

Access to the international road haulage market.

Recast

2007/0099(COD) - 09/01/2009 - Council position

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.