undertaken on a temporary basis by a non-resident haulier as provided for in Chapter III.**

4. This Regulation shall apply to **cabotage 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 10

Article 1, paragraph 5, introductory wording

This Regulation shall not apply to the following types of carriage and unladen journeys made in conjunction with such

This Regulation shall not apply to the following types of carriage and unladen journeys made in conjunction with such

carriage:

carriage, *since they are exempt from the Community licensing scheme*:

Justification

It must be made clear that the Regulation does not apply to the types of carriage listed in Article 1(5) on account of the fact that they are liberalised at Community level

Amendment 11

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 12

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 the provisions of 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 13

Article 2, paragraph 7

(7) 'serious infringement or repeated minor infringements of Community road transport legislation' means infringements which lead to the loss of good repute in accordance with Article 6(1) and (2) of Regulation (EC) No [...] [establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator].

deleted

Justification

The requirement for good repute is unacceptable on the grounds that it constitutes an unjustified presumption that the members of an occupational category may be guilty of malpractice in the moral sense. From a strict legal point of view the term is inadequate as the basis for a penalty. Our intention is to amend the proposal for a regulation establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator (report by Mrs Ticau) to the same extent.

Amendment 14

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 15

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 16
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 17
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 transits through that Member State and is carried out within seven days of 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 18
Article 8, paragraph 2 b (new)

2b. 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 paragraph 2 shall be increased to seven. On 1 January 2014, all restrictions on the number and duration of cabotage operations shall be lifted.

Justification

In an internal market restrictions on cabotage operations should only be temporary. Therefore, a specific date has to be mentioned to encourage the harmonisation of fiscal and working conditions.

Amendment 19
Article 8, paragraph 3, subparagraph 2, introductory wording

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

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 20
Article 8, paragraph 3 a (new)

3a. The Member States shall not require an additional specific document or duplicate documents proving that the terms and conditions laid down in paragraph 3 have been met. By 1 January 2010, the Commission shall draw up (in accordance with the Article 14(2) 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.

Justification

A situation in which each Member State requires a specific control document must be avoided. In the medium term a single harmonised waybill for all types of haulage is the only way of bringing about legal certainty, administrative simplification, an increase in the importance of haulage contracts and hence transparent, binding commercial relations.

Amendment 21

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 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 paragraph 2, with no time limit or with a longer time limit than that referred to 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

A modified version of Amendment 14 by the rapporteur. It is not only neighbouring countries that should be able to agree freer rules with one another but all Member States which so wish. In other words, not only neighbouring countries should be permitted to agree freer rules for cabotage.

Amendment 22

Article 8, paragraph 6 b (new)

6b. 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.

Justification

Current practices in certain Member States do not adhere to this trend, but that cannot and must not be the intention.

Amendment 23

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

(ea) posting of workers as set out under Directive 96/71/EC¹

¹*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 24

Article 11, paragraph 1, subparagraph 1, introductory wording

In the event of a serious infringement ***or repeated minor infringements*** of Community road transport legislation committed or ascertained in any Member State, the competent authorities of the Member State of establishment of the haulier who has committed such infringements shall issue a warning and may, inter alia, impose the following administrative sanctions:

In the event of a serious infringement of Community road transport legislation committed or ascertained in any Member State, the competent authorities of the Member State of establishment of the haulier who has committed such infringements shall issue a warning and may, inter alia, impose the following administrative sanctions:

Justification

So long as infringements are interpreted and dealt with in such different ways in Member States and there is for the time being no specific prospect of any speedy improvement in this respect, this regulation should not include provisions relating to repeated minor infringements.

Amendment 25

Article 11, paragraph 1, subparagraph 1, point (b a) (new)

(ba) imposition of fines.

Justification

To ensure that the sanctions have an appropriate effect, the regulation should make explicit provision for fines as a possible sanction.

Amendment 26

Article 11, paragraph 1, last subparagraph

These sanctions shall be determined having regard to the seriousness of the infringement **and the number of minor infringements** committed by the holder of the Community licence and having regard to the total number of certified true copies of that licence that he holds in respect of international traffic.

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**, having regard to the seriousness of the infringement committed by the holder of the Community licence and having regard to the total number of certified true copies of that licence that he holds in respect of international traffic.

Justification

So long as infringements are interpreted and dealt with in such different ways in Member States and there is for the time being no specific prospect of any speedy improvement in this respect, this regulation should not include provisions relating to repeated minor infringements.

Amendment 27

Article 11, paragraph 2, subparagraph 1, introductory wording

In the event of a serious infringement **or repeated minor infringements** regarding any misuse whatsoever of driver attestations, the competent authorities of the Member State of establishment of the haulier who committed such infringements shall impose appropriate sanctions, such as:

In the event of a serious infringement regarding any misuse whatsoever of driver attestations, the competent authorities of the Member State of establishment of the haulier who committed such infringements shall impose appropriate sanctions, such as:

Justification

So long as infringements are interpreted and dealt with in such different ways in Member States and there is for the time being no specific prospect of any speedy improvement in this respect, this regulation should not include provisions relating to repeated minor infringements.

Amendment 28

Article 11, paragraph 2, point (e a) (new)

(ea) imposition of fines.

Justification

To ensure that the sanctions have an appropriate effect, the regulation should make explicit provision for fines as a possible sanction.

Amendment 29

Article 11, paragraph 3, subparagraph 1

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.

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 ***to impose*** on the haulier concerned, ***ranging from a warning to the temporary or permanent withdrawal of the Community licence.*** 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.

Justification

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

Amendment 30

Article 11, paragraph 3 a (new)

3a. 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).

Justification

Data relating to the ending of the temporary withdrawal of the Community licence should be clearly specified.

Amendment 31

Article 12, paragraph 1, subparagraph 1, introductory wording

1. Where the competent authorities of a Member State are aware of a serious infringement or of repeated minor infringements 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 infringement or of repeated minor infringements 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 ***from the date on which the final decision is issued after all the legal possibilities for review open to the haulier on whom sanctions are imposed have been exhausted***, the following information:

Justification

The data that are to be entered in the databases of national electronic registers should be obtained after final decisions have been taken.

Amendment 32

Article 12, paragraph 1, subparagraph 1

Where the competent authorities of a Member State are aware of a serious infringement ***or of repeated minor infringements*** 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:

Where the competent authorities of a Member State are aware of a serious 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

So long as infringements are interpreted and dealt with in such different ways in Member States and there is for the time being no specific prospect of any speedy improvement in this respect, this regulation should not include provisions relating to repeated minor infringements.

Amendment 33 Article 12, paragraph 2

2. Without prejudice to any criminal prosecution the competent authorities of the host Member State shall be empowered to impose sanctions on a non-resident haulier who has committed infringements of this Regulation or of national or Community road transport legislation in their territory during a cabotage operation. They shall impose such sanctions on a non-discriminatory basis. These sanctions may, inter alia, consist of a warning, or, in the event of a serious infringement ***or repeated minor infringements***, a temporary ban on cabotage operations within the territory of the host Member State where the infringement was committed.

2. Without prejudice to any criminal prosecution the competent authorities of the host Member State shall be empowered to impose sanctions on a non-resident haulier who has committed infringements of this Regulation or of national or Community road transport legislation in their territory during a cabotage operation. They shall impose such sanctions on a non-discriminatory basis. These sanctions may, inter alia, consist of a warning, or, in the event of a serious infringement, a temporary ban on cabotage operations within the territory of the host Member State where the infringement was committed.

Justification

So long as infringements are interpreted and dealt with in such different ways in Member States and there is for the time being no specific prospect of any speedy improvement in this respect, this regulation should not include provisions relating to repeated minor infringements.

Amendment 34 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 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*

Member States shall ensure that serious 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, ***once the final decision has been issued after all the legal possibilities for review open to the haulier have been exhausted***, in the national register of road transport undertakings as established under

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.

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.

Justification

Only serious infringements of Community legislation should be recorded in national registers.

Amendment 35
Article 18, subparagraph 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 the 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.

ANNEX 1: LETTER OF THE COMMITTEE ON LEGAL AFFAIRS

COMMITTEE ON LEGAL AFFAIRS
CHAIRMAN

Ref.: D(2008)2164

Mr Paolo COSTA
Chairman of the Committee on Transport and
Tourism
LOW T06031
Strasbourg

Subject: *Proposal for a recast : Regulation of the European Parliament and of the Council on common rules for access to the international road haulage market (COM(2007) 265 final -23.5.2007 - 2007/0099 (COD)).*

Dear Sir,

The Committee on Legal Affairs, which I am honoured to chair, has examined the proposal referred to above, pursuant to Rule 80a on Recasting, as introduced into Parliament's Rules of Procedure by its decision of 10 May 2007.

Paragraph 3 of that Rule reads as follows:

"If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible.

In such a case, over and above the conditions laid down in Rules 150 and 151, amendments shall be admissible within the committee responsible only if they concern those parts of the proposal which contain changes.

However, amendments to the parts which have remained unchanged may be admitted by way of exception and on a case-by-case basis by the chairman of the above committee if he considers that this is necessary for pressing reasons relating to the internal logic of the text or because the amendments are inextricably linked to other admissible amendments. Such reasons must be stated in a written justification to the amendments".

Following the opinion of the Legal Service, whose representatives participated in the meetings of the Consultative Working Party examining the recast proposal, and in keeping with the recommendations of the draftsman, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such in the proposal and that, as regards the codification of the unchanged provisions of the earlier acts with those changes, the proposal contains a

straightforward codification of the existing texts, without any change in their substance.

However, pursuant to Rules 80a(2) and 80(3), the Committee on Legal Affairs considered that the technical adaptations suggested in the opinion of the above-mentioned Working Party were necessary in order to ensure that the proposal complied with the codification rules and that they did not involve any substantive change to the proposal.

In conclusion, the Committee on Legal Affairs recommends that your committee, as the committee responsible, proceed to examine the above proposal in keeping with its suggestions and in accordance with Rule 80a.

Yours faithfully,

Giuseppe GARGANI

**ANNEX 2: OPINION IN LETTER FORM OF THE LEGAL SERVICES'
CONSULTATIVE WORKING PARTY**

Brussels,

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL THE
COMMISSION**

**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) 265 final of 23.5.2007 - 2007/0099 (COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party, consisting of the respective legal services of the European Parliament, the Council and the Commission, met on 31 May and on June 11 2007 for the purpose of examining the aforementioned proposal submitted by the Commission.

At those meetings¹, an examination of the proposal for a regulation of the European Parliament and of the Council recasting Council Regulation (EEC) No 881/92 of 26 March 1992 on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States, Council Regulation (EEC) No 3118/93 of 25 October 1993 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State, and Directive 2006/94/EC of the

¹ The Consultative Working Party had all language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

European Parliament and of the Council of 12 December 2006 on the establishment of common rules for certain types of carriage of goods by road resulted in the Consultative Working Party's establishing, by common accord, as follows:

1) An incorrect title has been erroneously indicated in the cover page of the above-mentioned document having been officially transmitted on 23 May 2007, which read "*Proposal for a regulation of the European Parliament and of the Council on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States*"; in that document, the correct title was that appearing at the beginning of the text of the recast proposal and reading "*Proposal for a regulation of the European Parliament and of the Council on common rules for access to the international road haulage market*". Incidentally, it should be pointed out that on 1 June 2007 a new document bearing a reference number COM(2007) 265 final/2 was officially transmitted to the European Parliament and to the Council; on the cover page of this new document a corrigendum appears, which reads "*Annule et remplace la page de couverture du document COM(2007)265 final du 23.5.2007 / Cette correction concerne les versions EN,FR,DE*".

2) In Recital 6, the wording "*between Member States*" should be deleted.

3) The following parts of text of the recast proposal should have been identified by using the grey-shaded type used for marking substantive changes:

- in Article 9(1)(a), the word "*rates*" (already marked with double strikethrough);
-
- in Article 9(1)(d), the wording "*working time*" (already marked with adaptation arrows);
-
- the entire text of Article 6(2) of Regulation 3118/93, having been already marked with double strikethrough and appearing immediately after Article 9(1) in the text of the recast proposal;
-
- in the title of Chapter IV, in Article 11(4) and in Article 12(2), the words "*penalties*" (already marked with double strikethrough) and "*sanctions*" (already marked with adaptation arrows);
-
- in Article 11(2)(d), the word "*permanent*" (already marked with adaptation arrows);
-
- the text of Article 9(1) of Regulation 881/92 (already marked with double strikethrough), appearing immediately after Article 11(6) in the recast proposal.

4) The deleted text of Article 9(2) of Regulation 881/92 appearing between Articles 11 and 12 in the recast proposal should not have appeared in the recast proposal.

5) In Annex II, in the third paragraph of the text under "*General provisions*" the word "*authorisation*" should have been replaced by "*licence*".

6) In Annex II, the two last paragraphs of the text under "*General provisions*" have been erroneously presented as indents. Their original presentation as fifth and sixth paragraphs of that part of the text, as appearing in OJ L 76 of 19.3.2002, should be reinstated.

7) It was acknowledged that the correlation table in Annex III is not accurate, and would therefore need to be completed and corrected where necessary.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier acts with those substantive amendments, that the proposal contains a straightforward codification of the existing texts, without any change in their substance.

C. PENNERA
Jurisconsult

J.-C. PIRIS
Jurisconsult

M. PETITE
Director General

PROCEDURE

Title	Access to the market in the carriage of goods by road within the Community (recast)		
References	COM(2007)0265 – C6-0146/2007 – 2007/0099(COD)		
Date submitted to Parliament	23.5.2007		
Committee responsible Date announced in plenary	TRAN 24.9.2007		
Committee(s) asked for opinion(s) Date announced in plenary	JURI 24.9.2007		
Not delivering opinions Date of decision	JURI 18.9.2007		
Rapporteur(s) Date appointed	Mathieu Grosch 13.7.2007		
Discussed in committee	9.10.2007	20.11.2007	21.1.2008
Date adopted	22.1.2008		
Result of final vote	+: -: 0:	32 12 2	
Members present for the final vote	Gabriele Albertini, Inés Ayala Sender, Etelka Barsi-Pataky, Paolo Costa, Michael Cramer, Luis de Grandes Pascual, Christine De Veyrac, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Francesco Ferrari, Mathieu Grosch, Georg Jarzembowski, Stanisław Jałowiecki, Timothy Kirkhope, Dieter-Lebrecht Koch, Jaromír Kohlíček, Rodi Kratsa-Tsagaropoulou, Sepp Kusstatscher, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Marian-Jean Marinescu, Erik Meijer, Robert Navarro, Seán Ó Neachtain, Willi Piecyk, Reinhard Rack, Luca Romagnoli, Gilles Savary, Brian Simpson, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Yannick Vaugrenard, Lars Wohlin, Roberts Ziļe		
Substitute(s) present for the final vote	Johannes Blokland, Luigi Cocilovo, Jeanine Hennis-Plasschaert, Lily Jacobs, Anne E. Jensen, Leopold Józef Rutowicz, Ari Vatanen, Corien Wortmann-Kool		