

TRANSPORT EN LOGISTIEK NEDERLAND

TABLE CONSULTATION ON ACCESS TO THE MARKET AND ADMISSION TO THE OCCUPATION OF TRANSPORT OPERATOR

Part A, Access to the market

	Question/issue	Position TLN	Comments
1	Does the merging of goods and passenger transport legislation lead to simplification?	Existing separated legislation should be continued. Little to win for the transport industry by merging.	The more legislation has a general character the more difficult it will be to adapt it to changing circumstances.
3	Should higher qualitative requirements be imposed on operators in certain types of transport?	<ul style="list-style-type: none"> - No, requirements should be alike for the whole market. Individual markets set their own additional standards on a voluntary basis, like movers and live stock transporters - Promote association's quality labels - The requirement that a company must operate from the given address should be added to prevent letter-box companies. This to avoid disqualified companies starting operations in another Member State - Do a study to the applicability of the CMR consignment note for national and cabotage transports 	<p>Additional legal requirements exist for some sectors in road transport: ADR, HCCP</p> <p>As soon as there is a harmonised system to exchange information on the 3 qualitative requirements, there will be no reason anymore to prevent letter-box companies to be founded.</p> <p>Leads to more harmonisation of liabilities</p>
4	Should Member States verify at shorter intervals than 5 years whether operators still meet the qualitative requirements	No, keep the 5 years interval + additional checks when major changes (are suspected to) take/have taken place	No shorter intervals when present checks in the Netherlands show that 95% of the operators meet the requirements
5	Should the validity of the Community license be reduced to a shorter period than 5 years?	No	See above
6	Should there be more standardisation in certified copies of the licence. If so, how? Is a gradual shift to on-line registry be envisaged?	Yes, as long as the non-bearing of the vehicle's registration number is an option	Contrary to other Member States, Dutch copies of EU-licences do not bear the vehicle's registration number. This improves the flexible operation of lorries and we want to keep this.

	Question/issue	Position TLN	Comments
7	Should the driver's attestation be made more uniform? Different format? Should it be made electronically readable?	Yes, make it as simple as possible. Yes, combine functions of documents as much as possible. Should be valid for use with a digital tachograph Make an assessment of the costs and savings for this relatively small group of drivers.	Registration of employees will be more and more based on the use of internet. This will ease the administrative burden of companies and ease the enforcement. Enforcement agencies should have access to national data banks.
8	Should the period of validity of the attestation be shortened?	No, 5 years be kept as the maximum period of validity.	See above. In the Netherlands the validity of the drivers attestation is linked to the validity of the working permit. This period is often shorter than 5 years.
9	Should the driver's attestation become obligatory for EU drivers?	No	No, illegal employment of EU drivers is not a problem
11	Should a common EU journey form replace the various national documents?	- No, which journey forms does it replace other than the French "document de suivi"? If there are any others; do away with them. No additional document for all transport operations in the EU just to check cabotage services, which represent only 0,76% of the total road transport market. - Do a study to the applicability of the CMR-document for international, national and cabotage transports as the obligatory document to be checked	Difficult to enforce; easy to be tampered with; additional administrative burden. Does not replace documents like CMR, CEMT. Going back on liberalization of EU road transport market. Our experience is that the existing "Document de suivi" in France is hardly ever checked
17	Do operators see the varying rules on cabotage as a problem?	No. Rules on VAT in cabotage operations are more complicated. Sometimes the difference between Combined Transport operations and cabotage is not clear to operators nor to enforcement officers.	In general, companies that offer cabotage services are specialized in operating in a certain Member State and know the applicable rules.
18	What is the operator's opinion on the 2 options mentioned; what are the alternatives to a clear and easily enforceable definition of cabotage? - 30 consecutive days or 60 days in total	Cabotage should not be defined at all. Whatever the result, it will limit companies in their operations and sub-optimize transport efficiency. Assess individual operations on the basis of the	Whatever the duration may be, the problem is enforcement. Introduction of a EU journey form or logbook should not even be considered (see above)

	Question/issue	Position TLN	Comments
	per year + logbook issued by host Member State - 2 or 3 consecutive cabotage operations in 1 week, following international transport. All clearly documented, including EU journey form	Commissions Interpretative Communication.	
19	Which areas should be added to/deleted from the list of applicable national rules on cabotage operations?	To be deleted: Tariffs and contractual conditions (Art. 6.1.a) To be added: CMR rules (see answers to A.3 and B.11) Posting directive should not be added to the exceptions in art 6.1 of Reg. 3118/93.	See hereunder
20	How do operators experience the application of the posting directive on cabotage operations. Should cabotage be exempted from this rule, when cabotage is limited to 1 month?	No experience until now. No Member State applies this directive in practice	- Posting directive and Cabotage are contradictions, whatever the duration. Cabotage is domestic transport under a foreign regime. Only (road)safety and taxes can justify exceptions to this principle. Not social conditions. The Dutch Collective Labour Agreement is by law applicable to all transport operations. Main question: is a foreign driver doing cabotage, posted to a shipper or a consignee in the host country? - Use Social Sector Dialogue as platform to fight illegal employment, not the limitation of cabotage operations
21	Are there any other issues regarding access in road transport you would like to raise? E.g. improving quality standards, optimisation of transport operations, without additional administrative cost	Leave requirements for the access to the market as they are. Promote association's quality labels. Enhance harmonised efficient and effective enforcement of existing legislation. Introduce more risk analyses to avoid unnecessary hampering of the well-performing operators	

Part B, Admission to the occupation

	Question/issue	Position TLN	Comments
1	Are higher standards for the access to the profession needed? If so, why? For all road transport professions or just for some categories/ If so, which ones?	<p>-No, not higher standards but harmonised implementation and enforcement. Requirements should be alike for all sectors in the profession.</p> <p>- Basically all companies offering professional transport services should come under the Regulation/Directive, regardless the MAW of the vehicles they operate</p> <p>- Regulation of profession/market access for taxi's should be considered</p>	<p>- Not higher access standards but the market dictates the quality of the industry. With an increasing economic activity there is an under capacity on the market now. Capacity follows economic trends.</p> <p>Agricultural tractors pulling a trailer (less than 3.5 tonnes) and taxi's cause a lot of unfair competition because they are not included in this directive.</p>
2	Should criteria be included other than good reputation, professional competence and financial standing? If so, which?	Yes, the requirement that a company must operate from the given address should be added to prevent letter-box companies. This to avoid disqualified companies starting operations in another Member State	<p>As soon as there is a harmonised system to exchange information on the 3 qualitative requirements, there will be no reason anymore to prevent letter-box companies to be founded.</p> <p>- See also part A. 3</p>
3	What exemptions and dispensations could be abolished	<p>-Only temporary measures in cases of death and physical or legal inability of the natural CPC holder should be kept.</p> <p>- Grandfather rights (<1978) should still be honoured. These companies deserved their place in the market.</p> <p>All other exemptions and dispensations should be abolished</p>	Basically all companies offering professional transport services should come under the Directive, regardless the MAW of the vehicles they operate
4	Do the 3 requirements need to be checked more frequently? All or just some? Options: - more frequent checks - existing frequency + targeted	Existing frequency + targeted (= not-random) checks	This option has a deterrent effect; affects only some companies; is necessary only for financial standing and good reputation. Additional targeted checks should only be made when major changes (are suspected

	Question/issue	Position TLN	Comments
	random checks		to) take/have taken place.
5	Should there be EU legislation that prevents the establishment of a company in a Member State whereas this company has been disqualified in another Member State? If so, how?	Yes	Should however only be possible when there is a harmonised implementation and a harmonised enforcement of the Regulation
6	Are there any excessive burdens related to measures that could be alleviated or abandoned? If so, how?	See below	
7	To be of good repute the person should not have been convicted of a serious offence . Should repeat offences be added to this requirement?	Yes, art. 3.2.c of Dir. 96/26/EC already mentions "serious and repeated offences"	Any operator who has an habit of infringing the law is using this to compete in an unfair way. Is however only possible if there are strict definitions of "repeated offences". Moreover these offences must be of substance and there must be a kind of a "habit"
8	Should the definition of "serious offence" be harmonised?	Yes	Whatever the definition may be, it should have a harmonised meaning throughout the EU. If not, the answer to question 5 is: no
9	Should EU legislation include a list of a persons who are of "good repute"? If so, should this list include others than managers, directors?	No	Requirement of "good repute" should only be applicable to executive officers taking decisions like the manager/director in a company. General corporate law should define the liability of other actors in the company
10	Should licensing bodies have easier access to information on judgements and penalties which bar an operator from being granted admission to the occupation?	Yes, after the licence has been issued. In that case it may be questionable whether the "good repute" requirement is still met.	Experiences in the Netherlands have shown that it is difficult to establish such a link between licence issuing authority and administration of justice.
11	Is the current information exchange system on infringements and sanctions sufficient? If no, what could be	See below	

	Question/issue	Position TLN	Comments
	improvements?		
12	Should methods for assessing financial standing be further harmonised? If so, on the basis of what financial ratio's? What should be the thresholds? Who should evaluate them? At what intervals?	Min. level of 9.000 to start an operation and 5.000 euro for every next vehicle is an adequate level as such. Harmonisation in implementation and controls is necessary.	A system of prepaying social security charges and taxes as a kind of a guarantee, gives a better indication of the financial standing than any existing requirement. Together with the compulsory professional liability it ensures the financial standing of a company
13	Should the option of compulsory professional liability insurance be considered more? If so, should this system be added to or replace the current system? What risks should be covered? What minimum guarantees should it provide?	Yes, it should replace the existing financial standing requirement since it seems to have many advantages. Introduction of this professional liability insurance, its scope and its consequences should be studied thoroughly.	The requirement of financial standing and its enforcement are not harmonised in the EU and probably will never be. For commercial reasons professional liability insurances will probably be more harmonised. They can be tailor made to the company's quality (bonus/malus?) and prevent a restart of malicious operators after bankruptcy.
14	Is further harmonisation of examinations necessary? What dispensations could be abolished?	Yes, moreover examination institutes should be certified e.g. by IRU. Abolish all exemptions or replace them by an obligatory attendance of CPC courses without an examination for holders of advanced diplomas on transport/logistics.	There are signals that CPC tourism to Poland is starting up. Polish examinations in German are easier than elsewhere
15	Should the holder of the CPC be employed by the company concerned and a permanent resident in the Member State in which the company is established?	No, he does not have to be an employee but can be an external CPC holder as well, as long as there is a formal relation.	As long as the CPC holder operates permanently and actually in the company there is no necessity that he is a permanent resident in the same Member State.
16	Do you have any comments/ suggestions that should be taken into account in the revision of EU legislation on this issue?	See below	
17	Would you like to propose any other measures to avoid administrative burdens associated which measures considered useful in this questionnaire?	See below	

- **On-line registration**

More and more registration of data concerning the various aspects of road transport can take place by way of electronic registration.

This is inevitable, taking into account the fact that many member states do not want to invest more in enforcement. An electronic registration may make it easier to make risk analyses on the basis of which targeted controls can be directed to those companies where these controls are appropriate. In this way well managed and performing companies don't have to be bothered. Obligatory electronic registration could be a helpful tool for the industry and may lower the administrative burden.

Keeping the electronic databases up to the actual situation will be difficult. Harmonisation of the implementation of these systems is crucial. We therefore recommend to start with national data bases, which can be consulted by enforcement agencies in other Member States in a first stage and in a second stage to create a centralised EU database with just those data necessary for an efficient and effective enforcement of EU legislation. These data should be on-line accessible for enforcement agencies throughout the EU.

- **Harmonisation of documents**

In order to come to a centralised EU database it is absolutely necessary that all documents used in road transport (certified copies of licences, drivers licences, etc.) are harmonised in the EU. In the long run where possible all documents should be replaced by electronic registration. Carrying hard copies becomes obsolete by then.

- **Cabotage**

Some Member States try to protect a certain interest or a part of their domestic transport industry by introducing administrative thresholds to cabotage to decrease the share of foreign operators in the domestic market. However in protecting a limited interest these Member States affect cabotage in total, also in those segments of road haulage where there are no problems. Instead of striving to the perfection of the internal market for road transport we are going back in time by introducing log-books, journey forms or on-line registrations of cabotage trips. Whatever will be introduced, it will be all a matter of effective enforcement, which is hardly possible.

According to Eurostat statistics cabotage is growing in figures and changing in various Member States. The drivers for these changes are not clearly known. This needs further investigation and debate.

- **Follow-up**

Due to the time limits and the holiday season it has been impossible for Transport en Logistiek Nederland (TLN) to discuss internally some questions at length. Since some questions are very fundamental, this is an opportunity lost. Therefore TLN pleads for the installation of a Task Force or Evaluation Committee to study the results of this enquiry and to advise on the follow-up. In these discussions also market developments as well as the social, the economic situation in the road transport industry and future expectations should be included.

This group should consist of DG TREN, researchers, operators or their representing associations and enforcement agencies. Transport en Logistiek Nederland is willing to take an active part in any group to be formed.