

## **Comments on the consultation paper on revision of the Community legislation on the access to the road transport market and on the admission to the occupation of road transport operator**

### **Part A – Access to the road transport market**

#### **1. Is the merging of goods transport and passenger transport a real simplification? Which option is the preferred one?**

Since the transport of goods and the transport of passengers are two separate branches in transport, with each their own characteristics and needs, SAV does not think that the merging of goods transport and passenger transport may be a real simplification at all. On the contrary, SAV considers a merging as the very confirmation of ignoring the fundamental differences between both branches in road transport and thus not a policy to follow. Hence SAV prefers option 3, i.e. keeping the two legislations separate.

#### **2. Should local services be covered by regulation 684/92 or should they be excluded, either from the regulation or from the authorisation regime?**

Not applicable to the transport of goods. No express opinion by SAV.

#### **3. Should higher qualitative requirements be imposed on hauliers/carriers engaged in certain types of road transport? If so, which ones?**

The setting of higher qualitative requirements for hauliers/carriers engaged in certain types of road transport doesn't seem necessary to SAV. A first motivation for this conclusion is the fact that the determination of different standards almost certainly leads to discrimination of some types of transport, that would have to meet higher qualitative requirements. A second motivation for the rejection of higher standards is to be found in other legislations (either EU-legislation, other Treaties or national) applicable to certain types of road transport. A haulier who is active in the transport of dangerous goods has to perform his activity while living up to obligations of the Treaty concerning the transport of dangerous goods, a carrier that performs transport of alimentary goods has to obey certain other legislations, ... These secondary legislations impose automatically higher qualitative requirements on the hauliers/carriers that are active in these specialities. Higher qualitative requirements for the access to the profession of road haulier are exclusively acceptable if these requirements have to be met by every haulier, nevertheless the type of transport (higher requirements for the profession in general).

As to the professional liability, an obligation to have a specific insurance isn't necessary. Every transport firm has to be able to decide for themselves whether they need such an insurance. In addition to the general principle of choice, the application of the CMR-Treaty already has a great impact on the professional liability of the road haulier. This Treaty limits the responsibility of the professional haulier to a certain amount (depending on the damage that is done – loss, complete or partial damage, ...). In Belgian law, the financial capacity functions already as a sort of professional liability without putting the extra strain of a liability insurance on the companies. The financial capacity of a transport firm has to be guaranteed by a permanent bank guarantee (€ 9000 for the first vehicle, € 5000 for the other vehicles).

If a firm doesn't live up to his financial obligations towards employees, subcontractors, garages or the authorities, this bank guarantee can be used to cover the debts (with a court

order or permission of the liquidator in case of bankruptcy). A generalisation of this system could already offer contractors of transport firms a reasonable certainty.

**4. Should Member States be required to verify whether the haulier/operator still satisfies the conditions for maintaining the licence at shorter intervals on a regular basis?**

As a professional organisation for transport, SAV does not have principal objections to a more thorough control of the conditions for maintaining the licence at shorter intervals, on the contrary. In practice however, this seems a difficult objective to achieve. Due to shortness of staff and problems at different organisational levels, most governments do not even seem to succeed in the delivery of the transport authorisation within a reasonable period of time. If the conditions can be created by the national governments to deliver the authorisation in time and to perform all the necessary checks foreseen in the actual legislation, SAV can approve of such an enlargement of controls. However, controls at shorter intervals should remain to be combined with ad hoc controls at the premises of hauliers. These controls are the most efficient controls to establish whether a firm really satisfies all the conditions.

From our experience however, we feel it is necessary to differentiate in the future in the condition of good repute. At this point in time, the boundaries of good repute are the same for all the legal persons, without distinction in the amount of staff that works for the firm. The manager of a firm with 100 drivers has to meet the same standards as the manager of a firm with just 1 drivers. Due to the civil responsibility of the employer for penal convictions of facts committed by his employees, a company manager may see the boundary limits approach very rapidly without even having had the possibility to prevent the acts committed by his employees. Such a rigid utilisation of the condition of good repute leads to dramatic consequences. An employer which has, overviewed per driver, less convictions, loses his authorisation where an employer with less drivers but more convictions per driver, doesn't lose his authorisation. Urgent action is necessary in order to avoid perverse consequences of the condition of good repute (loss of jobs drivers). A system of gradually growing boundaries, according to the size of company needs to be installed and imposed on Member States.

**5. Should the validity of the Community Licence be reduced to a shorter period of validity than 5 years? If so, how many years should it be reduced?**

The reduction of the period of validity of the Community Licence doesn't seem a priority since it brings an extra workload. From our point of view, a more frequent control of the conditions of the access of the profession (on a regular basis and ad hoc) needs to have priority. Imposing more administration both on public authorities and on private hauliers is to be avoided. Moreover, a more frequent renewal of the validity does not guarantee a better working market. The more frequent intermediate ad hoc controls should be combined with a more effective sanction system, making the withdrawal of the authorisation possible.

**6. Should the regulation provide more detailed specifications for certified copies, i.e. standardize them in order to avoid confusion during an inspection? If so, what specifications or new (security) features should be introduced? Could a gradual shift to an on-line registry of the issued Community licenses be envisaged?**

Since the provision of standardized specifications automatically leads to more legal security, SAV is not opposed to more standardized specifications. In Belgium, the following specifications are mentioned on the transport licence:

- Authorisation number

- ☐ Name of the road haulage company and the address of the company
- ☐ Mentioning of the character of the licence (original, certified copie)
- ☐ Number plate
- ☐ Period of validity
- ☐ Date of emission
- ☐ Signature of the competent minister
- ☐ Stamp of the ministry of transport
- ☐ Payment of the tax
- ☐ Following number

This seems more than specific enough.

However, due to the fact that transport is in the majority of the cases an international activity, with vehicles away from the companies' premises for sometimes several weeks, and due to the workload of the Ministry of transport in Belgium, it isn't always possible to have the valid copy on board of the vehicle in time. The yearly renewal of the copy reaches the company only days before or after the expiry date of the first copy. Therefore and to enable more efficient and transport controls along the roads of the EU, SAV plead for a shift to an on-line registry of community licences. This way, the people that perform the controls on the road, can check in real time whether the company disposes of an authorisation and of a copy for the concerned vehicle. This way it will also become possible to make distinction between a firm that has merely forgotten (or was not able) to put the paper copy of the licence on board of the vehicle and the firm that meets in no way with EU regulations. Hence a different treatment in penalties would not only become possible, but it would even be very advisable to impose a different treatment on Member States.

**7. Should the driver attestation be made more uniform across the Community? Should the format of the current paper based document can be changed? Should it gradually be made electronically readable?**

A uniform driver attestation would be an administrative simplification with respect to control. In addition, the attestation should give the officer that performs controls as well as the employer the certainty that the driver is legally employed and disposes of a valid drivers licence and a valid professional capacity attestation. On a longer term it could be envisaged to make it electronically readable, i.e. completely up to date. This last measure seems however not to be a policy priority because of the limited amount of applications known throughout the EU today.

**8. Should the current maximum period of validity of 5 years be shortened?**

The validity should in first place not be longer than the actual treatment of the driver according to labour and social rights conditions of the country in which the motor vehicle on which he operates is registered. It is questionable whether a 5 year period is ideal if no intermediate controls are done. But if and when these controls are being put in place in the whole EU, a 5 year period seems adequate.

In an ideal situation on a longer term, the driver attestation expiry date should be the same as the one of his drivers' licence and of the professional capacity attestation of the driver.

**9. Are stakeholders of the opinion that the obligation to hold a driver attestation should be extended to drivers who are EU nationals?**

No. The administrative workload that this would cause, combined with the very limited possible applications, makes it useless.

**10. Should the control documents for occasional services be harmonised and the specifications be made as detailed as possible to avoid confusion during an inspection?**

Not applicable for the transport of goods. No express opinion by SAV.

**11. What is the stakeholders' opinion on the use of a uniform, Community-wide journey form in goods transport by road replacing the variety of national documents?**

Uniformity leads undeniably to legal security. However, SAV feels that it is not in the interest of the transport profession to introduce a new kind of journey form. The abolishment of national control documents (as for example the 'lettre de voiture' in France) is as such a good intention, as long as there is an alternative created on the level of the European Union.

Fortunately this alternative already exists in the so-called CMR-document, which is already the standard document for international transports (transport across national frontiers) in the EU. Some countries, such as Austria and Belgium, have already incorporated this document in their national legislation for national transport. Another argument in favour of the CMR-document is the fact that the EU-wide application of the form, for international and national transport, would lead to more uniform legal conditions and more uniform liability of carriers/hauliers in the EU, even in national transport services. This seems preferable to the actual situation, where responsibility in national transports is still governed by national legislation.

SAV can in no way accept the introduction of new documents or forms, which can be nothing more than a means to limit the cabotage of foreigners or just impose boundaries to cabotage. (see under question 17 about cabotage)

**12. Should the authorisation regime for international regular passenger services be maintained, simplified or abolished?**

Not applicable for the transport of goods. No express opinion by SAV.

**13. Provided that stakeholders are in favour of maintaining the current authorisation regime, is it feasible for national administrations to apply a shorter authorisation processing period?**

Not applicable for the transport of goods. No express opinion by SAV.

**14. Provided that stakeholders are in favour of maintaining the current authorisation regime, are these appeals processes clear and effective?**

Not applicable for the transport of goods. No express opinion by SAV.

**15. Provided that stakeholders are in favour of maintaining the current authorisation regime, are there other aspects of the regulatory regime which could be changed to simplify the administrative procedures or to otherwise improve the functioning of the authorisation regime by focusing it e.g. on safety and social requirements compliance?**

Not applicable for the transport of goods. No express opinion by SAV.

**16. Should urban and suburban cabotage operations in the course of international services be authorized? Under which conditions?**

Not applicable for the transport of goods. No express opinion by SAV.

**17. Do stakeholders perceive the varying rules as a problem? Do stakeholders consider that a clearer and more precise definition of road cabotage would be useful?**

The varying rules concerning cabotage are a problem for the Belgian transport firms, but recent attempts from the Commission to unify the content of the word "temporary" related to cabotage have remained unsuccessful and have even lead to new legislative attempts from various Member States to define the word temporary. The Commissions's initiative, which was supposed to lead to a more harmonious approach, eventually opened way to more diversity between Member States.

Therefore, SAV does not believe that a new definition of temporary could see the light at this point in time.

Ultimately, it will be up to the European Court of Justice in Luxemburg to judge to define in a more precise way what temporary means, and whether the current definition of temporary is not in contradiction the Treaty. Recent judgements of the Court (e.g. case Hoves C-115/00) and the fact that all other services are finally being liberalised (new directive regarding services inside EU seems to be in a final stage) may very well lead to as situation in which the term temporary will be esteemed to be contradictory on a whole with EU-legislation.

**18. What are stakeholders' views on these approaches? What alternatives could be proposed for a clear and easily enforceable definition of road cabotage?**

For SAV, the first example of an approach is unacceptable. The return to the use of a logbook seems to be a return to the past, where transport was documented too much. SAV esteems that the actually existing documents (CMR, receipts, drivers documents,...) have to be enough to control the cabotage activities of a haulier/carrier..

Even second approach is not acceptable for SAV. New administrative burdens cannot be allowed. It is to be noted that once a transport has been performed and finished, the CMR-document of that transport doesn't need to be on board any longer.

SAV refuses to accept any proposal that contents more restrictive criteria for the transport companies.

**19. Which areas should be added to the list or deleted from the list contained in Art. 6 (1) of Regulation 3118/93?**

A few of the actually existing criteria however could be deleted from the list.

The first area that should be removed of the list is the 'weights and dimensions of vehicles'. SAV is a heavy defender of the same weights and dimensions throughout the EU. The fact that a vehicle that effectuates a transport in one country can not do this under the same circumstances in another country is not compatible with the absolute freedom of services.

The second area that can be removed is 'driving times and resting periods'. Since the driving times and resting periods are regulated by the Regulation 3820/85, 3821/85 en 361/06, the driving and resting times throughout the EU are *de jure* the same.

**20. What is the stakeholders' experience with the application of the directive 96/71 to cabotage transport operations? What is their opinion on exempting cabotage operations**

**from the scope of that directive provided that cabotage is limited to a period shorter than one month?**

SAV's practical experiences lead to the conclusion that there exists a huge difference between the different countries. In most cases there is not talk of exempting, but of prohibiting some activities.

Some attempts in order to harmonise cabotage without the wanted effect (see 17). Ultimately, the Court in Luxemburg will have to judge about the periodicity of cabotage and the correlation between the EU-Treaty and cabotage legislation. So exempting the above is not guarantee for a free transport services market, as wanted by the Treaties.

**21. Are there any other issues regarding the market access in road transport that stakeholders would like to raise? The Commission services are particularly interested in any proposal for augmenting the quality standards and optimisation of road transport operations while avoiding any additional administrative cost.**

### **Part B – Admission to the occupation of road transport operator**

**1. Is there a need, and for what reasons, for higher minimum standards for admission to the occupation? If so, should they apply to all road transport professions or only to certain categories? Which ones?**

Since the standards for admission to the occupation guarantee a certain amount of quality, we feel that altering some standards can be in order. SAV is in the opinion that these higher minimum standards should apply to all road transport professions.

The first standard that should be altered, is the financial capacity. The European Regulations offer the different Member States a wide variety of possibilities to control the financial capacity (€ 9000 for the first vehicle, € 5000 for the other vehicles). In Belgium, this capacity has to be guaranteed by a bank. Other countries are satisfied if the advisor of the company confirms that there is, at a certain point in time, an amount of money available. These attestations are all truthful as they can be, merely an attestation at that specific moment and do not guarantee that the firm disposes of the money the next day or the next week, let alone three years later. Uniformity is necessary in such an international business as transport. SAV feels that only a bank guarantee provides the commercial partners of the transport firm real security. If the bank guarantee is not covered by the company, the bank itself takes contact with the authorities who control licences. Hence the control becomes automatic and permanent. This system should be imposed on all EU Member States in order to not only create equal financial standards but also be able to easily apply them at all times.

Are the required amounts sufficient? Maybe not. It might be considered to raise the sum for the first vehicle to a higher amount. It is our experience that especially firms with one or few vehicles are the ones to fall out of the profession quite quickly.

The second standard that needs harmonising, is the standard of the professionalism. At this point in time, there is a huge variety in the training and the exam that leads to the attestation of professionalism. In order to guarantee that transport companies (wherever in the EU) have a certain amount of professionalism, there is a need for harmonisation. Quality difference in various Member States should be made impossible. This can be done by imposing the same options as regards to the way of the examination and the pre-exam preparation, be it an obligatory training with numerous subjects or a free one. As for the exams it is advisable that they contain a written and an oral part. In order to pass this examination, a minimum score of 70% would be necessary all over the EU.

**2. Should criteria other than good reputation, financial standing and professional competence be included? If so, what should they be? For example, should criteria which prevent 'letter-box' companies from engaging in the occupation be included? If yes, how?**

Letter-box companies are almost per definition companies that have some kind of illegal character to their activities. Therefore, every condition that can help to prevent the activity of these firms, should be taken into consideration. Adding one requirement to list of three criteria, i.e. imposing the obligation on an actually operational transport company the Member States in which the demand for an EU-licence is made, could be considered.

In Belgium, this condition already exists and it is not being questioned by any concerned party.

However, adding additional criteria, inspired by a prevention of letter-box firms policy, mustn't lead to causing additional administrative burdens on other firms, that are in good faith.

Since transport is an international activity, we would plead for uniform measures on the EU-level, so that 'letter-box' companies can not move their activities from one country to another. Persons that were involved in these sort of activities, should be mentioned in a special register, that is open to all the authorities from the EU – countries.

**3. What exemptions and dispensations could be abolished?**

SAV esteems that in principle all companies, performing goods transport with any kind of vehicle regardless of its payload capacity or own weight, should be the subject of European legislation about access to the profession. The key issue here is also harmonisation. Today a Belgium based firm needs a transport licence when the vehicles has an payload capacity of more than 500 kilograms; whereas neighbouring country Holland puts the limit at a minimum of own weight of more than 3500 kilograms, which is quite another application on nearby citizens and companies in a very competitive area of the EU which would be in most places, just one country, only because of the size. This today is no longer admissible in the EU. All firms in the EU should have the same rights and obligations in order to come to an equal and honest competition in trade. National margins of appreciation need to be, as much as possible, abolished. So if anything has to be changed, exemptions should be ruled out as much as possible or in other words, the scope of application should be broadened to lighter vehicles, in the same way all over the EU.

**4. Do the requirements for admission to the occupation need to be checked more frequently? If so, should all or only some of them be checked? Which option do you prefer? If you prefer option A, what frequency do you propose?**

In an ideal world, it would be great if the responsible authorities would control the requirements for admission to the occupation more frequently. However, it will, with the means at present time available, never be possible to control much more frequent. In addition, the fact that companies would be aware of the fact that controls become more frequent, makes these controls rather ineffective. Therefore, SAV chooses option B. The present control, every five years should be optimised and combined with at random controls.

**5. Is it called for that Community legislation prevents that an undertaking which has been disqualified establishes in another Member State? If yes, what should the solution be?**

This question is in fact badly formulated. An undertaking that loses the authorisation in a Member State, can not lose this authorisation permanently. If the criteria are not met on one point in time, it remains perfectly possible to make another application that meets the criteria later on or that the undertaking, led by other people, does a successful demand. For example, if one person loses his good reputation, this doesn't mean that the firm in question can never ever obtain a new transport authorisation. If this person is replaced by a person that disposes of an attestation of good reputation, the firm can apply for a new authorisation.

SAV however pleads that the state of peoples' good reputation would become accessible throughout the EU. In order to disqualify a person permanently, it is necessary that the criteria on good reputation are the same in the whole of the EU or at least an updated EU-wide database would be started.

It isn't acceptable that a person from state A with a criminal record, cannot operate in state B, while a person from state C with the same criminal record can operate in state B because the law in state C is less strict. When a person has a criminal record that is not acceptable for access to the profession, this should account for the whole EU. Harmonisation is the key element.

**6. Are there any administrative burdens associated with measures considered useful in this questionnaire that could be alleviated or abandoned? If so, by what means could that be achieved?**

**7. Should it be required that, to be deemed to be of good reputation and granted admission to the occupation, an applicant must not have committed any repeat offences?**

A person that commits repeat offences of a certain character, should principally not be allowed to participate in transport activities.

However, SAV wants to plead for a nuance in the legislation. The legislation that regulates the good reputation, should have eye for the nature of the company and the nature of the offence(s). It isn't possible that a firm with one vehicle is subjected to the same standards as a firm with twenty or a hundred vehicles. At this point in time, an employer which has, overviewed per driver, less convictions, loses his authorisation where an employer with less drivers but more convictions per driver, doesn't lose his authorisation. Urgent action is necessary in order to avoid perverse consequences of the condition of good reputation (loss of jobs for several thousand drivers). Repeated minor offences (e.g. minor speed offences, marginal offences against driving times) should not automatically lead to loss of good reputation.

SAV pleads therefore for a European definition of repeat offences, with attention for the following aspects :

- What is a repeat offence (2 or more same offences)?
- Which offences are capable of being repeat offences (only the traffic-related offences or offences in general)?
- What criteria are used for small firms and bigger firms? Is there sufficient attention for the differences?

**8. Should the definitions of serious offences which constitute a barrier to admission to the profession be harmonised at European level?**

SAV is a defender of the complete harmonisation of all criteria concerning the access to the profession, including good repute. The definition of serious offences should be equal in all the countries of the EU and concerning all possible areas (weights and dimensions, safety, working hours, environmental legislation, fiscal legislation,...). As long as these criteria aren't the same in the complete EU, a fair and equal competition doesn't seem possible because the access to the profession is not equalised. In the current situation, a person that meets the same standards as another person, can be denied the access to the profession while another person, just because he lives in another Member State, is allowed to engage in the transport activities.

SAV pleads therefore for a European definition of serious offences, with attention for the following aspects :

- What is a serious offence (boundaries)?
- Which offences are capable of being serious offences (only the traffic-related offences or offences in general)?
- What criteria are used for small firms and bigger firms? Is there sufficient attention for the differences?

**9. Should European legislation include a list of persons to whom the requirement of good repute applies? If your answer is yes, should the list include categories other than managers, directors and persons who have interests in the undertaking?**

In order to obtain full harmonisation, it seems necessary to include a list of categories in the legislation. The list should include the following persons :

- Managers, directors, ... (person in charge of the firm according to the national corporate laws)
- The persons that have the professional capacity for the firm
- Every other person that is in daily command of the activities of a transport firm. This catch-all prevents that specific national constructions do not fall under the European legislation and as such have a competitive benefit to other companies. Only a clear definition which leaves no doubt can bring a solution here.

**10. Should the licensing authorities be given easier access to information about judgements and penalties which bar an operator from being granted to the occupation?**

In order to make a more effective check possible, it seems necessary to make the access to information about judgements and penalties easier for the authorities. How this can be achieved in practice, seems much more difficult to answer to. It seems that on a national level the final goal should be the one of automatisms. This means that a citizen who would apply for a licence would merely have to give his name. The competent authority would then look up in a central database if there are any conviction barring the person. The burdon of proof hence switches to the public authority and the demand procedure for a licence becomes far easier.

However only judgements that are not open for any appeal and that are penal convictions, in the sense of the European Treaty on Human Rights, can be taken into account. This means that fines paid for along roads at the occasion of road side checks do not count as they must be considered as non penal.

As regards to the situation in which more member states are involved the situation is much more complicated (see question B 11)

**11. Is the current information exchange system on infringements and sanctions sufficient? If not, what improvements do you suggest?**

The current system of information exchange on infringements and sanctions may not be ideal. And in theory a gradual shift to a European criminal register may seem advisable. This European criminal register would however also lead to a number of perverse and unwanted effects and contradictory consequences. The fact is that criminal law in the countries of the EU is still national law. A person that commits an offence in state A can therefore be much more severely punished than an offender in state B. For example: manipulation of the registration device could cost € 1500 to € 3000 in France, but up to € 6000 in Portugal. A certain harmonisation in criminal law seems thus necessary in order to prevent discrimination between the different Member States of the EU. There are also considerable differences between countries in pronouncing effective punishments or other alternative punishments. All these factors mean that shift to a European criminal register would lead to national interpretations of foreign criminal records without having the necessary backgrounds or same approach as regards to fines. The conclusion is that the current status of EU unification on a judicial level is far from being ready to enable an efficient information exchange system.

**12. Should the methods for assessing financial standing be further harmonised? If your answer is yes, on the basis of what financial ratios should the assessment be made? What should the thresholds be? Who should evaluate them? At what intervals should this be done?**

The financial standing assessment methods need to be harmonised in order to offer the commercial partners of transport firms all over the EU legal security. At this point in time, there are different criteria that are being used in different countries : a permanent amount (guarantee of a bank), an attestation of an financial advisor, ... SAV is a defender of the permanent control of the financial capacity of a firm. The only way to obtain this permanent control is the guarantee by a bank. As soon as the financial criteria are no longer met, the competent authority is notified of this shortage and is able to withdrawl the authorisation. This system is actually installed in Belgium and works quite well. Together with the permanent aspect of the control, this system is a natural selection mechanism for the very small companies with low credibility.

Are the required amounts sufficient? Maybe not. It may be considered to raise the sum for the first vehicle to a higher amount. It is the experience of SAV that especially firms with one or few vehicles are the ones to fall out of the profession quite quickly.

**13. Should the option of compulsory professional liability insurance be considered in greater depth? If your answer is yes, should the system supplement or completely replace the current system? What risks should such insurance cover and what minimum guarantees should it provide?**

The option of an additional professional liability insurance could be an option, but in SAV's point of view, there is a better alternative that doesn't put an additional administrative and financial burden on transport firms and, at the same time, eases the control on the financial capacity of a firm.

That better alternative is to be found in the Belgian transport legislation. In order to prove financial capacity, a Belgian transport firm needs to dispose of a permanent bank guarantee. This guarantee is € 9000 for the first vehicle and € 5000 for all the other vehicles. When the transport firm isn't able to pay the wages of the drivers, the costs of maintenance in the garage

or the invoices of subcontractors, the sum of all the guarantees functions as a bail. When the unpaid persons dispose of a court order or, in case of bankruptcy, the permission of the liquidator, they can use this bail to cover their unpaid expenses.

Further liability insurances are, in case of appliance of the above mentioned system, unnecessary. Full liability also seems incompatible with the limitations of responsibility in the CMR-Treaty.

So the conclusion is that a compulsory liability insurance is not advisable.

**14. Is further harmonisation of examinations necessary? What dispensations could be abolished?**

At this point in time, there is a huge variety in the training and the exam that leads to the attestation of professionalism. In order to guarantee that transport companies (wherever in the EU) have a certain amount of professionalism, there is a need for harmonisation. Quality difference in various Member States should be made impossible. This can be done by imposing the same options as regards to the way of the examination and the pre-exam preparation, be it an obligatory training with numerous subjects or a free one. As for the exams it is advisable that they contain a written and an oral part. In order to pass this examination, a minimum score of 70% would be necessary all over the EU.

**15. Should the holder of the certificate of competence be an employee of the company concerned and a permanent resident of the Member State in which the company is established?**

SAV is in favour of the requirement that the holder of the certificate of competence is either an employee of the company concerned, its director or a legally external person that on a daily basis leads transport operations of the company. Current Belgian legislation clearly defines what can be considered as leading transport operations. It seems necessary to harmonise these criteria on a European level.

As to the requirement of residence it seems that a merely legal approach does not satisfy. It is clear that residence in the country does not cover the situation well. If a citizen lives in the same country as the company, but 1000 km away from the company, it seems clear that his ability to daily lead the transport operations will be more in danger than if he lives 5 km away but in another member state. It seems that only the facts can be taken into account by the competent authorities. Factual elements such as swift public transport connections and proof of usage of them can be taken into account.

**16. Do you have any other comments or suggestions which you consider should be taken into account during the revision of the European legislation on admission to the occupation of road haulage operator?**

**17. Would you like to propose other measures in order to avoid administrative burdens associated with measures considered useful in this questionnaire?**

Where necessary, we have suggested measures with lighter administrative burdens for the firms. However, in order to come to an optimal transport policy, every legislative idea should

be checked in the light of administrative simplification. If an idea, however useful, puts a disproportional administrative strain on companies, this idea has to be rejected. In addition, ideas need to harmonise as much as possible, in order to prevent administrative discriminations between Member States.

