

CONSULTATION PAPER

REVIEW OF THE INTERNAL MARKET IN ROAD FREIGHT TRANSPORT

The current EU policies and legislation

The White Paper on Transport¹ presented by the Commission on 28 March 2011 called for additional actions to further integrate the internal road freight transport market. The Commission's objective is to create an economically efficient, environmentally sustainable and socially equitable internal market that ensures fair competition between transport operators, delivers high quality services to shippers, provides quality jobs for transport workers and minimises the road haulage sector's environmental and climate footprint. The White Paper recognises:

- that market opening needs to go hand in hand with measures to ensure a level playing field, quality jobs, working conditions and environmentally sustainable transport;
- that human resources are a particularly crucial component of any high quality transport system;
- the need to align the competitiveness and the social agenda, building on social dialogue and promoting social progress in the sector;
- technological innovation together with the related social, business and organisational innovations can help the transition to a more efficient and sustainable European transport system.

The most recent change in the relevant EU legislation took place in December 2009 when new regulations modernising the rules governing road transport were adopted, including Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and Regulation (EC) No 1072/2009 on common rules for access to the international road haulage market. Regulation 1072/2009 also changed the rules applicable to cabotage operations. The objective was to eliminate the uncertainties associated with the possible differing national interpretations of the applicable cabotage rules.

The EU has also harmonised the social rules, in particular the driving times and rest periods through Regulation (EC) 561/2006, enforcement through Regulation (EC) 3821/85 and Directive 2006/22/EC and the technical, environmental and safety standards related to the vehicles. Attempts have been made at the harmonisation of the relevant fiscal conditions as well. A framework for charging trucks for the use of infrastructures has also been put in place (Directive 1999/62/EC, the so-called Eurovignette Directive).

Under Regulation 1072/2009 the Commission is bound to draw up a report on the state of the Community road transport market by the end of 2013 assessing whether harmonisation of the

¹ Roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system.

Available on http://ec.europa.eu/transport/strategies/2011_white_paper_en.htm

rules applicable to the road transport market has progressed to such an extent that the further opening of domestic road transport markets, including cabotage, could be envisaged.

High Level Group for the Road Haulage Market

As a consequence of the Commission's reporting obligation, in June 2011 Siim Kallas, Vice-President of the European Commission and Commissioner responsible for transport set up a High Level Group composed of independent scientific experts to assess the state of the EU road haulage market and make published recommendations about what course of actions should be pursued to further integrate the market.

Scope of the questionnaire

The aim of the present consultation exercise is to collect the views of the stakeholders as part of the enquiries of the High Level Group. The Commission will take into consideration both the recommendations of the High Level Group and the feedback received from stakeholders in this initial consultation exercise when deciding how to proceed with the revision of EU legislation.

The questionnaire addresses issues related to the quality of road transport, new technologies, social issues and enforcement of rules, road user charges and driving restrictions and cabotage as they all form integral and interrelated parts of the internal market for road freight transport.

How to reply to this consultation

Stakeholders may reply to this consultation via the Commission's on-line interactive policy-making tool or by submitting their replies either by e-mail or mail to the addresses indicated below. Responses submitted by any of these means will be taken into consideration but stakeholders are encouraged to fill in the questionnaire on-line as it will facilitate the processing of the replies. Contributions are welcome from citizens, organisations and public authorities.

You are strongly advised to prepare your contribution in advance before filling-in the questionnaire online. We recommend you download the PDF file of the questionnaire, to allow you to draft your answers to the open text questions carefully. After preparing all your answers, please open the online questionnaire and fill it out.

Please note that the on-line version of the questionnaire will go live before the end of August 2011. Respondents will be able to access it through the European Commission's Interactive Policy Making website at:

<http://ec.europa.eu/yourvoice/ipm/forms/html/index.html>

Both a Word and a PDF version of this consultation document can be downloaded from the following website:

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

Respondents can send an electronic copy of their replies to the following e-mail address:

MOVE-D3-CONSULTATION-TRANSPORTS@ec.europa.eu

and/or respondents can send a paper copy of their replies to the following postal address:

European Commission

Directorate-General for Mobility and Transport

Unit D3 – Road transport

B – 1049 Brussels

Please note that this document has been drafted by the High Level Group for information and consultation purposes only. It has not been adopted or in any way approved by the European Commission and should not be regarded as representative of the views of Commission staff. It does not in any way prejudice, or constitute the announcement of, any position on the part of the Commission on the issues covered.

The European Commission does not guarantee the accuracy of the information provided, nor does it accept responsibility for any use made thereof.

The contributions received from stakeholders will be published on the Commission's website, unless requested otherwise by their authors. A consent box is provided at the end of the questionnaire.

Consultation period

In order to meet the High Level Group's tight reporting schedule, questionnaires should be returned by **30th September 2011** or preferably sooner. Nevertheless, questionnaires that are returned before 31 October 2011 will still be taken into consideration

Questionnaire

I. ABOUT YOU

To help us analyse the answers to this consultation, please provide the following information about you or your organisation.

I.1. Question:

In what capacity are you completing this questionnaire?

Answer (please tick one):

- ☐ as a citizen
- ☐ private sector enterprise
- ☒ industry association or non-governmental organisation (NGO)
- ☐ public authority

I.2. Question:

Please indicate if your organisation is registered in the Transparency Register of the European Commission?

http://europa.eu/transparency-register/index_en.htm

Answer (please tick as appropriate):

- ☒ Yes
- ☐ No

If yes, please indicate the identification number

Answer (free text):

4236772430-57

I.3. Question:

What is the name of the organisation or authority?

Answer (free text):

Dansk Transport og Logistik (Danish Transport and Logistics Association)

I.4. Question:

Please provide details of the activities of your organisation. If there are multiple activities (e.g. haulage, freight forwarding) could you please indicate the relative importance of each?

Answer (please tick as appropriate):

- ☒ **Road haulage**
- ☐ **Freight forwarding**
- ☒ **Other transport activity (please specify)**
- ☐ **Other economic activity (please specify)**

Answer (free text):

DTL also organises operators of freight terminals and operators of rail freight

Please note that in the cause of transparency if respondents do not provide the above details about their organisations, then under Commission rules their responses will be recorded as responses of individuals.

II. QUALITY IN THE ROAD HAULAGE SECTOR

Economic efficiency, environmental sustainability and social fairness in the road freight transport sector are dependent on its quality.

Quality must be approached both from the levels of quality aspects and the availability of information about the actual quality levels (i.e. market transparency). Quality can relate, for example, to the service being offered to shippers (reliability, flexibility, security etc.), safety and environmental performance and working conditions.

Depending on the aspects, quality levels and transparency can be addressed by self regulation and/or regulations.

II.1. Question:

Which aspects of quality in the road haulage sector do you think should be improved?

Answer (please tick as appropriate, you can select more than one answer):

- ☒ **Economic efficiency**
- ☐ **Reliability**
- ☐ **Flexibility**

- ☒ **Safety**
- ☒ **Security (secure rest areas)**
- ☐ **Environmental performance SEE BELOW**
- ☒ **Social fairness**
- ☒ **Other (please specify below)**

Answer (free text):

As regards other aspects to be improved DTL in particularly wants a more level playing field between operators from different countries as concerns social issues, sanctions and enforcement, harmonised application and interpretation of legislation, fuel taxes.

As regards environmental performance we agree that there is room for improvement, but we find that the challenges faced are so complex that it would be misleading to only mention the road haulage industry in this context, when improvements as regards vehicles, fuel quality and efficiency, traffic management etc play an as important role for gaining environmental improvements. It is also important that the whole transport sector has a level playing field so that all modes are treated equally. Harmonised fuel prices across EU and same fuel costs for all modes of transport would contribute to such a harmonised level playing field.

As regards security, we do not see a need to further improve security in terms of attacks of terrorism etc, but a need to increase the general level and public authority awareness of security as concerns normal criminal activities relating to theft of cargo, attacks on vehicles and drivers etc.

II.2. Question:

Do you think that different quality aspects and different quality levels should apply in the cases of domestic transport, international transport and cabotage or other transport segments?

Answer (please tick as appropriate):

- ☐ **Yes**
- ☒ **No**

If yes, please specify which quality aspects and levels should be applied in each of these forms of transport?

Answer (free text):

In fact we find there is room for further harmonisation of requirements facing freight operators, such as changing the weight limit as regards the requirement for having an operators licence to below 3,5 t. However, we recognise that this need not be hamonised at EU level at this stage, since commercial vehicles below 3,5t seldom cross borders.

Requirements for having an operators licence is also relevant for tractors used for transporting goods for hire.

It should also be considered to lower the weight limit to below 3,5 t as regards the regulations of driving and rest times.

II.3. Question:

In order to improve transparency should there be recognised differentiated (i.e. higher and lower) levels of quality for each of the following categories: freight forwarders, hauliers and drivers?

Answer (please tick as appropriate):

☐ **Yes**

☒ **No**

If yes, please specify which quality aspects and levels should be applied for each of these actors?

Answer (free text):

Freight forwarders. See also answer to II.5.

II.4. Question:

If you answered yes to questions II.2 and II.3 then should the different aspects and levels of quality be implemented through:

Answer (please tick as appropriate):

☐ **self-regulation and industry standards?**

☐ **legislation?**

☐ **a combination of the above two approaches?**

For each aspect of quality that you named above please specify below.

Answer (free text):

II.5. Question:

Since there are rules setting out qualitative criteria applicable to hauliers and drivers, should there also be qualitative criteria for freight forwarders?

Answer (please tick as appropriate):

☒ **Yes**

☐ **No**

If yes, what should be the criteria for freight forwarders?

Answer (free text):

We would recommend the introduction of requirements comparable to good repute. The point is that freight forwarders should be facing sanctions if they are contributing to breaking rules such as regards driving and rest times and overloading goods by e.g ordering transports where it is obvious that the operation can not be carried out safely within the required time without breaking driving and resting times, speed limits etc. They should also be required to ensure the highest level of road safety in their activities.

If no, do you consider that current rules relating to hauliers should be modified to take account of situations where the haulage operations of an individual company are less important than the freight forwarding and subcontracting operations?

Answer (please tick as appropriate):

☐ **Yes**

☐ **No**

If yes, in what way?

Answer (free text):

II.6. Question:

Do you consider that innovation and its deployment are currently inhibited in the road haulage sector?

Answer (please tick as appropriate):

☒ **Yes**

☐ **No**

If yes, what do you consider the major problems and what can be done to overcome them?

Answer (free text):

A number of factors contribute to lack of innovation and deployment. For example the wide spread use of charges on road transport contributes to reducing the resources available for investments in innovative and cleaner technology in the companies. There is a tendency to focus on charges rather than incentivize investments in new technology.

The road transport sector is also marked by a high degree of SME's which also makes research and development difficult.

Finally the regulatory authorities neglect the innovation and deployment aspect when introducing new legislation. The perfect example is the introduction of the digital tachograph, where what should have been a major technological improvement for the industry became a burdensome, old-fashioned and ill-fitted instrument, that only recently has started living up to some of its potential. Another example is the lack of willingness to look at a revision of weight and dimensions, thus denying the EU the economic and environmental benefits of the development in vehicle types – such as the wide spread use of the European Modular Concept.

III. SOCIAL ISSUES AND ENFORCEMENT OF ROAD TRANSPORT RULES

In order to maintain an efficient road transport system, jobs in the sector must remain attractive which implies the rewarding of higher qualifications and improved working conditions.

Moreover, fair competition and a level playing field for operators require more uniform national enforcement policies, of which dissuasive, effective and proportionate sanctions constitute an important element. In addition, all the actors throughout the transport chain must be committed to compliance with the rules.

III.1. Question:

Do you consider that there is a shortage of drivers in the road freight transport sector?

Answer (please tick as appropriate):

☐ **Yes**

☒ **No**

If yes, what do you think are the main reasons for the shortage of drivers?

Answer (free text):

Presently due to the economic crisis we do not face a shortage of drivers in Denmark, but in the longer run a shortage is expected. The job as driver needs to become more attractive in order to compete effectively for the available labour in the coming decades.

Very unfortunately the training and supply of new drivers in Denmark has dramatically gone down due to elimination of subsidies for unemployed to get a drivers license for trucks.

Furthermore there are signs of an inflow of illegal underpaid drivers from other EU countries (where the wage levels are even lower). This problem is reportedly increasing which leads to unfair competition and social dumping.

If yes, what actions do you think should be taken to improve the situation?

Answer (free text):

III.2. Question:

Do you think that certain jobs should be reserved for drivers with higher qualifications?

Answer (please tick as appropriate):

☐ **Yes**

☒ **No**

If yes, which jobs?

Answer (free text):

All drivers must have same high qualifications (as we in this context ignore special certificates for e.g. ADR and crane).

III.3. Question:

Do you consider that enforcement practices are sufficiently harmonised across the EU?

Answer (please tick as appropriate):

☐ Yes

☒ No

If no, what are the main problems?

Answer (free text):

As the Commission itself has documented there is a huge difference in the sanctions applied in the EU Member States and in the infringements involved. This leads to a distorted competition between hauliers from different Member States, such as when hauliers in their home country face more controls and sanctions than foreign hauliers operating in the same country. In Denmark the use of the principle of objective liability – where the road operator is always also responsible (and sanctioned) for infringements committed by the driver – creates further distortion. Foreign drivers of foreign vehicles are in reality not subject to this, and an infringement committed in Denmark by a foreign haulier is in reality thus sanctioned less than if committed by a Danish vehicle.

As the sanction for a Danish haulier is twice the sanction of a driver we are talking about a serious discrimination of Danish hauliers compared to foreign hauliers.

III.4. Question:

In your opinion are sanctions and the levels of penalties sufficiently harmonised?

Answer (please tick as appropriate):

☐ Yes

☒ No

III.5. Question:

Do you consider that sanctions and penalties function as an effective deterrent against non compliance?

Answer (please tick as appropriate):

☒ Yes

☐ No

III.6. Question:

What are your recommendations to improve the current situation in terms of enforcement practices, sanctions and levels of penalties?

Answer (free text):

Work needs to focus on more effective and efficient controls where enforcement officers have better tools to concentrate their efforts on serious, recurrent infringements. This will make it much less attractive to infringe the regulations systematically and thus hopefully develop a more level playing field between operators.

In particular the enforcement work needs to be based on a more comprehensive cooperation between all relevant authorities (police, tax authorities, social authorities etc) and between the different countries.

III.7. Question:

Do you think that mechanisms should be introduced to engage the liability of shippers and freight forwarders for certain serious infringements by road hauliers and their drivers?

Answer (please tick as appropriate):

☒ **Yes**

☐ **No**

If yes, which mechanisms should be introduced and for which serious infringements?

Answer (free text):

See answer to Q II.5

IV. ROAD USER CHARGES AND DRIVING RESTRICTIONS

Non discriminatory road pricing whereby vehicle operators pay a proportionate and fair price for using the road infrastructure independent of their country of establishment and the origin and destination of their load is an important element in ensuring fair competition in the internal market. In addition, variable road charges² can provide clear price signals to better manage traffic flows and create more resource-efficient and sustainable transport by reducing congestion and the environmental impact of road transport.

Today many fragmented national charging systems and policies exist in parallel that require hauliers engaged in international transport to purchase the Eurovignette, several national

² Defined as toll in the legislation

vignettes and various different electronic tags and on-board units to be able to drive unhindered on Europe's tolled roads.

While road user charging can improve the use of infrastructure, at the same time there are many restrictions that limit the flexibility of hauliers to operate during certain time periods such as during the night, over the weekend and over certain holiday periods. However, technological solutions exist to successfully address the concerns that originally prompted many of these restrictions. For example, urban delivery vehicles can be specified with very low noise emissions.

IV.1. Question:

Do you consider that the multiplicity of road charging systems in the EU represent a problem for the internal road haulage market?

Answer (please tick as appropriate):

☒ **Yes**

☐ **No**

If yes, what are the main problems?

Answer (please tick as appropriate):

☒ Insufficient interoperability of electronic tolls

☒ Differences of charging principles

☒ Others (please specify below)

Answer (free text):

Systems like these often lead to administrative burdens, which are an economic loss for society.

Another problem is, the relationship between charging and the external and internal costs. Road haulage covers its internal costs completely – there is no government subsidy. Furthermore road transport covers to a large extent the external costs through different taxes and charges and other costs such as insurances. Road haulage is also internalising some external costs, such as congestion.

In these aspects road transport are different from other comparable modes of transport, which do not cover their costs to the same extent. To keep focusing on charging road transport more and more rather than focusing on creating a level playing field seems to want to further distort competition and thus create economic inefficiencies.

IV.2. Question:

Should existing taxes or charges like the annual vehicle tax and time-based road user charges (vignettes) or other taxes be replaced by distance based road user charges?

Answer (please tick as appropriate):

☐ Yes

☒ No

Please explain your position. If yes, what are the reasons? If no, what are the reasons:

Answer (free text):

DTL finds that too often it is neglected how expensive the operation of a distance (and other criteria) based charging system is compared to a time-based system.

DTL also finds that in view of the cost structure in the road haulage industry a harmonisation of fuel taxes would be a more relevant first step at EU level.

If you answered "yes" to question IV.2, should such a variable charge include:

Answer (please tick as appropriate):

☐ Infrastructure costs

☐ Environmental costs like the costs of air and noise pollution

☐ Congestion costs

☐ Any other costs **(please specify below)**

Answer (free text):

IV.3. Question:

While road user charging can improve the use of infrastructure, do you agree that measures enabling a 24 hour use of infrastructure could be investigated as another means for achieving an efficient use of infrastructure?

Answer (please tick as appropriate):

☒ Yes

☐ No

Please explain if appropriate (free text):

Weekend and night bans and other comparable restrictions are in direct contradiction to optimising the use of the infrastructure. DTL urges the Commission to re-examine the basis for achieving a more harmonised European approach which will allow for a more efficient use of the infrastructure.

V. CABOTAGE

The current EU cabotage rules entitle road hauliers to carry out up to 3 cabotage operations within 7 days after the full unloading of an international transport. One or more of these 3 operations may be carried out in other Member States (one per Member State within 3 days from the unladen entry into the territory of that Member State).

While giving more flexibility for international transport than previous rules, the current rules were conceived as a transitional step towards a more integrated internal market. They do not differentiate according to any quality criteria related to the operator, the driver or the vehicle contrary to existing schemes that promote higher quality transport (such as the ECMT licensing³ system which rewards operators using greener and safer vehicles with up to 10 times more licences). Moreover questions as to the proper enforcement of the current rules may arise.

V.1. Question:

Has the change in cabotage rules introduced in May 2010 been valuable to you?

Answer (please tick as appropriate):

☒ Yes

☐ No

If no, please explain why.

Answer (free text):

³ ECMT licences are multilateral licences for the international carriage of goods by road for hire or reward by transport undertakings established in an OECD/ITF member country.

V.2. Question:

Do you think that the controls aimed at ensuring compliance with the current cabotage rules are effective?

Answer (please tick as appropriate):

☐ Yes

☒ No

If no, please give reasons and your opinion how the controls can be improved.

Answer (free text):

The new rules are still being tested, but firstly there seems to be a question of the willingness to assign resources to carry out the checks. Secondly, there seems to be confusion on which documents etc can serve as the basis for controls and sanctioning. Thirdly authorities of member states need to work better together to ensure that infringements are prosecuted and sanctioned.

V.3. Question:

In your opinion do the current rules on cabotage limit the flexibility of hauliers and hence their efficiency?

Answer (please tick as appropriate):

☐ Yes

☒ No

V.4. Question:

If you answered “yes” to the above question, then what changes should be made to the current cabotage rules in order to further the use of cabotage? You may select more than one answer.

Answer (please tick as appropriate):

- ☐ Remove the link between international transport and cabotage
- ☐ Remove the need for the completion of the international transport operation (full unloading) before the cabotage operations can start
- ☐ Increase the limit of seven days within which the cabotage operations have to be carried out

- ☐ Increase the maximum number of cabotage operations (3) that can be carried out within the 7 day period
- ☐ Increase the limit of one cabotage operation that can be carried out in countries other than the one where the international transport operation was completed
- ☐ Increase the limit of 3 days to carry out the permitted cabotage operation after the unladen entry into a Member State
- ☐ Other. **Please explain below**

Explanation (free text):

DTL do not believe that in an overall assessment the rules on cabotage limit the flexibility and efficiency of hauliers. It has to be recognised that cabotage is by definition an activity you carry out in connection with an international journey. Cabotage is an exemption to the freedom (and requirement) of establishment, and as such cabotage can only be carried out on a temporary and non-systematic manner.

The new rules on cabotage – which harmonises the rules in the EU – are therefore an improvement in flexibility and efficiency for hauliers. Hauliers have always the freedom to establish themselves – and thus respect the national rules on social issues, taxation and charges, vehicles requirements etc – in the market where they wish to operate.

V.5. Question:

As an alternative to the current cabotage rules do you think that the entitlement for hauliers to carry out cabotage could be determined as a maximum percentage of their total annual transport performance?

Answer (please tick as appropriate):

☐ Yes

☒ No

V.6. Question:

As an additional or alternative criterion, should vehicle, driver and operator quality be a factor in cabotage rules?

Answer (please tick as appropriate):

☒ Yes

☐ No

If yes, which aspects of quality for the vehicles, drivers and operators should be considered? Please select as appropriate. You may select more than one option.

Vehicle

<ul style="list-style-type: none"><input type="checkbox"/> Use only vehicles that meet the latest applicable EURO standard<input type="checkbox"/> Install satellite positioning (e.g. GPS, EGNOS, later Galileo) units specifically designed for trucks in their vehicle to prevent the use of roads that are unsuitable for heavy goods vehicles<input checked="" type="checkbox"/> Install tracking and tracing functionality into their vehicles to allow easier enforcement and compliance monitoring by control authorities<input type="checkbox"/> Install (when available) integrated Intelligent Transport System (ITS) applications<input type="checkbox"/> Other criteria (please specify below)
--

Other criteria (free text):

It could be considered to better ensure that vehicles carrying out cabotage have to be fitted to ensure that compliance is possible and efficient. Considering that cabotage is only carried out in the context of international transport – and thus in most cases in the newest and best fitted vehicles – this requirement would not seem unreasonable. It also follows the proposed requirement in the new proposal on the digital tachograph, where use of satellite positioning is being introduced to better register the location of the vehicles.

To consider other aspects – as suggested – would not be relevant in the case of cabotage, where the criteria is based on the activities of the vehicle, not the quality of the vehicle (EURO-norm, ITS installation etc).

Driver

<ul style="list-style-type: none"><input type="checkbox"/> Driver qualifications (e.g. ecodriving)<input type="checkbox"/> Other criteria (please specify below)
--

Other criteria (free text):

Operator

☒ Whether the operator signs up to a "Social Code" on the minimum pay and other relevant working conditions for their drivers

☐ Whether cabotage operations are carried out only during non congested time periods

☐ Whether the operator enters into a commitment to improve the CO2 efficiency of their transport operations by an agreed percentage

☐ Other criteria (**please specify below**)

Other criteria (free text):

VI. OTHER QUESTIONS

VI.1. Question:

Do you have any other comments or suggestions which you consider should be taken into account during the revision of the European legislation concerning the road haulage sector?

Answer (free text):

VI.2. Question:

Do you agree that the Commission publishes your response?

Answer (please tick as appropriate):

☒ Yes

☐ No