



COMMISSION OF THE EUROPEAN COMMUNITIES

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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

{SEC(2007)635}
{SEC(2007)636}

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Motivations and objectives of the proposal

Directive 96/26/EC on admission to the occupation of road transport operator, the regulation (EEC) N° 881/92, the regulation N° (EEC) 3118/93, the regulation N° (EEC) N° 684/92, and the regulation (EC) N° 12/98 on access to the road transport market form the pillars of the internal market in road transport.

This legislative framework has allowed balanced development of the internal market. The directive introduced minimum quality standards which must be met in order to enter the profession, while the four regulations liberalised international road haulage and occasional passenger services and established regulated competition between regular passenger services and for cabotage haulage operations by non-resident carriers. Operators have developed and diversified their services, responding more closely to customers' needs for just-in-time or specialised services. The sector as a whole has started to move towards consolidation on a constantly expanding market.

The experience shows that certain measures of this legislative framework are unequally applied and enforced because of unclear or incomplete legal provisions. As regards freight transport by road this is the case with Regulation (EEC) N° 881/92, Regulation N° (EEC) 3118/93 and Directive 2006/94/EC (which is the codification of the First Council directive of 23 July 1962). On certain aspects, road hauliers have to cope with different national rules and a degree of legal uncertainty, which may entail for them additional cost when they operate in several Member States.

The recast of these regulations is therefore to enhance the clarity, readability and enforceability of the current rules.

1.2. General context

Regulation (EEC) N° 881/92 establishes the freedom of international carriage of goods by road for hire and reward for the undertakings which hold a Community licence while the first Council directive identifies certain transports which are exempted from all sort of authorisations. Regulation (EEC) N° 3118/93 allows undertakings which hold a Community licence granted by a Member State to provide road haulage services within other Member States under the condition that this service is provided on a temporary basis. Community licences can be delivered only to undertakings established in a Member State which satisfy minimum requirements in terms of good repute, financial standing and professional capacity in accordance with Directive 96/26/EC.

The Commission had announced in its legislative programme for 2006 its intention to examine more in detail these rules and if needed to make them simpler, clearer and more enforceable. After several studies, a public consultation and an impact assessment, it appears that the lack of clarity or incompleteness of the current provisions give rise to inconsistencies, enforcement difficulties and unnecessary administrative burdens in the following areas:

- scope of application of the Regulation on transports by Community hauliers to and from third countries;
- difficulties in implementing the concept of temporary cabotage; despite an interpretative communication published in 2005 on the basis of the Court of Justice definition of "temporary" in connection with the freedom of services, difficulties have remained and Member States tend to implement rules which are divergent, difficult to enforce or which impose an additional administrative burden;
- ineffectiveness of the exchange of information between Member States although already provided for in the current rules; as a result, undertakings which operate on the territory of a Member State other than their Member State of establishment hardly risk any administrative sanctions, as a result of which the competition might be distorted between these undertakings less inclined to comply with rules and the others;
- heterogeneity of the various control documents (Community licence, certified copies and driver attestation) which creates problems during the roadside checks and often leads to considerable time losses for operators.

1.3. Provisions in force in the field of the proposal

The proposal aims at revising and consolidating the regulation (EEC) N° 881/92, the regulation (EEC) N° 3118/93 and the Directive 2006/94/EC.

1.4. Consistency with the other policies and the objectives of the Union

The proposal improves the efficiency of the internal market of road haulage by enhancing the legal certainty, cutting administrative costs and allowing a fairer competition. It enables the customers of road transport, hence the economy as a whole, since road transport has a key role in the supply and distribution chains of the European industry, to reap more benefits from the internal market. It contributes consequently to the attainment of the objectives of the Lisbon strategy by strengthening the competitiveness of Europe.

The new regulation contributes indirectly to improving road safety by a more effective monitoring of undertakings which operate in several Member States.

This proposal falls under the programme "better regulation" and is in conformity with the commitment taken by the Commission to simplify and update the *acquis*. A particular attention was given to simplification and to greater coherence of the legal provisions of the regulation (EEC) N° 881/92, the regulation (EEC) N° 3118/93 with the ones contained in the proposed recast of directive 96/26/EC laying down the basic conditions to be authorised to the profession and for their monitoring.

2. CONSULTATION OF THE INTERESTED PARTIES AND IMPACT ANALYSIS

2.1. Consultation of the interested parties

Consultation methods used, principal sectors concerned and the respondents' general profile

Before drafting this proposal a public consultation exercise was conducted in order to gather as many comments and suggestions as possible from the individuals and bodies concerned.

This consultation, organised jointly with the one on admission to the profession, used a questionnaire which was published on internet and sent to all the organisations which represent at national or European level the key stakeholders.

The Commission received 67 contributions from national authorities, international and national associations of road operators, users, employees or various interest groups and individual companies. The Commission discussed the key issues addressed in this recast in the framework of the social dialogue with the social partners on 5 September 2006. On 7 November 2006 a consultation meeting with stakeholders was held in Brussels with the participation of delegations from 42 organisations representing the industry plus 37 observers from national administrations.

Synthesis of the received answers and in the way in which they were taken into account

The respondents generally shared the view that there is a need for further simplification and clarification of the current regulatory framework for the road transport market. One aspect repeatedly highlighted was the need to render the current rules, notably the ones on access to the market of road haulage more easily and effectively enforceable. It emerges clearly from the consultation the other following conclusions:

- Goods transport and passenger transport by road should remain regulated in two separate sets of rules. These are two different types of transport and stakeholders feel that they do not have sufficient commonalities to treat them in one legal text.
- There is almost unanimity among them that a simple, clear and enforceable definition of cabotage needs to be found. As regards the actual solution, the replies are – not surprisingly – quite diverse. However, there seems to be large support for the approach to link cabotage to an international journey, hence to avoid empty runs.
- Many contributions pointed out the need for applying correctly the existing rules and have them enforced properly. A better cooperation between national enforcement authorities should take place, which would require the setting-up of an EU-wide register of licensed operators or database of Community licences.
- There has also been a clear support to further standardize the models of Community licence, certified copies and driver attestation.

The summary of the received answers to the public consultation, complete text of the individual answers and report of the hearing of 7 November 2006 are available on the following site:

http://ec.europa.eu/transport/road/consultations/road_market_en.htm

2.2. Obtaining and use of expertise

The stakeholder consultation was accompanied by an independent expert, Prof. Brian Bayliss, co-chairman of the Committee of Enquiry on Road Transport which, in July 1994, had elaborated a comprehensive report on the state of completion of the internal market in road transport and of the work necessary to complete it.

2.3. Impact analysis

The impact analysis carried out to prepare this proposal covered the recast of both the rules on admission to the profession and the ones on access to the market, in view of their close links and in view of their overlaps.

The impact assessment built on various studies carried out during 2004, 2005 and 2006¹ It was the result of a contract with an external consultant. During the work on the contract, constant feedback was provided from the impact assessment to make sure that the proposed recast took account of its findings. The principle of proportionate analysis has been applied and the analysis has focused on the most significant forms of impact and distributive effects.

Five policy options have in total be assessed:

1. The "no change" option would leave the present road legislation unaltered and the problems outlined at the start of this document would persist and eventually even become worse.
2. The "technical simplification and non-regulatory" option would merely entail a merger of the current two regulations and the Directive. It would be very easy to implement, but it would not solve the problem of the unclear definition of cabotage and of the diverging national rules. The only substantive amendments would me made to standardize certain control documents. It would slightly reduce administrative costs but the main problems identified at the start of this document would remain.
3. The "harmonisation" option would contribute to fairer competition, improve compliance with the road transport rules and raise the average level of professional qualifications in the sector. It would entail a clear and enforceable definition of cabotage and largely improved rules on compliance and enforcement rules. Administrative costs would remain broadly the same but enforcement costs could be reduced in the long run. This policy option is likely to have broad support.
4. The "higher quality standards" option would raise to an even higher level the average professional qualifications in the sector and improve its financial capacity. In the long run, it would encourage more efficient operators, bringing benefits for the whole economy. In the short term, it entails additional administrative costs which would penalise very small undertakings and independent operators. This policy option is more controversial.
5. In the "liberalisation" option cabotage would be almost completely liberalised. This could reduce transport costs in the short term but without necessarily improving the effectiveness of the transport sector failing a prior further harmonisation especially in the social and fiscal field. And without harmonising quality standards at the upper level (i.e. implementing option 4) first, it could push more efficient operators out of the market. In the long run, the overall effect on market efficiency would be neutral if not negative. This policy option would cut jobs in certain countries. Given its

¹ Studies were carried out on driver attestations (ECORYS), on cabotage (COWI), on admission to the occupation and on the Working Time Directive (TNO).

wide-ranging implications a much more thorough analysis would need to be undertaken exceeding the current framework of simplification.

In view of these results, this proposal reflects the Option 3 referred to as "harmonisation" option. The summary of the impact analysis and the complete report of this impact analysis accompany this proposal. The impact analysis shows that the present regulation in combination with the other two regulations proposed at the same time (on passenger transport and admission to the occupation) will reduce distortions to competition, will improve compliance with social and road safety rules and will offer the Member States the possibility to reduce administrative costs in the order of 190 million € per year.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Summary of the proposed measures

This proposal consolidates and merges the two regulations on access to the road transport market and the first Council directive exempting certain transport. It clarifies the existing legal provisions and supplements them on certain aspects to strengthen overall consistency and to guarantee effective application. It introduces the following substantial modifications:

- A simple, clear and enforceable definition of "cabotage" allowing for up to three transport operations consecutive to an international journey and within seven days and the obligation for the holder to keep in the vehicles documents like the consignment letters which show the date and place of arrivals and departure;
- a simplified and standardized format for the Community licence, certified copies and the driver attestation in order to reduce the administrative burden and delays especially at road side checks;
- enhancing of the current legal provisions by obliging a Member State to act, when requested to do so by another Member State, when a haulier to whom it delivered a Community licence commits an infringement in the Member State of establishment or in another Member State. Such action should take the form of at least a warning. Enhanced procedures to communicate between Member States are put in place using the contact points established pursuant to the new Regulation on the admission to the occupation of road transport operator.

3.2. Legal basis

The draft regulation, which repeals the regulation (EEC) N° 881/92, the regulation (EEC) N° 3118/93 and the first Council directive of 23 July 1962, is based on Article 71 of the treaty establishing the European Community.

3.3. Principle of subsidiarity

The principle of subsidiarity applies insofar as the proposal does not fall within the exclusive competence of the Community.

The main objective of the proposal is to clarify existing Community rules and therefore it cannot be achieved by the Member States alone. Moreover, the proposal seeks to enhance the existing exchange of information between Member States, which cannot be made by a

Member State alone and can be made only in a compartmental way on a bilateral basis by the Member States.

A Community action is therefore necessary having regard to the impossibility for a Member State or a group of Member State of solving satisfactorily the identified problems. The proposal is therefore in conformity with the principle of subsidiarity.

3.4. Principle of proportionality

The proposal does not exceed what is required to achieve its objective and respects the principle of proportionality for the following reasons:

- it deals with international transport for which a prescriptive approach is required which allows an homogeneous application and provides for fair competition;
- in case of serious or repeated minor infringements, the proposal obliges Member States to issue a warning but leaves it to the discretion of Member States to decide when Community licences, certified copies or driver attestations should be withdrawn.

3.5. Choice of the instruments

The proposed instrument is a regulation because

- (1) the recast concerns areas which are already covered by regulations, and because
- (2) the attempt by the Commission in 2005 to clarify the existing rules on road cabotage by means of a communication, i.e. a non regulatory act, has not been sufficient to help clarifying the temporary nature of cabotage.

4. BUDGETARY IMPACT

The proposal will not affect the Community budget.

5. ADDITIONAL INFORMATION

5.1. Simplification

The proposal contributes to the simplification of the acquis. It appears in the rolling programme of the Commission for the update and the simplification of the 'acquis communautaire' and in its legislative and work programme under the reference 2006/TREN/42.

In this proposal, the obsolete measures were abolished and, as much as possible, the contents, the presentation and the formulation of the regulations were re-examined to facilitate their comprehension and to avoid ambiguous interpretations.

This proposal is in conformity with the inter-institutional agreement of 28 November 2001 for a more structured recourse to the technique of the recasting of the legal acts. It was worked out on the basis of a preliminary consolidation of the text carried out, by means of a computer system, by the Office for Official Publications of the European Communities. When articles

were renumbered, the correlation between old and the new numbering is exposed in a correspondence table which appears in Annex III to the recasted regulation.

5.2. Repeal of existing legislation

The adoption of the proposal will lead to the repeal of the regulation (EEC) N° 881/92, of the regulation (EEC) N° 3118/93 and of the Directive 2006/94/EC, which has recently codified the first Council directive of 23 July 1962.

5.3. European Economic Area

The proposed act concerns an EEA matter and should therefore extend to the EEA.

5.4. Detailed explanation of the proposal

This proposal consolidates and merges the Regulations (EEC) N° 881/92 and N° 3118/93 on access to the road transport market and the Directive 2006/94/EC exempting certain transport operations. It clarifies the existing legal provisions and supplements them on certain aspects to strengthen overall consistency and to guarantee effective application.

The proposal introduces the following substantial modifications:

Clarification of the scope, the definitions and the principle

Article 1 clarifies the scope. The regulation applies to all international carriage on the territory of the Community, including carriage from and to third countries, and to national road haulage services operated by a non-resident haulier on a temporary basis ("cabotage"). As regards international carriage to or from a third country *Article 1* specifies that, as long as there is no agreement between the Community and the third country in question, the Regulation does not apply to that part of the journey carried out within the Member State of loading or unloading. It does, however, apply within a Member State crossed in transit.

Only certain clearly defined, commercially irrelevant transport operations are exempted from the scope of the regulation.

Article 2 and *Article 3* introduce the new definitions of "non resident haulier" and of "serious infringement or repeated minor infringements".

Community licence and driver attestation

Article 4 introduces new provisions to specify more clearly the format of the Community licence. *Article 5* does likewise as regards the driver attestation. The models of these documents are contained in Annexes I and II. Both Articles provide for the Commission the possibility to adapt the models of these documents to technical progress having recourse to the regulatory procedure with scrutiny provided for by Decision 1999/468/EC.

Definition and control of cabotage

Article 8 introduces a new definition of cabotage specifying in a more detailed way the condition that cabotage must be carried out "on a temporary basis". The temporary nature is clarified both by limiting the number of cabotage operations and the timeframe within which they are to be carried out. Hauliers are permitted to carry out up to three cabotage operations

consecutive to an international carriage once the goods carried in the course of the incoming international carriage have been delivered. The last cabotage operations should take place within seven days.

Enforcement bodies will be able to check more easily whether a cabotage is lawful by looking at the CMR consignment letters which indicate the dates of loading and unloading of an international carriage. For the sake of completeness Article 8 therefore identifies the information which should be documented and available within the vehicle, knowing that these data are in the CMR consignment letters used in all international transport. Such definition would allow for instance an efficient operator doing regular international transport to optimize the loading of its vehicle and to reduce their empty returns.

Article 8 does not prevent Member States from granting hauliers established in another Member State additional access to their domestic road haulage markets in accordance with their national legislation.

The provision of Article 8 of Regulation 3118/93 on safeguard measures in case of serious disturbances of a national transport market is not taken over into the new recast Regulation. This provision has never ever been used since the opening up of national markets for cabotage on 1 January 1994 and can therefore be considered redundant.

Cooperation between Member States

Although the existing regulations have already provided for the mutual assistance by Member States practice has shown that this cooperation never fully developed. Infringements committed by hauliers outside their Member State of establishment were only in isolated cases reported by the Member State where the infringement took place and hardly ever resulted in a sanction imposed by the Member State of establishment of the haulier.

In order to strengthen and facilitate the exchange of information between national authorities *Article 10* obliges Member States to exchange information via the national contact points which are to be set up pursuant to the Regulation on the admission to the occupation of road transport operator. These are designated administrative bodies or authorities in charge of carrying out the information exchange with their counter parts in the other Member States. Also, *Article 13* stipulates that Member States enter in their national register of road transport undertakings all serious infringements and repeated minor infringements committed by their own haulier and which have led to the imposition of a sanction.

Withdrawals of Community licence and exchange of information

There are two possible approaches to homogenize the current monitoring and control systems employed by Member States. The first is to empower the Member State so that they can impose dissuasive sanctions to non-resident hauliers crossing their territory, for instance by suppressing the mutual recognition of the Community licence. This option could lead to discriminatory behaviour by the control authorities and may not be compatible with the freedom of circulation. A second approach is to enhance the power and means of the national authorities who are habilitated to deliver and withdraw the Community licence. The current proposal, in combination with the revision of Directive 96/26/EC, follows this latter approach.

Consequently, when a haulier commits a serious infringement or repeated minor infringements of Community road transport legislation, *Article 11* introduces an obligation for

the competent authority of the Member State of establishment of the haulier to issue a warning. This obligation also applies to cases where the haulier committed such an infringement in another Member State. In addition, Article 11 (1) clarifies the sanctions that the Member State may impose on the hauliers established within its territory, namely the (temporary or partial) withdrawal of certified copies of the Community licence or of the Community licence itself or of driver attestations. It is clarified that a Member State may also impose as a sanction the temporary or permanent disqualification of a haulier's transport manager.

Article 12 introduces a new procedure to be followed by the Member State which ascertains an infringement committed by a non-resident haulier. This Member State has one month to communicate the information according to a minimum standard format. It may ask the Member State of establishment to impose administrative sanctions. The Member State of establishment of the haulier concerned has three months to inform the other Member State of the follow-up.

Annexes

Several modifications are proposed as regards the layout of the models for the Community licence and driver attestation in the Annexes I and II of the Regulation. These changes should help to standardise these control documents and improve their readability. Certain adaptations have been made to the text contained in the documents reflecting the normative changes in the new Regulation.

Unchanged provisions

The following provisions remain in substance unchanged, albeit some technical adaptations:

Regulation 881/92 – Articles 3 and 7; Regulation 3118/93 - none

↓ 881/92

⇒ new

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~~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~~

↓ 3118/93

~~laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State~~

↓ new

on common rules for access to the international road haulage market

↓ 3118/93 (adapted)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 ~~75~~ ~~71~~ thereof,

Having regard to the proposal from the Commission²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁵,

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OJ C , , p. .

OJ C , , p. .

OJ C , , p. .

OJ C , , p. .

Whereas:

↓ new

- (1) A number of substantial changes are to be made to 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 States⁶, to 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 State⁷, and to the Directive 2006/94/EC of the European Parliament and of the Council of 12 December 2006 on the establishment of common rules for certain types of carriage of goods by road⁸. In the interests of clarity, these Regulations and the Directive should be recast.

↓ 881/92 Recital 1 (adapted)

- (2) The establishment of a common transport policy involves, *inter alia*, laying down common rules applicable to access to the market in the international carriage of goods by road within the territory of the Community ☒, as well as laying down the conditions under which non-resident hauliers may operate transport services within a Member State ☒. Those rules must be laid down in such a way as to contribute to the attainment ☒ smooth operation ☒ of the internal transport market.

↓ 3118/93 Recital 1 (adapted)

~~Pursuant to Article 75 (1) (b) of the Treaty, the establishment of a common transport policy entails, *inter alia*, laying down the conditions under which non-resident carriers may operate transport services within a Member State.~~

↓ 881/92 Recital 2

- (3) These uniform arrangements for market access also involve introducing the freedom to provide services by eliminating all restrictions imposed on the provider of services because of his nationality or the fact that he is established in a Member State other than that in which the service is to be provided.

⁶ OJ L 95, 9.4.1992, p.1, as last amended by Regulation (EC) No 484/2002 of the European Parliament and of the Council of 1 March 2002, OJ L 76, 19.3.2002, p.1

⁷ OJ L 279, 12.11.1993, p.1, as last amended by Regulation (EC) No 484/2002 of the European Parliament and of the Council of 1 March 2002, OJ L 76, 19.3.2002, p.1

⁸ Directive 2006/94/EC of the European Parliament and of the Council on the establishment of common rules for certain types of carriage of goods by road, OJ L 374, 27.12.2006, p. 5

↓ new

- (4) The Community rules on the access to the road haulage market were initially laid down in Council Regulations 881/92, 3118/93 and in Directive 2006/94/EC of the European Parliament and of the Council. In the interest of clarity and simplification, these legal acts should be recast and consolidated into one single regulation.

↓ new

- (5) To assure a coherent framework for international road haulage throughout the Community this Regulation should apply to all international carriage on Community territory. Carriage from Member States to third countries is still largely covered by bilateral agreements between the Member States and those third countries. Therefore, in this case the Regulation should not apply to that part of the journey within the territory of the Member State of loading or unloading as long as the necessary agreements between the Community and the third countries concerned have not been concluded. It should, however, apply to the territory of a Member State crossed in transit.

↓ 881/92 Recital 3 (adapted)

~~As regards carriage from a Member State to a non-member country and vice versa, implementation of the freedom to provide services for the journey within the territory of the Member State of loading or unloading should be deferred until appropriate agreements with the non-member countries concerned have been concluded or amended, in order to guarantee compliance with the principle of non-discrimination and equality of conditions of competition between Community carriers.~~

↓ 881/92 Recital 4 (adapted)

~~Whereas, following the Judgment of the Court of Justice of 22 May 1985 in Case 13/83 and the conclusions adopted on 28 and 29 June 1985 by the European Council on the Commission communication on the completion of the internal market, on 21 June 1988 the Council adopted Regulation (EEC) No 1841/88 amending Regulation (EEC) No 3164/76 on access to the market in the international carriage of goods by road⁹;~~

↓ 881/92 Recital 5 (adapted)

~~Whereas under Article 4a of Regulation (EEC) No 3164/76 inserted by Regulation (EEC) No 1841/88 from 1 January 1993, Community quotas, bilateral quotas between Member States~~

⁹ OJ No L 357, 29. 12. 1976, p. 1. Regulation last amended by Regulation (EEC) No 3914/90 (OJ No L 375, 31. 12. 1990, p. 7).

~~and quotas for transit traffic to and from non-member countries will be abolished for the types of carriage referred to in that Article, and arrangements for access to a market without quantitative restrictions based on qualitative criteria which hauliers must meet will be introduced;~~

↓ 881/92 Recital 6 (adapted)

~~Whereas these qualitative criteria are laid down principally in Council Directive 74/561/EEC of 12 November 1974 on admission to the occupation of road haulage operator in national and international transport operations, as last amended by Council Directive 89/483/EEC of 21 June 1989¹⁰;~~

↓ 881/92 Recital 7 (adapted)

~~Whereas pursuant to Article 4b of Regulation (EEC) No 3164/76, as inserted by Regulation (EEC) No 1841/88, the Council must adopt the measures necessary for the implementation of the aforementioned Article 4a;~~

↓ 3118/93 Recital 2 (adapted)

~~Whereas this provision implies the removal of all restrictions against the person providing the services in question on the grounds of his nationality or the fact that he is established in a different Member State from the one in which the service is to be provided;~~

↓ 3118/93 Recital 3 (adapted)

~~Whereas, in order for this provision to be implemented smoothly and flexibly, provision should be made for a transitional cabotage system prior to the implementation of the definitive system;~~

↓ 3118/93 Recital 9 (adapted);
2006/94 Recital 4 (adapted)

- (6) ~~At present, u~~Under the First Council Directive of 23 July 1962 ~~⊗~~ Directive 2006/94/EC of the 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 between Member States¹¹, a certain number of types of carriage are exempt from any

¹⁰ OJ No L 308, 19. 11. 1974, p. 1. Directive last amended by Regulation (EEC) No 3572/90 (OJ No L 353, 17. 12. 1990, p. 12).

¹¹ OJ No L 70, 6. 8. 1962, p. 2005/62. Directive last amended by Directive 84/647/EEC (OJ No L 335, 22. 12. 1984, p. 72). OJ L 374, 27.12.2006, p.3

quota and carriage authorisation system; within the framework of the ~~new~~ organization of the market ~~introduced~~ ☒ provided for ☒ by this Regulation, a system of exemption from ☒ the ☒ Community ~~authorization~~ ☒ licence ☒ and from any other carriage authorisation must be maintained for some of those types of transport, because of their special nature.

↓ new

- (7) Under Directive 2006/94/EC, the carriage of goods using vehicles with a maximum mass of between 3,5 tonnes and 6 tonnes has been exempted from the requirement of a Community licence. Community rules in the field of road transport of goods and passengers, however, apply in general to vehicles as from 3,5 tonnes. Thus the provisions of this Regulation should be aligned to the general scope of application of Community road transport rules and only provide for an exemption for vehicles below 3,5 tonnes of maximum mass.
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↓ 881/92 Recital 8 (adapted)
⇒ new

- (8) ~~With regard to the rules for applying the access arrangements~~ ☒ The international carriage of goods by road must be made conditional on the possession of a quota-free Community ~~transport authorization~~ ☒ licence ☒. ☒ Hauliers should be required to carry a certified true copy of the Community licence aboard each of their vehicles in order to facilitate effective controls by enforcement bodies, especially those outside the Member State in which the haulier is established. To this end it is necessary to lay down more detailed specifications as regards the layout and other features of the Community licence and the certified copies. ☒
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↓ 881/92 Recital 10 (adapted)

- (9) The conditions governing the issue and withdrawal of ~~authorizations~~ ☒ Community licences ☒ and the types of carriage to which they apply, their periods of validity and the detailed rules for their use ~~must~~ ☒ should ☒ be determined.
-

↓ new

- (10) 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.

↓ 3118/93 Recital 4 (adapted)
⇒ new

- (11) ~~Only carriers~~ ☒ Hauliers ☒ who are holders of Community ~~authorizations~~ ☒ licences ☒ provided for in ~~Council this 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 through the territory of one or more Member States¹²~~ or carriers authorised to operate certain categories of international haulage services ~~may~~ ⇒ should ⇐ be permitted to carry out ☒ national transport services within a Member State, without having a registered office or other establishment therein ☒ ~~(cabotage)~~.

↓ 3118/93 Recital 5 (adapted)

~~Whereas such a transitional system should entail the introduction of a progressive quota of Community cabotage authorizations;~~

↓ 3118/93 Recital 6 (adapted)

~~Whereas the conditions for the issue and use of the said cabotage authorizations should be determined;~~

↓ 3118/93 Recital 7 (adapted)

~~Whereas the provisions of the host Member State applicable to cabotage operations should be fixed;~~

↓ 3118/93 Recital 8 (adapted)

~~Whereas provisions should be adopted so that action can be taken in the event of serious disturbance of the transport markets affected; whereas for that purpose it is necessary to introduce a suitable decision-making procedure and for the required statistical data to be collected;~~

⇓ new

- (12) 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.

¹² OJ No L 95, 9. 4. 1992, p. 1.

↓ new

(13) The provisions 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 services¹³ apply in cases where, for the provision of cabotage operations, hauliers post workers, who have an employment relationship with those hauliers, from the Member State where they ordinarily work.

↓ 2006/94 Recital 1 (adapted)

~~The First Council Directive of 23 July 1962 on the establishment of certain common rules for international transport (carriage of goods by road for hire or reward) has been substantially amended several times. In the interests of clarity and rationality the said Directive should be codified.~~

↓ 2006/94 Recital 2 (adapted)

~~A common transport policy involves inter alia laying down common rules for the international carriage of goods by road to or from the territory of a Member State or passing across the territory of one or more Member States. Those rules must be laid down in such a way as to contribute to the smooth operation of the internal transport market.~~

↓ 2006/94 Recital 3 (adapted)

~~It is necessary to ensure a progressive expansion of the international carriage of goods by road, bearing in mind developments in trade and movement of goods within the Community.~~

↓ 2006/94 Recital 4 (adapted)

~~A certain number of types of carriage were exempt from any quota and carriage authorisation system. Within the framework of the organisation of the market introduced by 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, a system of exemption from Community authorisation and from any other carriage authorisation should be maintained for some of those types of transport, because of their special nature.~~

¹³ OJ L 18, 21.1.1997, p.1

↓ 2006/94 Recital 5 (adapted)

~~This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex II, Part B,~~

↓ 3118/93 Recital 9 (adapted)

- (14) It is desirable that Member States should grant each other mutual assistance with a view to the sound application ~~on the system introduced~~ ☒ of this Regulation ☒₁₁ ; particularly in respect of penalties applicable in the event of infringements. Penalties should be non-discriminatory and in proportion to the seriousness of the infringements. There is a need to provide for the possibility of lodging an appeal.
-

↓ new

- (15) Administrative formalities should be reduced as far as possible without the abandonment of the controls and penalties 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 also the effective sanctioning of serious or repeated minor infringements committed in a Member State other than the Member State of establishment. Penalties should be non-discriminatory and in proportion to the seriousness of the infringements. There is a need to provide for the possibility of lodging an appeal.
-

⇒ new

- (16) 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.
- (17) In order to strengthen and facilitate the exchange of information between national authorities Member States should exchange the relevant information through the national contact points set up pursuant to Regulation (EC) No XX of the European Parliament and of the Council of [date] [admission to the occupation]¹⁴.

¹⁴

OJ

- (18) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁵.
- (19) In particular powers should be conferred on the Commission to establish the format of certain documents to be used for the application of this Regulation and to adapt the Annexes I and II to technical progress. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation and to supplement this Regulation by the addition of new non-essential elements they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (20) On grounds of efficiency, the normal time limits for the regulatory procedure with scrutiny should be curtailed for the adoption of those measures.
- (21) Member States should take the necessary measures to implement this Regulation, in particular as regards effective, proportionate and dissuasive penalties.
- (22) Since the objectives of the action to be taken cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and the effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this regulation does not go beyond what is necessary in order to achieve those objectives.
- (23) It is therefore necessary to repeal Regulations (EEC) No 881/92 and No 3118/93 and the Directive 2006/94/EC.

¹⁵ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

HAVE ADOPTED THIS REGULATION:

⊠ Chapter I: General provisions ⊠

Article 1 ⊠ Scope ⊠

1. This Regulation shall apply to the international carriage of goods by road for hire or reward for journeys carried out within the territory of the Community.

2. In the event of carriage from a Member State to a ~~non-member~~ ⊠ third ⊠ country and vice versa, this Regulation shall apply to ⇒ the part of the journey on the territory of any Member State crossed in transit. ⇐ ⊠ It shall not apply to ⊠ that part of any journey carried out within the territory of the Member State of loading or unloading, ~~after conclusion of~~ ⊠ as long as ⊠ the necessary agreement between the Community and the ~~non-member~~ ⊠ third ⊠ country concerned ⊠ has not been concluded ⊠ .

3. Pending the conclusion of ⊠ the ⊠ agreements ⊠ referred to in paragraph 2 ⊠ between the Community and the ~~non-member~~ ⊠ third ⊠ countries concerned, this Regulation shall not affect:

- a) provisions relating to the carriage ~~referred to in paragraph 2~~ ⊠ from a Member State to a third country and vice versa ⊠ included in bilateral agreements concluded by Member States with those ~~non-member~~ ⊠ third ⊠ countries. ~~However, Member States shall endeavour to adapt those agreements to ensure compliance with the principle of non-discrimination between Community hauliers.~~
- b) provisions relating to the carriage ~~referred to in paragraph 2~~ ⊠ from a Member State to a third country and vice versa ⊠ included in bilateral agreements concluded between Member States which, either under bilateral authorisations or under liberalization arrangements, allow loading and unloading in a Member State by hauliers not established in that State.

However, Member States shall ~~endeavour to adapt those agreements~~ ⊠ the agreements referred to in point (a) of the first subparagraph ⊠ to ensure compliance with the principle of non-discrimination between Community hauliers.

↓ new

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

↓ 2006/94 (adapted)
⇒ new

~~Article 1~~

~~1. Under the conditions laid down in paragraph 2, Member States shall liberalise the types of international carriage of goods by road for hire or reward and on own account listed in Annex I where such carriage is performed to or from or in transit through their territory.~~

~~25. ⇒ This Regulation shall not apply to ⇐ The types of carriage and unladen journeys made in conjunction with the ☒ following types of ☒ carriage ☒ and unladen journeys made in conjunction with such carriage ☒ listed in Annex I shall be exempted from Community authorisation and from any carriage authorisation.~~

↓ 2006/94 (adapted)
⇒ new

~~ANNEX I~~

~~Types of carriage to be exempted from any Community authorisation and from any carriage authorisation~~

~~1.(a)~~ carriage of mail as a public service.

~~2.(b)~~ carriage of vehicles which have suffered damage or breakdown.

~~3.(c)~~ carriage of goods in motor vehicles the permissible laden weight of which, including that of trailers, does not exceed ~~six~~ ⇒ 3,5 ⇐ tonnes ~~or the permissible payload of which, including that of trailers, does not exceed 3,5 tonnes.~~

~~4.(d)~~ Carriage of goods in motor vehicles provided the following conditions are fulfilled:

~~(a)i)~~ the goods carried must be the property of the undertaking or must have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking;

~~(b)ii)~~ the purpose of the journey must be to carry the goods to or from the undertaking or to move them, either inside the undertaking or outside for its own requirements;

~~(c)iii)~~ motor vehicles used for such carriage must be driven by employees of the undertaking;

~~(d)iv)~~ the vehicles carrying the goods must be owned by the undertaking or have been bought by it on deferred terms or hired provided that in the latter case they meet the conditions of Directive 2006/1/EC of the European Parliament and of the Council ~~of 18 January 2006 on the use of vehicles hired without drivers for the carriage of goods by road~~¹⁶.

~~This provision shall not apply to the use of a replacement vehicle during a short breakdown of the vehicle normally used;~~

~~(e)v)~~ ☒ such ☐ carriage must be no more than ancillary to the overall activities of the undertaking.

5(c) carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters.

☒ Point (d) (iv) of the first subparagraph ☐ ~~This provision~~ shall not apply to the use of a replacement vehicle during a short breakdown of the vehicle normally used.

↓ 2006/94 (adapted)

~~Article 2~~

6. This Directive ☒ The provisions in paragraph 5 ☐ shall not affect the conditions under which any Member State authorises its own nationals to engage in the activities mentioned in ~~this Directive~~ ☒ that paragraph ☐.

↓ 2006/94 Art. 3 (adapted)

~~Article 3~~

~~The First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road is hereby repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex II, Part B.~~

~~References made to the repealed Directive shall be construed as being made to this Directive and should be read in accordance with the correlation table in Annex III.~~

¹⁶ OJ L 33, 4.2.2006, p.82

Article 2
⊠ Definitions ⊠

For the purposes of this Regulation:

- 1) 'vehicle' ~~shall mean~~ ⊠ means ⊠ a motor vehicle registered in a Member State or a coupled combination of vehicles the motor vehicle of which at least is registered in a Member State and which are used exclusively for the carriage of goods₂;
- 2) 'international carriage' ~~shall mean~~ ⊠ means ⊠ :
- (a) a ⊠ laden ⊠ journey undertaken by a vehicle the point of departure and the point of arrival of which are in two different Member States, with or without transit through one or more Member States or ~~non-member~~ ⊠ third ⊠ countries;
 - (b) a ⊠ laden ⊠ journey undertaken by a vehicle from a Member State to a ~~non-member~~ ⊠ third ⊠ country or vice versa, with or without transit through one or more Member States or ~~non-member~~ ⊠ third ⊠ countries;
 - (c) a ⊠ laden ⊠ journey undertaken by a vehicle between ~~non-member~~ ⊠ third ⊠ countries, with transit through the territory of one or more Member States;
 - (d) an unladen journey in conjunction with ~~such~~ ⊠ the ⊠ carriage ⊠ referred to in (a), (b) and (c) ⊠;

- 3) 'host Member State' means a Member State in which a haulier operates other than the Member State where the haulier is established.
- 4) 'non-resident haulier' means a road haulage undertaking which operates in a host Member State.

- 5) 'driver' ~~shall mean~~ ⊠ means ⊠ ~~the~~ ⊠ any ⊠ person who drives ~~a~~ ⊠ the ⊠ vehicle ⇒ even for a short period ⇐, or who is carried in ~~that~~ ⊠ a ⊠ vehicle ⇒ as part of his duties ⇐ ~~in order~~ to be available for driving if necessary.

↓ new

6) 'cabotage operations' means national carriage for hire or reward carried out on a temporary basis in a host Member State.

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 [admission to the occupation].

↓ 881/92 (adapted)

⊠ Chapter II: International carriage ⊠

Article 3 ⊠ Principle ⊠

↓ 484/2002 Art. 1.2(a) (adapted)

~~1. International carriage shall be carried out subject to a Community authorisation~~ ⊠ licence and, if the driver is a national of a third country, ⊠ in conjunction with a driver attestation ~~if the driver is a national of a non-member country.~~

↓ 881/92 (adapted)

Article 4 ⊠ Community licence ⊠

~~1. The Community authorization referred to in Article 3 shall replace the document issued by the competent authorities of the Member State of establishment, where such a document exists, certifying that the haulier has been granted access to the market in the international carriage of goods by road.~~

~~For carriage falling within the scope of this Regulation it shall also replace both the Community authorizations and the bilateral authorizations exchanged between Member States which are necessary until this Regulation comes into force.~~

↓ 881/92 Article 3 (2) (adapted)

~~21.~~ ⊠ The ⊠ Community authorization ⊠ licence ⊠ shall be issued by a Member State, in accordance with ~~Article 5 and 7~~ ⊠ this Regulation ⊠ , to any haulier carrying goods by road for hire or reward who:

- a) is established in a Member State, ~~hereinafter referred to as the «Member State of establishment»~~ in accordance with ~~the~~ ☐ Community ☐ legislation ☐ and the national legislation ☐ of that Member State;
- b) is entitled in ~~that~~ ☐ the ☐ Member State ☐ of establishment ☐ , in accordance with ~~the~~ ☐ Community ☐ legislation ~~of the Community~~ and ☐ the national legislation ☐ of that ☐ Member ☐ State concerning admission to the occupation of road haulage operator to carry out the international carriage of goods by road.

↓ 484/2002 Art. 1.3 (adapted)

~~2. The driver attestation referred to in Article 3 shall certify that in the context of transport by road covered by Community authorization, a driver who is a national of a non member country carrying out such transport is employed in the haulier's Member State of establishment in accordance with the laws, regulations or administrative provisions and, as appropriate, the collective agreements, in accordance with the rules applicable in that Member State, on the conditions of employment and of vocational training of drivers to carry out road transport operations in that State.~~

↓ 881/92 (adapted)

⇒ new

~~Article 5~~

~~21.~~ The Community ~~authorization~~ ☐ licence ☐ ~~referred to in Article 3~~ shall be issued by the competent authorities of the Member State of establishment ☐ for a renewable period of five years ☐. ⇒ Community licences and certified copies issued before the date of application of this Regulation shall remain valid until the date of their expiry. ⇐

~~32.~~ The ~~Member States~~ ☐ Member State of establishment ☐ shall issue the holder with the original of the Community ~~authorization~~ ☐ licence ☐ , which shall be kept by the haulage undertaking, and the number of certified true copies corresponding to the number of vehicles at the disposal of the holder of the Community ~~authorization~~ ☐ licence ☐ , whether wholly owned or, for example, under hire purchase, hire or leasing contracts.

~~43.~~ The Community ~~authorization~~ ☐ licence ☐ ⇒ and the certified true copies ⇐ shall correspond to the model set out in ~~of~~ Annex I, which also lays down the conditions governing its use.

⇒ The measures designed to amend non-essential elements of this Regulation relating to the adaptation of Annex I to technical progress shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14 (2). ⇐

↓ new

5. The Community licence and the certified true copies shall bear an engraved stamp or seal of the issuing authority as well as an original signature and a serial number. The serial numbers of the Community licence and the certified true copies shall be recorded in the national electronic register of road transport undertakings provided for in Article 15 of Regulation (EC) No xx/xxxx [admission to the occupation] as part of the data set of the haulier.

↓ 881/92 (adapted)

⇒ new

~~64.~~ The Community ~~authorization~~ ⊗ licence ⊗ shall be made out in the haulier's name. ⊗ The haulier ⊗ ~~he may~~ ⇒ shall ⇐ not transfer it to any third party. A certified true copy ⊗ of the Community licence ⊗ shall be kept in ⊗ each of ⊗ the ⊗ haulier's ⊗ vehicle and must be produced whenever required by an authorised inspecting officer.

↓ 881/92 Annex I, second page, 7th paragraph, 2nd and 3rd sentence (adapted)

In the case of a coupled combination of vehicles ~~it~~ ⊗ the certified true copy ⊗ ~~must~~ ⊗ shall ⊗ accompany the motor vehicle. It ~~covers~~ ⊗ shall cover ⊗ the coupled combination of vehicles even if the trailer or semi-trailer is not registered or authorised to use the roads in the name of the ~~authorization~~ ⊗ licence ⊗ holder or if it is registered or authorised to use the roads in another Member State.

↓ 484/2002 Art. 1.4 (adapted)

~~5. A Community authorisation shall be issued for a renewable period of five years.~~

↓ 484/2002 Art. 1.2(b); 1.5 (adapted)

⇒ new

Article ~~65~~
⊗ *Driver attestation* ⊗

~~13.~~ A driver attestation shall be issued by a Member State, in accordance with this Article ~~6~~, to any haulier who:

a) is the holder of a Community ~~authorization~~, ⊗ licence; ⊗

b) in that Member State lawfully employs drivers who are nationals of ~~non-member~~ ☒ third ☒ countries or lawfully uses drivers who are nationals of ~~non-member~~ ☒ third ☒ countries put at his disposal in accordance with the conditions of employment and of vocational training laid down in that same Member State:

i) by laws, regulations or administrative provisions, and, as appropriate;

ii) by collective agreements, in accordance with the rules applicable in that Member State.

2. ~~A~~ ☒ The ☒ driver attestation shall be issued by ☒ the competent authorities of ☒ the Member State ☒ of establishment of the haulier ☒ at the request of the holder of the Community ~~authorization~~ ☒ licence ☒ for each driver who is a national of a ~~non-member~~ ☒ third ☒ country whom he lawfully employs or who is lawfully put at his disposal ~~in accordance with the laws, regulations or administrative provisions and, as appropriate, the collective agreements, in accordance with the rules applicable in that Member State, on the conditions of employment and of vocational training of drivers applicable in that same Member State.~~ Each driver attestation shall certify that the driver named therein is employed in accordance with the conditions laid down in ~~Article 4~~ ☒ paragraph 1 ☒.

3. The driver attestation shall conform to the model set out in Annex ~~IIII~~, ~~which also lays down the conditions governing its use.~~

⇒ 4. The measures designed to amend non-essential elements of this Regulation relating to the adaptation of Annex II to technical progress shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14 (2). ⇐

⇒ 5. The driver attestation shall bear an engraved stamp or seal of the issuing authority as well as a signature and a serial number. The serial number of the driver attestation shall be recorded in the national electronic register of road transport undertakings provided for in Article 15 of Regulation (EC) No xx/xxxx [admission to the occupation] as part of the data set of the haulier who puts it at the disposal of the driver designated therein. ⇐

~~Member States shall take all steps necessary to prevent the forgery of driver attestations. They shall inform the Commission thereof.~~

6. The driver attestation shall belong to the haulier, who puts it at the disposal of the driver designated therein when that driver drives a vehicle using a Community ~~authorization~~ ☒ licence ☒ issued to that haulier. A certified true copy of the driver attestation ☒ issued by the competent authorities of the Member State of establishment of the haulier ☒ shall be kept at the haulier's premises. The driver attestation shall be produced whenever required by an authorised inspecting officer.

7. A driver attestation shall be issued for a period to be determined by the issuing Member State, subject to a maximum validity of five years. ⇒ Driver attestations issued before the date of application of this Regulation shall remain valid until the date of their expiry. ⇐

The driver attestation shall be valid only as long as the conditions under which it was issued are satisfied. Member States shall take appropriate measures to ensure that if those conditions are no longer met the haulier returns the attestation immediately to the issuing authorities.

↓ 881/92 art. 7 (adapted) → ₁ 484/2002 Art. 1.6

Article ~~7~~6

⊗ Verification of conditions ⊗

→₁ 1. ← Whenever an application for a Community ~~authorization~~ ⊗ licence ⊗ is lodged, not more than five years after issue and subsequently at least every five years, the competent authorities of the Member State of establishment shall verify whether the haulier satisfies or still satisfies the conditions laid down in Article ~~3 (2)~~ 4 (1).

↓ 484/2002 Art. 1.6

2. The competent authorities of the Member State of establishment shall regularly verify, by carrying out checks each year, covering at least 20 % of the valid attestations issued in that Member State, whether the conditions referred to in Article ~~3 (3)~~ 5 (1) under which a driver attestation has been issued are still satisfied.

↓ 484/2002 Art. 1.7 (adapted)

Article ~~8~~7

⊗ Refusal to issue and withdrawal of Community licence and driver attestation ⊗

1. If the conditions laid down in Article ~~3 (2)~~ 4 (1) or those referred to in Article ~~3 (3)~~ 5 (1) are not satisfied, the competent authorities of the Member State of establishment shall reject an application for the issue or renewal of a Community ~~authorization~~ ⊗ licence ⊗ or of a driver attestation, by means of a decision which states the reasons therefor.

2. The competent authorities shall withdraw a Community ~~authorization~~ ⊗ licence ⊗ or a driver attestation where the holder:

- (a) no longer satisfies the conditions laid down in Article ~~3 (2)~~ 4 (1) or those referred to in Article ~~3 (3)~~ 5 (1), or
 - (b) has supplied incorrect information in relation to ~~the data required for the issue of~~ ⊗ an application for ⊗ a Community ~~authorization~~ ⊗ licence ⊗ or of a driver attestation.
-

↓ 484/2002 Art. 1.8

~~2. The Member States shall guarantee that the holder of a Community authorization can appeal against any decision by the competent authorities of the Member State of~~

~~establishment to refuse or withdraw a driver attestation or to make the issue of driver attestations subject to additional conditions.~~

↓ 3118/93 – 484/2002 (adapted)

⊠ Chapter III: Cabotage ⊠

↓ 484/2002 Art. 2.1 (adapted)

Article ~~18~~ ⊠ Principle ⊠

1. Any road haulage carrier for hire or reward who is a holder of ~~the~~ ⊠ a ⊠ Community authorization ⊠ licence ⊠ ~~provided for in Regulation (EEC) No 881/92~~ and whose driver, if he is a national of a ~~non-member~~ ⊠ third ⊠ country, holds a driver attestation ~~in accordance with the conditions laid down in the said Regulation~~, shall be entitled, under the conditions laid down in this Regulation ⊠ Chapter ⊠, to ~~operate on a temporary basis national road haulage services for hire or reward in another Member State, hereinafter referred to respectively as «cabotage» and as the «host Member State», without having a registered office or other establishment therein~~ ⊠ carry out cabotage operations ⊠.

↓ new

2. Road haulage carriers 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.

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:

- (a) the name, address and signature of the sender;
- (b) the name, address and signature of the carrier;
- (c) the name and address of the consignee as well as his signature and the date of delivery once the goods have been delivered;

- (d) the place and the date of taking over of the goods and the place designated for delivery;
- (e) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognized description as well as the number of packages and their special marks and numbers; and
- (f) the gross weight of the goods or their quantity otherwise expressed;
- (g) the number plates of the motor vehicle and trailer.

The consignment letter or any other transport document can serve for this purpose.

↓ 3118/93 (adapted)

~~42. In addition,~~ Any carrier entitled in the Member State of establishment, in accordance with that Member State's legislation, to carry out the road haulage operations for hire or reward ~~mentioned~~ ☒ specified ☒ in Article 1 (5), points (a) ~~(1)~~, (b) ~~(2)~~ and (c) ~~(3)~~ of the Annex to the First Directive¹⁷ shall be permitted, under the conditions set out in this Regulation, to carry out, as the case may be, cabotage operations of the same kind or cabotage operations with vehicles in the same category.

↓ 484/2002 Art. 2.2 (adapted)

~~If the driver is a national of a non-member country, he must hold a driver attestation in accordance with the conditions laid down in Regulation (EEC) No 881/92.~~

↓ 3118/93 (adapted)

⇒ new

~~53.~~ Permission to carry out cabotage operations, within the framework of the types of carriage referred to in Article 1 (5) point (e) ~~5 of the Annex to the First Directive~~, shall be unrestricted.

~~64.~~ Any undertaking entitled in the Member State of establishment, in accordance with that Member State's legislation, to carry out road haulage operations for own account ☒ as defined in Article 1 (5) point (d) ☒ shall be permitted to carry out cabotage operations on own account ~~as defined in point 4 of the Annex to the First Directive~~.

~~The Commission shall adopt the detailed rules for implementing this paragraph.~~

¹⁷

First Council Directive of 23 July 1962 on the establishment of certain common rules for international transport (carriage of goods by road). (OJ No 70, 6. 8. 1962, p. 2005/62). Directive as last amended by Regulation (EEC) No 881/92 (OJ No L 95, 9. 4. 1992, p. 1).

↓ 3118/93 (adapted)

~~Article 2~~

~~1. With a view to the progressive introduction of the definitive system defined in Article 12, cabotage operations shall be carried out from 1 January 1994 to 30 June 1998 within the framework of Community cabotage quotas, without prejudice to Article 1 (3).~~

~~Cabotage authorizations shall correspond to the model in Annex I.~~

↓ 3315/94 Art. 1.1

~~A Community cabotage quota shall consist of cabotage authorizations, each valid for two months, in accordance with the following table:~~

Year	Number of authorizations
1994	30000
1995	46296
1996	60191
1997	83206
1 January to 30 June 1998	54091

↓ 3118/93

~~2. At the request of a Member State, to be submitted before 1 November of each year, one cabotage authorization may be converted into two short duration authorizations, each valid for one month.~~

~~The short duration cabotage authorizations shall correspond to the model in Annex II.~~

~~3. The quota shall be allocated amongst the Member States as follows:~~

↓ 3315/94 Art. 1.2

	1995	1996	1997	1 January to 30 June 1998
Belgium	3647	4742	6223	4045
Denmark	3538	4600	6037	3925

Germany	5980	7774	10203	6632
Greece	1612	2096	2751	1789
Spain	3781	4916	6452	4194
France	4944	6428	8436	5484
Ireland	1645	2139	2808	1826
Italy	4950	6435	8445	5490
Luxembourg	1699	2209	2899	1885
Netherlands	5150	6695	8786	5711
Austria	0	0	4208	2736
Portugal	2145	2789	3661	2380
Finland	1774	2307	3029	1969
Sweden	2328	3027	3973	2583
United Kingdom	3103	4034	5295	3442

↓ 3118/93

~~Article 3~~

~~1. The cabotage authorizations referred to in Article 2 shall allow the recipient to carry out the cabotage operations.~~

~~2. Cabotage authorizations shall be distributed by the Commission to the Member States of establishment and issued to carriers applying for them by the competent authority or body of the Member State of establishment.~~

~~They shall bear the distinctive sign of the Member State of establishment.~~

~~3. A cabotage authorization shall be made out in the name of the carrier. That carrier may not transfer it to a third party. Each cabotage authorization may be used by only one vehicle at a time.~~

~~«Vehicle» means a motor vehicle registered in the Member State of establishment or a coupled combination of vehicles of which at least the motor vehicle is registered in the Member State of establishment and which are used exclusively for the carriage of goods.~~

~~The non-resident carrier shall have the vehicle at his disposal either under full ownership or on another basis, *inter alia*, a hire-purchase, hire or leasing contract.~~

~~In the case of hiring, the vehicle shall be hired by the carrier in the Member State of establishment to carry out cabotage operations. However, the non-resident carrier may, in order to complete a cabotage operation interrupted because of a breakdown or an accident, hire a vehicle in the host Member State under the same conditions as resident carriers.~~

~~The cabotage authorization and the hiring contract, if any, shall accompany the motor vehicle.~~

~~4. The cabotage authorization must be produced whenever requested by inspecting officers.~~

~~5. The date from which a cabotage authorization is valid must be entered on the authorization before it is used by the competent authority or body of the Member State of establishment.~~

~~Article 4~~

~~Transport operations effected under a cabotage authorization shall be entered in a book of record sheets and the sheets shall be returned with the authorization to the competent authority or body of the Member State of establishment which issued the authorization within eight days of the expiry of the validity of the authorization.~~

~~The book of record sheets shall correspond to the model in Annex III.~~

~~Article 5~~

~~1. At the end of each quarter and within three months, which may be reduced by the Commission to one month in the case referred to in Article 7, the competent authority or body of each Member State shall communicate to the Commission the data concerning the cabotage operations carried out during that quarter by resident carriers, such data being expressed in tonnes carried and in tonnes/kilometres.~~

~~The communication shall be effected by means of a table, the model for which is set out in Annex IV.~~

~~2. The Commission shall send the Member States as soon as possible summary statements drawn up on the basis of the data submitted under paragraph 1.~~

↓ 3118/93 Art. 6 (adapted)
⇒ new

Article 69

⊗ Rules applicable to cabotage operations ⊗

1. The performance of cabotage ~~transport~~ operations shall be subject, save as otherwise provided in Community ~~Regulations~~ ⊗ legislation ⊗, to the laws, regulations and administrative provisions in force in the host Member State in the following areas:

- (a) ~~rates and~~ conditions governing the transport contract;
- (b) weights and dimensions of road vehicles; ~~such weights and dimensions may, where appropriate, exceed those applicable in the carrier's Member State of establishment, but they may under no circumstances exceed the technical standards certified by the proof of compliance referred to in Article 1 (1) of Council Directive 86/364/EEC¹⁸;~~
- (c) requirements relating to the carriage of certain categories of goods, in particular dangerous goods, perishable foodstuffs, live animals;
- (d) ☒ working time ☒ , driving ☒ time ☒ and rest ~~time~~ ☒ periods ☒ ;
- (e) value added tax (VAT) on transport services. ~~In this area Article 21 (1) (a) of Directive [77/388/EEC]¹⁹ shall apply to the services referred to in Article 1 of this Regulation.~~

☒ The ☒ weights and dimensions ☒ referred to in point (b) ☒ may, where appropriate, exceed those applicable in the carrier's Member State of establishment, but they may under no circumstances exceed ☒ the limits set by the host Member State for national traffic or ☒ the technical standards certified by the proof ☒ characteristics mentioned in the proofs ☒ of compliance referred to in Article ~~4~~ ☒ 6 ☒ (1) of Council Directive ~~86/364/EEC²⁰~~ ☒ 96/53²¹ ☒.

~~2. The technical standards of construction and equipment which vehicles used to carry out cabotage operations must meet shall be those laid down for vehicles put into circulation in international transport.~~

~~23.~~ The ☒ laws, regulations and administrative ☒ provisions referred to in paragraph 1 shall be applied to non-resident ~~transport operators~~ ☒ hauliers ☒ on ☒ under ☒ the same conditions as ☒ are imposed on that Member State's ☒ those which that Member State imposes on its own nationals, so as to prevent any ~~open or hidden~~ discrimination on grounds of nationality or place of establishment.

~~4. If it is established that, in the light of experience, the list of areas covered by the host Member State's laws, regulations and administrative provisions referred to in paragraph 1 needs to be adapted, the Council shall amend that list, acting by a qualified majority on a proposal from the Commission.~~

¹⁸ OJ No L 221, 7. 8. 1986, p. 48.

¹⁹ ~~Council Directive 77/388/EEC of 17 May 1977 on the harmonization for the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment (OJ No L 145, 13. 6. 1977, p. 1). Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).~~

²⁰ OJ No L 221, 7. 8. 1986, p. 48.

²¹ OJ L 235, 17.9.1996, p.59.

~~Article 7~~

~~1. 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 provide the Commission with the necessary information and notify it of the measures it intends to take as regards resident carriers.~~

~~2. For the purposes of paragraph 1:~~

~~'serious disturbance of the national transport market in a given geographical area' means 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 road haulage undertakings;~~

~~'geographical area' means an area covering all or part of the territory of a Member State or extending to all or part of the territory of other Member States.~~

~~3. The Commission shall examine the situation, on the basis in particular of the latest quarterly data referred to in Article 5 and, after consulting the Advisory Committee set up by Article 5 of Regulation (EEC) No 3916/90²², 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 this 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.~~

~~The Commission shall without delay notify the Member States and the Council of any decision taken pursuant to this paragraph.~~

~~4. 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.~~

~~5. Any Member State may submit a Commission decision as referred to in paragraph 3 to the Community within 30 days of its notification.~~

²² OJ No L 375, 31. 12. 1990, p. 10.

~~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 limits of validity laid down in the third subparagraph of paragraph 3 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 within the period referred to in the second subparagraph, the Commission decision shall become final.~~

~~6. Where the Commission considers that the measures referred to in paragraph 3 need to be prolonged, it shall submit a proposal to the Council, which shall take a decision by qualified majority.~~

↓ 881/92 Art. 11 (1) (adapted)
⇒ new

⊠ Chapter IV: Mutual assistance and sanctions ⊠

Article 10

⊠ *Mutual assistance* ⊠

~~1.~~ The Member States shall ~~give each other mutual assistance~~ ⊠ assist one another ⊠ in ensuring the application and monitoring of this Regulation. ⇒ They shall exchange information via the national contact points established pursuant to Article 17 of Regulation (EC) No xx/xxxx [admission to the occupation]. ⇐

↓ 3118/93 Art. 8

~~*Article 8*~~

~~1. Member States shall assist one another in applying this Regulation.~~

Article 11

⊗ Sanctioning of infringements by Member State of establishment ⊗

13. In the event of ⊗ a ⊗ serious infringements or repeated minor infringements of carriage regulations ⇒ 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 ~~may, *inter alia*, temporarily or partially withdraw the certified true copies of the Community authorisation and may withdraw driver attestations.~~ ⇒ shall issue a warning and may, *inter alia*, impose the following administrative sanctions: ⇐

(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 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 ~~authorization~~ ⊗ licence ⊗ and having regard to the total number of certified true copies of that ~~authorization~~ ⊗ licence ⊗ that he holds in respect of international traffic.

24. In the event of a serious infringements 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:

(a) suspension of the issue of driver attestations,

(b) withdrawal of driver attestations,

(c) making the issue of driver attestations subject to additional conditions in order to prevent misuse,

(d) temporary or ~~partial~~ ⊗ permanent ⊗ withdrawal of ⊗ some or all of ⊗ the certified true copies of the Community ~~authorization~~ ⊗ licence ⊗,

(e) ⇒ temporary or permanent withdrawal of the Community licence. ⇐

These sanctions shall be determined having regard to the seriousness of the infringement committed by the holder of the Community ~~authorization~~ ⊗ licence ⊗.

↓ 881/92 (adapted)
→₁ Corrigendum, OJ L 213,
29.7.1992, p. 36
⇒ new

3. In ~~the~~ ☒ the case referred to in Article 12 (1) ~~the event of a serious infringement or repeated minor infringements of carriage regulations,~~ the competent authorities of the Member State ☒ of establishment ~~in which the haulier is established~~ shall ☒ decide whether a sanction shall be imposed on the haulier concerned ☒ ~~examine the ways in which the sanctions provided for in Article 8(3) and (4) are applied and~~ ☒ They ☒ shall communicate ~~their decision~~ to the competent authorities of the Member State →₁ in which the infringements were ascertained ☒ as soon as possible and at the latest within three months from receiving knowledge of the infringement which of the sanctions provided for in paragraphs 1 and 2 have been imposed. If it has not been possible to impose such sanctions, they shall state the reasons. ☒

↓ 3118/93 Art. 8 (4) (adapted)
⇒ new

~~4. The competent authority of the host Member State shall inform that of the Member State of establishment of the infringements recorded and any penalties imposed on the carrier and may, in the event of serious or repeated infringements, at the same time transmit a request that a penalty be imposed.~~

~~4. In the event of serious or repeated infringements, the competent authority of the Member State of establishment shall decide whether an appropriate penalty should be imposed on the carrier concerned; the authority~~ ☒ The competent authorities ☒ shall take into account any ~~penalty~~ ☒ sanction ☒ imposed in the ~~host~~ ☒ other ☒ Member State and ensure that the ~~penalties~~ ☒ sanctions ☒ imposed on the ~~carrier~~ ☒ haulier ☒ concerned are, as a whole, proportionate to the infringement or infringements which gave rise to such ~~penalties~~ ☒ sanctions ☒.

↓ 3118/93 Art. 8 (4)
subparagraph 3 (adapted)
⇒ new

~~The penalty imposed by the competent authority of the Member State of establishment, after consulting the competent authorities of the host Member State, may extend to withdrawal of authorization to pursue the activity of road haulage operator.~~

↓ 3118/93 Art. 8 (4) subparagraphs 4 and 5 (adapted)

~~5. The competent authority~~ ☒ authorities ☒ of the Member State of establishment ☒ of the haulier ☒ may also, pursuant to its national law, ~~arrange~~ ☒ bring proceedings against ☒ the

~~carrier~~ ☒ haulier ☒ concerned before a competent national court or tribunal. It shall inform the competent authority of the host Member State of the decisions taken ☒ to this effect ☒ ~~pursuant to the preceding paragraphs.~~

↓ new

6. Member States shall ensure that hauliers may appeal against any administrative sanction imposed on them pursuant to this Article.

↓ 881/92 Art. 9 (adapted)

~~The Member States shall guarantee that the applicant or the holder of a Community authorization is able to appeal against any decision by the competent authorities of the Member State of establishment to refuse or withdraw an authorization.~~

↓ 881/92 Art. 9 (adapted)

~~2. The Member States shall guarantee that the holder of a Community authorisation can appeal against any decision by the competent authorities of the Member State of establishment to refuse or withdraw a driver attestation or to make the issue of driver attestations subject to additional conditions.~~

↓ 881/92 (adapted)
→₁ Corrigendum, OJ L 213,
29.7.1992, p. 36
⇒ new

Article ~~11~~12

☒ Sanctioning of infringements by host Member State ☒

21. Where the competent authorities of a Member State are aware of an ☒ serious ☒ infringement ⇒ or of repeated minor infringements ⇐ of this Regulation ⇒ or of Community road transport legislation ⇐ attributable to a ☒ non-resident ☒ haulier ~~from another Member State~~, the Member State within the territory of →₁ which the infringement is ascertained ← shall ~~inform~~ ⇒ transmit to ⇐ the competent authorities of the Member State ~~in which the haulier is established~~ ☒ of establishment ☒ ⇒ as soon as possible but at the latest within one month from receiving knowledge of the infringement the following information: ⇐

(a) ⇒ a description of the infringement and date, time when it was committed; ⇐

(b) ⇒ the category, type and seriousness of the infringement; ⇐

(c) ⇒ the sanctions imposed and the sanctions executed. ⇐

~~and~~ ☒ The competent authorities of the host Member State ☒ may ~~ask~~ ☒ request ☒ the competent authorities of the Member State of establishment to impose ⇒ administrative ⇐ sanctions in accordance with this Regulation Article 11.

↓ 3118/93 Art. 8 (2) and (3)
(adapted)
⇒ new

2. Without prejudice to any criminal ~~proceedings~~ ☒ prosecution ☒ the competent authorities of the host Member State shall be empowered to impose ~~penalties~~ ☒ sanctions ☒ on a non-resident ~~carrier~~ ☒ haulier ☒ who has committed infringements of this Regulation or of ☒ national ☒ ~~Community~~ or ☒ Community ☒ ~~national~~ ⇒ road ⇐ in their territory during a cabotage operation. They shall impose such ~~penalties~~ ☒ sanctions ☒ on a non-discriminatory basis ~~and in accordance with paragraph 3~~. The ☒ These ☒ ~~penalties referred to in paragraph 2~~ ☒ 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 ~~transport~~ ☒ operations ☒ within the territory of the host Member State where the infringement was committed.

↓ new

3. Member States shall ensure that hauliers may appeal against any administrative sanction imposed on them pursuant to this Article.

↓ 3118/93 (adapted)

~~Member States shall ensure that any applicant for, or holder of, an authorization may appeal against a decision refusing or withdrawing that authorization and against any other administrative penalty taken against him by the competent authority of the Member State of establishment or of the host Member State.~~

↓ new

Article 13 *Entry in national register*

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 Regulation (EC) No xx/xxxx. Those entries in the registry which concern a temporary or permanent withdrawal of a Community licence shall remain in the database for at least two years.

⊠ Chapter V: Implementation ⊠

~~Article 11a~~

~~The Commission shall examine the consequences of restricting the obligation to hold a driver attestation to drivers who are nationals of non-member countries and shall, should there be sufficient justification for doing so, submit a proposal for the amendment of this Regulation.~~

~~Article 11~~

~~Every two years and, for the first time by 30 June 1996, the Commission shall submit a report to the Community on the application of this Regulation.~~

Article 14 Committee

1. The Commission is assisted by the committee established by Article 18 (1) of Council Regulation (EEC) n° 3821/85²³.

2. Where reference is made to this paragraph, Article 5a (1) to (4) and (5) (b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The time limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be one month.

Article 15 Sanctions

Member States shall adopt measures relating in particular to the system of sanctions applicable to infringements of the provisions of this Regulation, and take all the measures necessary to ensure that those sanctions are applied. The sanctions thus provided for shall be effective, proportionate and dissuasive. Member States shall notify the relevant measures to the Commission within 12 months of the date on which this Regulation comes into force and shall notify any subsequent changes as soon as possible. They shall ensure that all such

²³ OJ L 370, 31.12.1985, p. 8. Regulation amended lastly by Regulation (EC) n° 1791/2006 (OJ L 363, 20.12.2006, p. 1).

measures are applied without discrimination as to the nationality or place of establishment of the carrier.

↓ 881/92 Art. 10 (adapted)
⇒ new

Article ~~10~~16
⊗ Reporting ⊗

1. By 31 January each year Member States shall inform the Commission of the number of hauliers possessing Community ~~authorizations~~ ⊗ licences ⊗ on 31 December of the previous year and of the number of certified true copies corresponding to the vehicles in circulation at that date.

⇒ 2. Member States shall also inform the Commission of the number of driver attestations issued in the previous calendar year as well as the number of driver attestation in circulation on 31 December of that year. ⇐

↓ 881/92

~~Article 12~~

~~The following shall be repealed:~~

~~———— Council Regulation (EEC) No 3164/76,~~

~~———— Article 4 of Council Directive 75/130/EEC of 17 February 1975 on the establishment of common rules for certain types of combined carriage of goods between Member States²⁴;~~

~~———— Council Directive 65/269/EEC of 13 May 1965 concerning the standardization of certain rules relating to authorizations for the carriage of goods by road between Member States²⁵;~~

~~———— Council Decision 80/48/EEC of 20 December 1979 on the adjustment of capacity for the carriage of goods by road for hire or reward between Member States²⁶;~~

~~Article 13~~

~~The First Council Directive of 23 July 1962 is hereby amended as follows:~~

²⁴ OJ No L 48, 22. 2. 1975, p. 31. Directive last amended by Directive 91/224/EEC (OJ No L 103, 23. 4. 1991, p. 1).

²⁵ OJ No 88, 24. 5. 1965, p. 1469/65. Directive as last amended by Directive 85/505/EEC (OJ No L 309, 21. 11. 1985, p. 27).

²⁶ OJ No L 18, 24. 1. 1980, p. 21.

- ~~1. the title shall be replaced by: «First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road»;~~
- ~~2. Article 1 shall be replaced by:~~

~~«Article 1~~

- ~~1. Under the conditions laid down in paragraph 2, Member States shall liberalize the types of international carriage of goods by road for hire or reward and on own account listed in the Annex where such carriage is performed to or from or in transit through their territory;~~
- ~~2. The types of carriage and unladen journeys made in conjunction with the carriage listed in the Annex shall be exempted from Community authorization and from any carriage authorization»;~~
- ~~3. Annex II shall be deleted and the text of Annex I shall be replaced by that appearing in Annex II to this Regulation.~~

~~Article 14~~

~~The Member States shall communicate to the Commission the measures they take to implement this Regulation.~~

~~Article 15~~

~~This Regulation shall enter into force on the day following of its publication in the *Official Journal of the European Communities*.~~

~~It shall apply from 1 January 1993.~~

↓ 3118/93 Art. 11 and 12

~~Article 11~~

~~Every two years and, for the first time by 30 June 1996, the Commission shall submit a report to the Community on the application of this Regulation.~~

~~Article 12~~

- ~~1. This Regulation shall enter into force on 1 January 1994.~~
- ~~2. The Community authorization and quota system for cabotage operations provided for in Article 2 shall cease to apply on 1 July 1998.~~

~~3. From that date any non-resident carrier meeting the conditions laid down in Article 1 shall be entitled to operate, on a temporary basis and without quantitative restrictions, national road haulage services in another Member State, without having a registered office or other establishment in that State.~~

~~The Commission shall submit to the Council, where appropriate, taking account of experience acquired, of developments in the transport market and of progress made towards harmonization in the transport sector, a proposal on the detailed rules accompanying the definitive system as regards on appropriate system for observing the market in cabotage operations and the adjustment of the safeguard measures provided for in Article 7.~~



CHAPTER VI

Final provisions

Article 17 *Repeals*

Regulations (EEC) No 881/92 and 3118/93 and Directive 2006/94/EC are repealed.

References to the repealed Regulations and Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex III.

Article 18 *Entry into force and application*

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from [date of application].

↓ 881/92, 3118/93

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

↓ 881/92 Annex I (adapted)
 →₁ Accession Act of 2003
 →₂ 1791/2006 Annex pt. 6(B)(2)
 →₃ Act of Accession of Austria, Sweden and Finland Art. 29 and Annex I, p. 166
 ⇒ new

ANNEX I

EUROPEAN ~~ECONOMIC~~ COMMUNITY

(a)

(~~Blue card — DIN A4~~ ☒ Light blue, format DIN A4 synthetic paper, 150g/m² or more ☒)

(First page of the ~~authorization~~ ☒ licence ☒)

(Text in (one of) the official language(s) of the Member State issuing the ~~authorization~~ ☒ licence ☒)

State issuing the ~~authorization~~ ☒ licence ☒

Distinguishing sign ⁽¹⁾

Name of the competent authority or body

~~AUTHORIZATION~~ ☒ LICENCE ☒ No

⇒ CERTIFIED TRUE COPY No ⇐

for the international carriage of goods by road for hire or reward

This ~~authorization~~ ☒ licence ☒ entitles ⁽²⁾

.....

to engage in the international carriage of goods by road for hire or reward by any route, for journeys or parts of journeys effected for hire or reward within the territory of the Community, as laid down in ~~Council Regulation (EEC) No 881/92 of 26 March 1992~~ ☒ Regulation (EC) No [...] of the European Parliament and of the Council on common rules for access to the international road haulage market⁽³⁾ ☒ and subject to the general provisions of this ~~authorization~~ ☒ licence ☒.

Particular remarks:

This ~~authorization~~ ☒ licence ☒ shall be valid fromto

Issued in, on

⁽⁴⁾

⁽¹⁾ The distinguishing signs of the Member States are: (B) Belgium, ➔₂ (BG) Bulgaria, ⬅ ➔₁ (CZ) Czech Republic, ⬅ (DK) Denmark, (D) Germany, ➔₁ (EST) Estonia, ⬅ (IRL) Ireland, (GR) Greece, (E) Spain, (F) France, (I) Italy, ➔₁ (CY) Cyprus, (LV) Latvia, (LT) Lithuania, ⬅ (L) Luxembourg, ➔₁ (H) Hungary, (MT) Malta, ⬅ (NL) Netherlands, ➔₃ (A) Austria, ⬅ ➔₁ (PL) Poland, ⬅ (P) Portugal, ➔₂ (RO) Romania, ⬅ ➔₃ (SLO) Slovenia, (SK) Slovakia, ⬅ ➔₃ (FIN) Finland, (S) Sweden, ⬅ (UK) United Kingdom.

⁽²⁾ Name or business name and full address of the haulier.

⁽³⁾ Signature and stamp of the issuing competent authority or body.

⁽⁴⁾ See page 1 of this Official Journal

(b)

(SECOND PAGE OF THE ~~AUTHORIZATION~~ ☒ LICENCE ☒)

(Text in (one of) the official language(s) of the Member State issuing the ~~authorization~~ ☒ licence ☒)

GENERAL PROVISIONS

This ~~authorization~~ ☒ licence ☒ is issued under ~~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~~ ☒ Regulation (EC) No [this Regulation] ☒.

It entitles the holder to engage in the international carriage of goods by road for hire or reward by any route for journeys or parts of journeys effected within the territory of the Community and, where appropriate, subject to the conditions laid down herein:

- where the point of departure and the point of arrival are situated in two different Member States, with or without transit through one or more Member States or ~~non-member~~ ☒ third ☒ countries,
 - from a Member State to a ~~non-member~~ ☒ third ☒ country or vice versa, with or without transit through one or more Member States or ~~non-member~~ ☒ third ☒ countries,
 - between ~~non-member~~ ☒ third ☒ countries with transit through the territory of one or more Member States,
- and unladen journeys in connection with such carriage.

In the case of carriage from a Member State to a ~~non-member~~ ☒ third ☒ country or vice versa, this ~~authorization~~ ☒ licence ☒ is valid for that part of the journey effected on the territory of ☒ the Community. It shall be valid in ☒ the Member State of loading or unloading ~~upon~~ ☒ only after the ☒ conclusion of the necessary agreement between the Community and the ~~non-member~~ ☒ third ☒ country in question in accordance with Regulation ~~(EEC) No 881/92~~ ☒ (EC) No [...] ☒.

The ~~authorization~~ ☒ licence ☒ is personal to the holder and is not transferable.

It may be withdrawn by the competent authority of the Member State which issued it, notably where the haulier has:

- not complied with all the conditions for using the ~~authorization~~ ☒ licence ☒,
- supplied incorrect information with regard to the data needed for the issue or extension of the ~~authorization~~ ☒ licence ☒.

The original of the ~~authorization~~ ☒ licence ☒ must be kept by the haulage undertaking.

A certified copy of the ~~authorization~~ ☒ licence ☒ must be kept in the vehicle (1). In the case of a coupled combination of vehicles it must accompany the motor vehicle. It covers the coupled combination of vehicles even if the trailer or semi-trailer is not registered or authorised to use the roads in the name of the ~~authorization~~ ☒ licence ☒ holder or if it is registered or authorised to use the roads in another Member State.

The ~~authorization~~ ☒ licence ☒ must be produced whenever required by an authorised inspecting officer.

Within the territory of each Member State the holder must comply with the laws, regulations and administrative provisions in force in that State, in particular with regard to transport and traffic.

(1) 'Vehicle' means a motor vehicle registered in a Member State or a coupled combination of vehicles, the motor vehicle of which at least is registered in a Member State, used exclusively for the carriage of goods.'

~~ANNEX II~~

~~"ANNEX~~

~~Types of carriage to be exempted from any Community authorization and from any carriage authorization~~

~~1. Carriage of mail as a public service.~~

~~2. Carriage of vehicles which have suffered damage or breakdown.~~

~~3. Carriage of goods in motor vehicles the permissible laden weight of which, including that of trailers, does not exceed six tonnes or the permissible payload of which, including that of trailers, does not exceed 3,5 tonnes.~~

~~4. Carriage of goods in motor vehicles provided the following conditions are fulfilled:~~

~~(a) the goods carried must be the property of the undertaking or must have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking;~~

~~(b) the purpose of the journey must be to carry the goods to or from the undertaking or to move them, either inside the undertaking or outside for its own requirements;~~

~~(c) motor vehicles used for such carriage must be driven by employees of the undertaking;~~

~~(d) the vehicles carrying the goods must be owned by the undertaking or have been bought by it on deferred terms or hired provided that in the latter case they meet the conditions of Council Directive 84/647/EEC of 19 December 1984 on the use of vehicles hired without drivers for the carriage of goods by road²⁷;~~

~~————— This provision shall not apply to the use of a replacement vehicle during a short breakdown of the vehicle normally used;~~

~~(e) carriage must be no more than ancillary to the overall activities of the undertaking.~~

~~5. Carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters."~~

²⁷

OJ No L 335, 22. 12. 1984, p. 72.

↓ 484/2002 Annex (adapted)
 →₁ Act of Accession of Austria, Sweden and Finland Art. 29 and Annex I, p. 166
 →₂ Accession Act of 2003
 →₃ 1791/2006 Annex pt. 6(B)(2)

ANNEX II.HH

EUROPEAN COMMUNITY

(a)

(Colour pink – ☒ format ☒ DIN A4; ☒ synthetic paper, 150g/m² or more ☒)

(First page of the attestation)

(Text in (one of) the official language(s) of the Member State issuing the attestation)

Distinguishing sign of the Member State (1) issuing the attestation

Name of the competent authority or body

DRIVER ATTESTATION N°.....

for the carriage of goods by road for hire or reward under a Community ~~authorisation~~ ☒ licence ☒

(~~Regulation (EEC) No 881/92 as amended by Regulation (EC) No 484/2002 of 1 March 2002~~ ☒ Regulation (EC) No [...]
☒)

This attestation certifies that on the basis of the documents presented by:

(2).....

The following driver:

Name and forename.....

Date and place of birth.....Nationality.....

Type and reference number of identity paper.....

Date of issue.....Place of issue.....

Driving licence number.....

Date of issue.....Place of issue.....

Social security number.....

Is employed, in accordance with the laws, regulations or administrative provisions and, as appropriate, the collective agreements, in accordance with the rules applicable in the following Member State, on the conditions of employment and of vocational training of drivers applicable in that Member State to carry out road transport operations in that State:

.....(3)

Particular remarks.....

This attestation shall be valid from.....to.....

Issued in, on.....

.....(4)

(1) The distinguishing signs of the Member States are: (B) Belgium, ➔₃ (BG) Bulgaria, ⬅ ➔₂ (CZ) Czech Republic, ⬅ (DK) Denmark, (D) Germany, ➔₂ (EST) Estonia, ⬅ (IRL) Ireland, (GR) Greece, (E) Spain, (F) France, (I) Italy, ➔₂ (CY) Cyprus, (LV) Latvia, (LT) Lithuania, ⬅ (L) Luxembourg, ➔₂ (H) Hungary, (MT) Malta, ⬅ (NL) Netherlands, ➔₁ (A) Austria, ⬅ ➔₂ (PL) Poland, ⬅ (P) Portugal, ➔₃ (RO) Romania, ⬅ ➔₂ (SLO) Slovenia, (SK) Slovakia, ⬅ ➔₁ (FIN) Finland, (S) Sweden, ⬅ (UK) United Kingdom.

(2) Name or business name and full address of the haulier

(3) Name of the haulier's Member State of establishment

(4) Signature and stamp of the issuing competent authority or body

(Second page of the attestation)
(Text in (one of) the official language(s) of the Member State issuing the attestation)

GENERAL PROVISIONS

This attestation is issued under ~~Council Regulation (EEC) N° 881/92 of 26 March 1992, as amended, 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~~ ☒ Regulation (EC) No [...] of [date] the European Parliament and of the Council on common rules for the access to the international road haulage market ☒.

It certifies that the driver named therein is employed, in accordance with the laws, regulations or administrative provisions and, as appropriate, the collective agreements, in accordance with the rules applicable in the Member State mentioned on the attestation, on the conditions of employment and of vocational training of drivers applicable in that same Member State to carry out road operations in that State.

The driver attestation shall belong to the haulier, who puts it at the disposal of the driver designated therein when that driver drives a vehicle (5) engaged in carriage using a Community authorisation issued to that haulier. The driver attestation is not transferable. The driver attestation shall be valid only as long as the condition under which it was issued are still satisfied and must be returned immediately by the haulier to the issuing authorities if these conditions are no longer met.

It may be withdrawn by the competent authority of the Member State which issued it, in particular where the haulier has:

- ~~N~~not complied with all the conditions for using the attestation;
- ~~S~~supplied incorrect information with regard to the data needed for the issue or extension of attestation;
- ~~A~~a certified true copy of the attestation must be kept by the haulage undertaking;
- ~~T~~the original attestation must be kept in the vehicle and must be produced by the driver whenever required by an authorised inspecting officer.

(5) "Vehicle" means a motor vehicle registered in a Member State of a coupled combination of vehicles, the motor vehicle of which at least is registered in a Member State, used exclusively for the carriage of goods.

ANNEX III

CORRELATION TABLE

Regulation 881/92	Regulation 3118/93	Directive 2006/94	This Regulation
Article 1 (1)			Article 1 (1)
Article 1 (2)			Article 1 (2)
Article 1 (3)			Article 1 (3)
			Article 1 (4) new
		Article 1 (1), 1 (2), Annex I; Article 2	Article 1 (5)
Article 2			Article 2 amended
Article 3 (1)			Article 3
Article 3 (2)			Article 4 (1) amended
Article 3 (3)			Article 5 (1) amended
Article 4			-
Article 5 (1)			Article 4 (2) amended
Article 5 (2)			Article 4 (3) amended
Article 5 (3)			Article 4 (4) amended
Article 5 (4), Annex I 2nd page, 7th para, 2nd and 3rd sentence			Article 4 (6) amended
Article 5 (5)			Article 4 (2)

Article 6 (1)			Article 5 (2) amended
Article 6 (2)			Article 5 (2) amended
Article 6 (3)			Article 5 (3) amended
Article 6 (4)			Article 5 (4)
Article 6 (5)			Article 5 (5)
Article 7			Article 6
Article 8 (1)			Article 7 (1)
Article 8 (2)			Article 7 (2)
Article 8 (3)			Article 11 (1) amended
Article 8 (4)			Article 11 (2)
Article 9 (1)			Article 11 (6) amended
Article 9 (2)			Article 11 (6) amended
	Article 1 (1)		Article 8 (1)
	-		Article 8 (2)
	-		Article 8 (3)
	Article 1 (2)		Article 8 (4)
	Article 1 (3)		Article 8 (5)
	Article 1 (4)		Article 8 (6)
			Article 8 (7) new
	Article 2		-
	Article 3		-
	Article 4		-
	Article 5		-

	Article 6 (1)		Article 9 (1) amended
	Article 6 (2)		-
	Article 6 (3)		Article 9 (2)
	Article 6 (4)		-
	Article 7		-
Article 10			Article 16 (1) amended
Article 11 (1)			Article 10 amended
Article 11 (2)			Article 12 (1) amended
Article 11 (3)			Article 11 (3) amended
Article 11a			-
	Article 8 (1)		Article 10 amended
	Article 8 (2)		Article 12 (2) amended
	Article 8 (3)		Article 12 (2) amended
	Article 8 (4) sub-paragraphs 1 and 3		-
	Article 8 (4) sub-paragraph 2		Article 11 (4) amended
	Article 8 (4) sub-paragraphs 4 and 5		Article 11 (5) amended
	Article 9		Article 12 (3) amended
Article 12			Article 17
Article 13			-
Article 14	Article 10		-
	Article 11		-

Article 15	Article 12		Article 18
		Article 3	-
		Article 4	-
		Article 5	-
		Annex II, III	-
Annex I			Annex I
Annex II			Article 1 (5)
Annex III			Annex II
	Annex I		-
	Annex II		-
	Annex III		-
	Annex IV		-