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## RESPONSE TO CONSULTATION

European Commission DG TREN Directorate E – Inland Transport

### **REVISION OF THE COMMUNITY LEGISLATION ON THE ACCESS TO THE ROAD TRANSPORT MARKET AND ON THE ADMISSION TO THE OCCUPATION OF ROAD TRANSPORT**

Closing date 9<sup>th</sup> August 2006

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**FEDEMAC – The Federation of European Movers Associations, which represents approximately 4000 moving companies in 20 different European countries, is pleased to put forward the views as summarized below, in connection with the above consultation exercise, on behalf of the professional removal & storage companies throughout Europe.**

*All of the trade companies represented by the FEDEMAC member associations are subject to the results of this consultation.* The nature of the removals business is such that the trade companies are, in addition to national work, often asked to carry out transactions to/from and sometimes in other Member States where they are not established. For the most part these companies are also SME's.

#### **Comments**

#### **PART A**

#### **Access to the Road Transport Market**

### **1. The Community Acquis on Road Transport**

#### *1.1. The legal acts in force.*

Noted

#### *1.2. Merging of current acts.*

##### **[QUESTION 1]**

FEDEMAC **supports** the merging of the market access rules on goods and passenger transport (including cabotage) contained in the four market access regulations (not counting Regulation 484/2002) and the one Directive listed in 1.1 of the consultation paper, in order to simplify the system of regulation governing the transport sector

### **2. Better Regulating Certain Aspects of the Current Regime**

#### *2.1. Geographical scope of Regulation 684/92*

##### **[QUESTION 2]**

No Comment

#### *2.2. Requirements for Access to the Market*

##### **[QUESTION 3]**

FEDEMAC **supports** the idea for higher qualitative requirements to be imposed on hauliers/carriers engaged in certain types of road transport. **The provision of removal & storage services should be in this category** since it is a specialist service requiring special skills, levels of responsibility and commitment to customers across the fields of

national & international moves which include domestic moves, office/commercial moves and international moves.

### *2.3. Community Licence*

#### **[QUESTION 4]**

FEDEMAC **does not** believe that it is necessary to verify that operators still satisfy the conditions for maintaining the licence at shorter intervals on a regular basis. This adds unnecessary extra costs. However authorities should have the option to carry out such additional checks when thought prudent and if suspicious/aware of illegal practices.

#### **[QUESTION 5]**

FEDEMAC **does not** support a reduction in the validity of the Community Licence to a period shorter than 5 years. This would increase administration costs, deter from simplification and add unnecessary burdens on existing responsible operators. However, an option should be available for authorities to limit the validity period/renewal period if they are aware of illegal practices or if the operator has a proven bad track record.

### *2.4. Certified copies*

#### **[QUESTION 6]**

The Regulation should provide for more detailed specifications for certified copies of Community licences and such specifications should be standardized throughout the E.U. in order to avoid confusion during inspection. The Registration number of the vehicle/pulling unit (but not trailers) should be part of the specification. **Frequent misunderstanding takes place with the present system, which is often not clear to both operators and authorities.** Innocent operators have often been delayed/penalised unfairly. At the same time the lack of a registration number on the document leaves the system open to abuse by the criminal element. A gradual shift to on-line registry of the issued Community licences is supported in order to lead to Better Regulation and Simplification and to reduce opportunities for illegal practices.

### *2.5. Driver Attestation*

#### *2.5.1. General considerations*

##### **[QUESTION 7]**

FEDEMAC **believes** that 'Driver Attestations' (for drivers of goods vehicles who are nationals of a non-EU Member State employed by an operator from a Member State and who drive vehicles engaged in the international carriage of goods subject to a Community licence) **should** be made uniform across the E.U. The present 'format' does not require change other than uniformity. A gradual change should be planned for the attestation should be electronically readable.

##### **[QUESTION 8]**

The current maximum validity of Driver Attestations should remain the same, as it is already possible for authorities to reduce this period.

#### *2.5.2. Extension to all EU nationals*

##### **[QUESTION 9]**

FEDEMAC **does not** support the idea for extending the obligation, to hold a driver attestation, to apply to nationals from EU States. This would be a costly administration and unnecessary bureaucratic addition. Sufficient legislation is already in place to regulate employment of EU nationals.

### *2.6. Other Control Documents*

#### *2.6.1. Journey Forms for Passenger transport*

##### **[QUESTION 10]**

No Comment

#### *2.6.2. A journey for goods transport*

##### **[QUESTION 11]**

As a stakeholder FEDEMAC **is** of the opinion that a uniform document could be of use in respect of Community-wide journeys for goods transport by road in

order to replace the variety of national documents. However it must be remembered that ‘Removals’ are already exempt from the present international CMR convention – because of the differences applying to this specialist type of transport (as opposed to general haulage etc). *FEDEMAC therefore feels that a ‘special waybill’ for ‘ Household/Office Removal services’ would be necessary in order to take account of the many differences between ‘removals’ & ‘general haulage’ work. FEDEMAC would be happy to contribute to any discussions leading to such a mandatory, uniform, Community-wide ‘Removals’ Form/Waybill.*

2.6.3. *Processing the application for passenger service authorisations*

[QUESTION 12]

No Comment

[QUESTION 13]

No Comment

[QUESTION 14]

No Comment

[QUESTION 15]

No Comment

2.7. *Road Cabotage*

2.7.1. *Passenger Transport*

[QUESTION 16]

No Comment

2.7.2. *Road Cabotage for goods*

Noted

2.7.3. *Better definition of road cabotage*

[QUESTION 17]

FEDEMAC **is** concerned at the number of divergent rules appertaining to cabotage throughout the E.U. Member States. A clearer, more precise and uniform definition for ‘road cabotage’ would be both useful and desirable.

2.7.4. *Options to be considered*

[QUESTION 18]

FEDEMAC **favours** clear and easily enforceable rules on cabotage. FEDEMAC favours the authorisation of cabotage for short periods of time but with no limitation over the calendar year. This approach would be easier to enforce, without additional administrative burden, and would eliminate longer stays, which could distort levels national competition. **However, FEDEMAC feels that is imperative that all EU Member States accept the current Proposals from European Commission DG TAXUD in connection with VAT ‘One Stop Shop’ in order to alleviate the present impractical problems concerning the payment of VAT between Member States and which apply to cabotage operations.**

2.7.5. *National rules applicable to cabotage*

[QUESTION 19]

The rules for cabotage should be as uniform as possible throughout the E.U. Member States. FEDEMAC **does not** support adding any further rules, which will only serve to confuse the subject even more than at present. The Commission should therefore advocate reduction of some of the more ‘nationalistic protective ’ restrictions in order to have a uniform set of rules.

[QUESTION 20]

Trade companies belonging to the Member Associations of FEDEMAC have only limited experience with the application of Directive 96/71 to cabotage operations. Where ‘Removal Services’ are applicable the use of cabotage would usually only be for one-off or very short periods. We therefore **support** the idea on exempting cabotage operations from the scope of the Directive in cases where the ‘cabotage-period’ is less than one month.

2.8. *Other questions or issues.*

**[QUESTION 21]**

Removal & Storage services require specialist knowledge & skills in addition to the general rules governing access to the Road Transport Market.

Voluntary European Norms (as developed over a period of years via CEN – Central European Norm – working committees and in conjunction with all E.U. national Standard Institutes and the Standards Institutes of a number of European countries outside the E.U.) are already established applying to the provision of Household Removal And Storage services. Similar work on a Standard for Office/Commercial Removals is also being considered – as well as a Standard for ‘Self-Storage’ companies. These ‘Standards’ take account of the ‘Minimum’ requirements thought necessary to carry out individual moves on a professional basis and in order to provide adequate service to customers.

FEDEMAC **would like to see such standards incorporated as a ‘mandatory’ extra** for any operator entering into and qualifying for the specialist section of ‘Removals & Storage’ activities within the road transport market. This request arises out of concern for over-capacity in the marketplace and illegal operations, particularly concerning operation of ‘lighter-weight’ vehicles where there is continuing concern over health, safety, security and legality issues and for the concern of consumer protection. ‘Cowboy-Operators’ have entered the industry at all levels and in particular at the lower weight thresholds where regulation is very difficult to police. The result is that our Associations are continuing to witness erosion in the number of Professional Members/Operators at the expense of an increasing number of illegal/shadow economy/cash-in-hand operators. This is having a serious impact on the marketplace, fair competition, administration and regulation costs, abuse of employment laws and tax laws and consumer rights. **The Professional Removals Industry needs to have adequate enforceable regulation in place to guard against these problems both nationally and from intra/extra EU trade. Introduction of a mandatory requirement to adhere to the ‘Minimum’ recognised European standards in addition to normal road transport market access requirements would be a step in the right direction. The threshold for Community licences should also be reduced in order to help level the playing field. Furthermore the use of goods vehicles for ‘so-called’ private use should also fall in line with the same ‘Community Licence Threshold Weights’ not least on the grounds of safety and equality. This ‘derogation’ is often abused and as a result impinges seriously upon the professional removal operators/industry.**

**PART B**

**ADMISSION TO THE OCCUPATION OF ROAD HAULAGE OPERATOR**

**1. Introduction**

Noted

**2. General questions**

*2.1. Levels of standards*

**[QUESTION 1]**

FEDEMAC **supports** the proposals for higher minimum standards for admission to the road transport occupation. This would improve the general level of professionalism and help to make the market, which is characterised by overcapacity, healthier and more efficient. **We believe that there is good reason for such higher standards to apply to certain categories of the road transport profession at local & national level as well as for trans-European operations.** This is particularly relevant to operators dealing direct with private customers and where specific training, special skills, health and safety issues, integrity, specialised vehicles, use of special ancillary equipment and other factors come into normal consideration.

The movement of household furniture and effects where specialised equipment, lifting factors, packing and dismantling/re-assembling skills, consumer responsibility, insurance knowledge and a number of other issues – in addition to normal knowledge/expectations for operating commercial goods vehicles – come into being is a good example. Access to the occupation of Removals and Storage within the road transport sector should in our opinion therefore be subject to higher minimum standards than those at present applying to general road freight operations.

**[QUESTION 2]**

FEDEMAC believes that criteria other than good repute, financial standing and professional competence **should** be included. Examples and reasons for this are illustrated in our answer to Question 1 above. We believe that the recognition and addition of a mandatory requirement to adhere to the European Norms, as outlined above, or at least to an equivalent standard would suffice for the time-being for the Removals and Storage industry as long as it is applied to all operators carrying out the specialised form of road transport activity.

**2.2. Exemptions and dispensations**

**[QUESTION 3]**

Any exemptions for vehicles over 3.5 tonnes **should** be abolished. It does not make sense on the grounds of health and safety for certain vehicles above this category to escape normal regulation. **Ideally FEDEMAC would like to see the threshold lowered even more and certainly for any exemption for higher weight threshold based on private-use to be removed completely.** This anomaly is ridiculous, almost insinuating that the occasional user of a relatively large heavy goods vehicle by a private user is safer than a professional carrier using such vehicles on a regular basis. It also leads to abuse of the system with ‘shadow economy operators’ carrying out road transport on such vehicles for hire and reward whilst claiming the work private use!

**2.3. Periodic checks and disqualification**

**[QUESTION 4]**

FEDEMAC **is not** of the opinion that the requirements for admission to the road transport occupation need to be checked more frequently than the present maximum 5-year periods.

However we do feel that these periodic and systematic checks could be supplemented by targeted, random inspections especially where illegal practices are suspected or notified.

**[QUESTION 5]**

FEDEMAC **supports** the idea that Community legislation should prevent any undertaking, which has been disqualified, from establishing itself in another Member State. This should be managed by ‘Electronic’ exchange of information on a European network basis between the competent authorities.

**2.4. Simplification**

**[QUESTION 6]**

Measures for checking that conditions for access to the profession are very important and therefore **must** be maintained and indeed strengthened. However, as in all commercial businesses, careful attention must be given to administration costs, unnecessary bureaucracy, duplication of effort and streamlining of savings on expenses and purchases. Better control of regulation will allow professional operators to compete in a healthier market which in the long term will return fairer margins, in turn which can be partly added to the costs of strengthening and improving regulation – but the two things must go hand-in-hand.

### **3. Good Repute**

#### *3.1. Conditions to be met*

##### **[QUESTION 7]**

FEDEMAC believes that the present system which ignores the possibility of some undertakings repeatedly committing more minor offences should be changed and that repeated offences **should** be taken into account when determining an applicants good repute for admission to the occupation

##### **[QUESTION 8]**

The definitions of serious offences, which constitute a barrier to admission to the profession, **should** be harmonised at a European level. This **should** include any additional criteria for certain categories of activity as outlined/suggested above.

#### *3.2. Persons concerned*

##### **[QUESTION 9]**

FEDEMAC is happy to support the notion that European legislation **should** include a list of persons to whom the requirement of good repute applies. In our opinion, the list should only include managers, directors and persons who have interests in the undertaking.

#### *3.3. Regulation by competent authorities*

##### **[QUESTION 10]**

FEDEMAC believes that the licensing authorities **should** be given easier access to information about judgements and penalties which bar an operator from being granted admission to the occupation. Authorities and courts, which impose penalties on transport operators, should provide an automatic and systematic notification to the authorities, which grant the authorisation for admission to the occupation.

##### **[QUESTION 11]**

Whilst we **do not** feel that the current exchange system on infringements and sanctions is sufficient we are concerned at possible unfair implications of overzealous authorities, especially as a result of any other ‘political’ situations or labour disputes in individual States. . Networking information and withdrawal of authorisation due to serious sanctions is understandable and supported **but** careful consideration needs to be adopted in the taking into account of repeated minor infringements.

### **4. Financial standing**

#### *4.1. Method for assessing financial standing*

##### **[QUESTION 12]**

FEDEMAC believes that the methods for assessing financial standing, across the EU Member States, **should** be further harmonised. **However, for the time being and because of today’s difficult marketplace, the existing minimum thresholds should be maintained with consideration only being given to increases when adequate and revised regulation can be proved to have helped in creating a healthier market by ridding the industry of unscrupulous, illegal and unfair competition.** The Commission, National Authorities and the Industry need to establish a realistic method for ‘benchmarking’ and measuring such changes, commencing as soon as possible.

#### *4.2 New avenue to explore*

##### **[QUESTION 13]**

FEDEMAC believes that any system for improving the checking of the ‘financial standing’ **should be supplementary to** rather than replacing the present system. Consideration to this might also be linked to particular categories of the profession.



For the Removals Industry this might, for example, be in the form of a ‘guarantee’ to the customer – thus ensuring completion of a household removal or replacement service by another professional removal company, in the event of the main contractor losing its licence. FEDEMAC is willing to contribute to discussions with the European Commission/National Authorities with the aim of developing such criteria provided that the supplementary requirements apply to any person/contractor carrying out Household Removal work for hire & reward purposes, thus ensuring a level playing field within a better regulated industry.

## **5. Professional competence**

### **5.1 Harmonisation of examination level**

#### **[QUESTION 14]**

Further harmonisation of examinations is necessary subject to present minimum European legal requirements, which have already been improved upon by recent legislation. Dispensations should only be given to test centres/approved course providers where the standard exceeds the minimum requirement and is relevant to the industry specific category for example in the Removals Trade where knowledge and skill levels are quite specific and often different from those in general transport.

#### **5.2 Persons concerned**

#### **[QUESTION 15]**

FEDEMAC is of the opinion that the present legal situation is subject to abuse because current legislation enables use to be made of certificates issued to a person who is not part of a company or to a holder who can represent several companies – even as far as companies in different Member States. We would therefore advocate that in the future the holder of the ‘Certificate of Competence’ should be both an employee of the company and a permanent resident of the Member State in which the company is established.

## **6. Other questions**

#### **[QUESTION 16]**

#### **Other Comments**

FEDEMAC suggests that the Commission/Authorities give more consideration to the control/admission of ‘phoenix companies’ – which, in the past, have often caused considerable problems and unfair competition within the industry. More attention needs to be taken of past trading activities and re-emergence of companies controlled by people who have been previously convicted, lost licences or have been judged insolvent.

#### **[QUESTION 17]**

#### **Other Measures**

FEDEMAC feels that the present exemption, allowing for vehicles up to 7.5 tonnes to be used for private purposes, is not warranted on the grounds of health, safety, commerce, unfair/unscrupulous competition and the burden of administration (which in effect causes more complication for officers/authorities trying to discriminate between private use and commercial use. At the end of the day a 7.5 tonne vehicle in the hands of a private user is as potentially lethal as any other vehicle in this category and even more so if not controlled by regulations concerning licensing, financial standing, repute, competence, drivers hour/rest rule obligations and many other sensible laws governing the operating of goods vehicles.

We applaud the European Commission for this initiative, which if properly executed will go some way to allowing businesses in the removals industry to realise the benefits of the E.U. within a healthier and fairer road transport marketplace. We would encourage all parties involved to move forward on the proposals outlined here, and if possible, to move further towards simplification and harmonisation whilst at the same time being careful to create better regulation across the single market in accordance with the recommendations outlined in this paper.

Please do not hesitate to contact FEDEMAC should you have further questions or require clarification.

Our Representative from the Board of Management Tony Richman (Tel: 00 44 1622 791358) will be happy to elaborate on these issues.

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## **ABOUT FEDEMAC**

**FEDEMAC** (originally CODEMAC) was first founded in 1959 when a number of National Removers Associations within Europe formed a coalition to exchange views and information. In 1965 the name was changed to FEDEMAC –The Fédération Des Entreprises de Déménagement Du Marché Commun - but whilst the abbreviation remains the organisation is now referred to as **The Federation of European Movers Associations**.

**FEDEMAC** was registered as an independent European organisation on 1 January 1995. Today it represents the interests of around 4,000 Professional Removals Companies in 20 European Countries.

**FEDEMAC's** main function is to co-ordinate national activities at a European level. Much of this work is centred on lobbying at the EU Parliament and Commission; liaising with national associations and other trade organisations such as the IRU, the WCO and BEUC; and undertaking other activities at national and EU level as appropriate.

**FEDEMAC** works continuously towards the harmonisation of working methods, quality standards, training and co-operation within the Moving industry. Communication, magazines, newsletters, directories and the use of modern IT tools form an important part of this work.

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