

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):

I.3. Question:

What is the name of the organisation or authority?

Answer (free text): FENADISMER, Federación Nacional de Asociaciones de Transporte de España

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):

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
- ☐ Environmental performance
- ☒ Social fairness
- ☐ Other (please specify below)

Answer (free text): **In order to obtain a higher level of quality in road transport sector it is essential to achieve a real and effective armonisation of basically, social rules, but also of prohibitions and traffic restrictions among member states.**

Social armonisation will permit both guarantee a better economic results of transport companies that at this moment are deeply suffering economic problems that restraint their economic efficiency and avoid social dumping related also directly to Safety.

From another point of view, quality of service is directly linked to the perception of a just price, which in practice is hardly often obtained by hauliers, so we consider essential to legislate in the way it is recognised and guaranteed the right of hauliers to obtain at least a minimum price covering the essentail costs of service, as well as penallty for the infringement of this obligation of payment.

In this sense, since hauliers are traditionally the weakest part of the transport chain, it will be important to, by means of regulation, assure hauliers will perceive their price of transport directly by the contractor and in a subsidiary way, by any other part of the whole chain of transport.

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): **Having all road transport activities (domestic, international, cabotage, etc...) must comply with serious and clear rules to guarantee the quality of service and the fulfillment of the whole transport legislation, it is necessary to permit some flexibility to offer an adequate response to a specific kind of transport since every one, domestic, international, etc.. faces specific circumstances and needs.**

So it is necessary to guarantee a basic level of quality by means of an uniform and armonised legislation, but with the adequate dose of flexibility in order to better adjust regulation to the specific needs of a certain type of transport (the needs of a domestic transport are not exactly identical to international transport).

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):

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): It is important this quaility levels are recognised by means of legislation, but also by means of common practice and self regulation of the industry can be achieve the flexibility to implement the standars of quality for each kind of transport and/or activity.

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): They must be obliged to perform the payment to hauliers within a maximum delay, accordingly to the legislation, but stablishing the subsequent penalty for infringement.

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):

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): The number of drivers with the appropriate driving license may be sufficient, but the reality is a great number of them have no the necessary experience and good level of practice, not only for driving but also for developping an adequate service in the global activity of transport company.

So, in practice, there is a lack of proffesionality among drivers, so there is a real shortage of drivers. Nevertheless, the actual economic situation of road transport sector does for the moment give a break on this situation.

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

Answer (free text):

Improve the training levels for drivers as well as a a necessary modification of legislation facing co-responsability of drivers in certain type of infringements.

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):

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): It exists a different interpretation of legislation of the enforcements authorities among the different member sates what generates very different levels and types of sanctions for hauliers and drivers. This causes a real distortion of concurrence what prevents from a fair competition in the market.

Lesgislation should therefore be armonised and European authorities have to create the mechanism to guarantee an armonised interpretation of the rules.

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): **A clearer legislation will contribute to diminish the different interpretation of rules from the national authorities but also is necessary provide the tools to guarantee an armonised set of legislation.**

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): **Co-responsability of both shippers/freight forwarders and hauliers/drivers it is necessary in many serious infringements in which, many times, the exigences of the first ones push hauliers and drivers to follow this instructions in order not to loose the clients, specially in these times of economic and activity crises.**

It may be thought, for example, of infringements of weight and dimensi, social and/or econimic dumping, etc...

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 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):

² Defined as toll in the legislation

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): **If so, it would penalise peripheric countries in which hauliers need to cover longer distances in order to reach international markets.**

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): **The 24 hour use of infrastructure permits hauliers from peripheric countries to developpe their activities in a more equal condiction of concurrence than those stablished in a better geographic position, having into consideration the distances to drive for the firts ones are much higher and that the times of driving and rests are exactly the same for both of them.**

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):

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):

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

- ☐ Use only vehicles that meet the latest applicable EURO standard
- ☐ 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

- ☐ Install tracking and tracing functionality into their vehicles to allow easier enforcement and compliance monitoring by control authorities
- ☐ Install (when available) integrated Intelligent Transport System (ITS) applications
- ☐ Other criteria (**please specify below**)

Other criteria (free text):

Driver

- ☐ Driver qualifications (e.g. ecodriving)
- ☐ 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):

In order to achieve the top desired quality of the road transport, it is basic and absolutely necessary to guarantee the economic efficiency of the weakest part of the chain, which without any doubt is the haulier. To guarantee such economic efficiency it is of the utmost importance to regulate the mechanisms that would enable hauliers to obtain a price for the transport that, at least, covers the minimum cost of the service (consumption of fuel, internalised environmental costs, salaries, etc....).

VI.2. Question:

Do you agree that the Commission publishes your response?

Answer (please tick as appropriate):

☒ **Yes**

☐ **No**