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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.1.2009
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2007/0099 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the

**common position of the Council on the adoption of a regulation of the European
Parliament and the Council on common rules for access to the international road
haulage market (recast)**

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council 23 May 2007.
(document COM(2007)265 final – 2007/0099COD):

Date of the opinion of the European Economic and Social Committee: 12 March 2008.

Date of the opinion of the European Parliament, first reading: 21 May 2008.

Date of transmission of the amended proposal: 13 June 2008.

Date of adoption of the common position: 9.1.2009

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The objective of the proposal adopted by the Commission on 23 May 2007 is to establish common rules on the access to the market of international transport of goods by road. The proposal replaces two regulations on the access to the market for road hauliers and a directive of the Council exempting certain transports from the authorisation. It aims among others at enhancing enforceability of road cabotage by clarifying its definition.

3. COMMENTS ON THE COMMON POSITION

3.1. General comments on the common position

The proposal on the access to the international road haulage market, and in particular its definition of cabotage, is one of the main points of debate in the road package. Notably the date for the report on a possible further opening of the market, including cabotage, was a central point for reaching a compromise on the package.

3.2. Detailed Commission comments

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

acceptable as such or in principle for the Commission. These amendments concern:

- the definition of the exception for the carriage of mail (amendment 11);
- the limitation of details to be contained in the evidence to be produced for the international carriage (19);
- the deletion of the reference to working time as mandatory rules applicable to cabotage (43);
- the introduction of a safeguard procedure in the event of serious disturbances due to cabotage (48);
- and the deletion of the reference to repeated minor infringements; the Commission can agree on this stepwise approach on the registers (7, 8, 42, 24, 27, 31, 33, part of amendment 34).

The common position also includes a provision on cabotage in a transit country, which was foreseen by amendment 17. As the solution proposed in the common position is an enforceable one, the Commission can agree on it.

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

- a recital on the relation to the directive 92/106/EEC on combined transport (1);
- the clearer use of the concept of "temporary" (9, 12);
- the imposition of fines as one possibility of a penalty (25, 28);
- the fixation of the date of application on 1 January 2009 (35); the common position foresees to apply the regulation 24 months after its entry into force.

The remaining amendments of the European Parliament which were not acceptable or not acceptable in the proposed wording for the Commission have not been included in the common position. These amendments concern in particular:

- the further opening of the cabotage market (3, 4, 18);
- the authorisation of cabotage after partial unloading (16);
- the authorisation for closer cooperation on cabotage between certain Member States (5, 21);
- the reference to the posting of workers directive as rules applicable to cabotage (23);
- the possibility for Member States to regulate cross trade (6, 14, 15);
- the demand for a single document for all kind of road transports (20).

The common position has notably introduced the following new provisions:

- the possibility to adapt the period of validity of the licence to the technical progress (article 4 paragraph 2);
- the inclusion of security features for the licence, the certified true copies and the driver attestation (article 4, paragraph 4 and article 5 paragraph 3 as well as Annex I and II);
- the provisions concerning the driver attestation (article 5), notably the introduction of a reference to directive 2003/109/EC concerning the status of third-country nationals who are long-term residents;
- a report by the Commission by the end of 2013, which should analyze the market situation, evaluate the effectiveness of controls and the evolution of the employment conditions in the profession and assess whether the harmonisation of rules has progressed so that a further opening of the domestic markets, including cabotage could be envisaged (article 16 paragraph 3).

It can be noted that the outcome on the definition of cabotage (article 8) has been seen by some Member States, which preferred a stronger limitation of the authorised cabotage, as the maximum acceptable, whereas other Member States, who aim at a further opening of the market, see it as the minimum acceptable.

4. CONCLUSION

The Council adopted its common position by qualified majority. The Commission considers that the common position reflects the main objectives of its proposal and can therefore support it.