



## OPINION OF THE HIGH LEVEL GROUP

### Subject: 2<sup>nd</sup> Opinion on Administrative burden reduction in the priority area *Transport*

#### I. Background

- (1) The High Level Group of Independent Stakeholders on Administrative Burdens (HLG) was set up to advise the Commission with regard to the Action Programme for Reducing Administrative Burdens in the EU, and in particular to provide advice on administrative burden reduction measures.<sup>1</sup> The HLG has appointed Mr. Ludewig and Mr. Telicka as its reporting members for the priority area “Transport”.
- (2) Transport is one of the 13 priority areas in scope of the Action Programme which covers more than 40 pieces of legislation in these areas.<sup>2</sup> For the priority area transport, the Action Programme originally covered the following pieces of legislation:
  - Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (Text with EEA relevance) and
  - Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive).
- (3) On 28 January 2009 the Commission<sup>3</sup> published an extension of this action programme, with 30 additional Directives and Regulations for administrative scrutiny. Six of these are part of the EU transport *acquis communautaire*:
  - Council Directive 96/26/EC of 29 April 1996 on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate

---

<sup>1</sup> Cf. Commission Decision C (2007)4063.

<sup>2</sup> Cf. Communication from the Commission COM(2007)23 final, 2.3.

<sup>3</sup> Cf. Communication from the Commission COM(2009)16 final, Annex 9.

for these operators the right to freedom of establishment in national and international transport operations

- Council Directive 96/35/EC of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway;
  - Regulation No 11 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79(3) of the Treaty establishing the European Economic Community adopted in 1960;
  - Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations;
  - Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code and Regulation (EC) No 450/2008 laying down the Community Customs Code; Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market; Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market; Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community, and
  - Directive 2002/6/EC of the European Parliament and of the Council of 18 February 2002 on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community.
- (4) The second opinion on the priority area Transport is complementary to the opinion the HLG adopted on the 4 March 2009<sup>4</sup>, which concentrated on the first two EU acts mentioned above, as well as the input from stakeholders that was collected through a specific consultation and a discussion meeting that took place on 16 February 2009. Despite the fact that all the ideas (more than 60) were reviewed, on some of them a concrete conclusion could not be reached, generally because further details were required to understand the exact nature of the problem raised.
- (5) The rapporteurs therefore proposed that further work was undertaken concerning these remaining open points by the European Commission services on one side and stakeholders on the other side, with a view to reach a conclusion on all of them.
- (6) In line with this proposal and due to the large number of open issues in the railway sector, a stakeholder meeting on this sector was held on 21 September 2009, bringing together representatives from the European Commission, the European Railway Agency and representatives of the sector. In this meeting railway related issues of unnecessary administrative burdens were discussed in detail. Stakeholders pointed out that most of the problems that create unnecessary burdens occur because of different

---

<sup>4</sup> The opinion can be downloaded from the HLG website: [http://ec.europa.eu/enterprise/policies/better-regulation/files/hlg\\_opinion\\_transport\\_050309\\_en.pdf](http://ec.europa.eu/enterprise/policies/better-regulation/files/hlg_opinion_transport_050309_en.pdf).

transpositions and different enforcement in Member States. Therefore, stakeholders would welcome to see more harmonisation and mutual recognition. It was agreed by all participants that regular exchange of views and meetings would bring positive results towards finding such harmonisation and mutual recognition. The starting point of these discussions was set to be the organisation of a workshop to debate on some of the problems raised in the end of 2009.

- (7) The measurements of the additional 30 legislative acts were finalised by the end of 2009. The results were discussed in the group. The HLG adopted an opinion on these measurements on 20 May 2010.<sup>5</sup> As the opinion of 20 May 2010 does not deal with all of the legislative acts from the transport sector, these will be assessed within this opinion (cf. III. below).

## II. Current status of reduction recommendations

- (8) As explained above, the HLG had asked for clarification and further details on the proposals submitted by the stakeholders and the Consortium that were left unanalysed in the previous opinion. Furthermore, in its first opinion on transport the HLG has asked the Commission to report on the progress made. The Commission has updated the rapporteurs in October 2009. Some of the measures were published in the sectoral reduction plan on transport as Annex to the Commission's communication dated 22 October 2009.<sup>6</sup>
- (9) Nevertheless, there are still some proposals of the HLG where it is unclear if they will be put forward by the Commission or what their current status is. This relates i.a. to all proposals which are mentioned in the sectoral reduction plan marked as "under consideration". The HLG therefore asks the Commission to present a list of the HLG's proposals and their status so that the HLG is enabled to monitor the progress in reducing administrative burdens. This refers not only to the transport sector but to all priority areas included in the Action programme.
- (10) Some progress was achieved in reducing administrative burdens at EU level in the transport sector since March 2009. For example, Commission proposals to simplify the use of digital tachographs were adopted in December 2009<sup>7</sup>. They include improvements in the "form of activities" so that no further additional documents are needed as well as technical improvements in the handling of the tachograph. The Commission has also been working actively with the European Aviation Safety Agency (EASA) in order to simplify the process for approving permits to fly. It adopted Regulation (EC) No 1194/2009 and Regulation (EU) No 127/2010 in order to

---

<sup>5</sup> The opinion can be downloaded from the HLG website: [http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/files/2010\\_05\\_20\\_hlg\\_ab\\_opinion\\_january\\_2009\\_extension\\_en.pdf](http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/files/2010_05_20_hlg_ab_opinion_january_2009_extension_en.pdf).

<sup>6</sup> COM(2009) 544 final.

<sup>7</sup> Commission Regulation (EU) No 1266/2009 of 16 December 2009 adapting for the tenth time to technical progress Council Regulation (EEC) No 3821/85 on recording equipment in road transport and Commission Decision of 14 December 2009 amending Decision 2007/230/EC on a form concerning social legislation relating to road transport activities.

provide conditions for the approval of design organisations, production organizations as well as continuing airworthiness management organizations to issue permits to fly more easily.

(11) Acknowledging these positive aspects there are still issues that need to be tackled. As some of these issues have been announced earlier the Commission should strive to present solutions on short notice:

- As mentioned above for the railway sector there was agreement between the participants in the respective sector meeting on 21 September 2009 that many of the problems raised could be solved if stakeholders and all relevant institutions, i.e. DG Mobility and Transports (MOVE, former DG TREN), the European Railway Agency and the respective national bodies would meet on a regular basis. DG MOVE agreed to organize a first meeting before the end of 2009 to work on these issues.

This workshop is finally scheduled to take place on 15 July 2010. The HLG regrets the delay of the organizing parties in taking action in this point, and urges the Commission to ensure that the results of this workshop are swiftly followed up and implemented.

- The HLG created an award for the "Best idea for red tape reduction", which has been granted to the German Confederation of skilled crafts (ZDH) in May 2009 for their idea to exempt craft businesses from the obligation to use a tachograph for distances of less than 150 km.

Despite the stakeholder support and the Commission's promise that this proposal would be implemented quickly, made in a meeting of the Commissioner in charge with the chairman of the HLG and the rapporteur in July 2009, it has still not taken place. The Commission committed to an extension of the exemption to 100 km "before the end of 2009"<sup>8</sup>, but now announces that it is looking into the issue with a view to potentially implement the change in 2011.

For the HLG it is unacceptable that the contest winning proposal, that would be extremely beneficial to small craft business industries, has not been implemented yet. It therefore urges the Commission to take immediate action towards the adoption of this proposal.

- Besides this proposal, there is still a considerable amount of other proposals the Commission has not put forward so far. The HLG calls upon the Commission to assess these proposals seriously and put forward as many as possible to relieve businesses as much as possible.

---

<sup>8</sup> Communication on the reduction of administrative burdens of 22 October 2009: COM(2009) 544.

### III. Extension of the scope of the Action Programme

- (12) The extension of the Action programme by thirty further acts from January 2009 included six acts from the transport sector. The HLG refers to its opinion dated 20 May 2010 and especially its general comments on this extension.<sup>9</sup>

#### *1. Admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas*

- (13) The Directive 96/26/EC of 29 April 1996 consolidates the previously existing legislation on admission to the occupation of road haulage operators and road passenger transport operator respectively in national and international transport operations, and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for goods haulage operators and road passenger transport operators.
- (14) This Directive specifies for the Member States the minimum criteria with which potential road transport operators must comply, namely good repute, appropriate financial standing and professional competence. Concerning the mutual recognition of diplomas, certificates and other qualifications, it established that Member States must accept as sufficient proof the certificates and documents issued by another Member State certifying that these conditions are satisfied.
- (15) According to the results of the recent CEPS measurement, this Directive imposed administrative burdens estimated at EUR 62.8 million. However, one out of the five information obligations in the directive has not been quantified by CEPS as the available data was too old.
- (16) New regulations were adopted in October 2009<sup>10</sup> to reduce paperwork for road haulage and road passenger transport. In particular, they introduce an electronic register to facilitate the exchange of data, allow targeted checks and foresee a simplified authorising procedure for coach services. These Regulations are expected to reduce administrative burdens by EUR 34.9 million, bringing an estimated reduction of 56%.
- (17) The HLG appreciates the new regulations to ease the authorisation procedure. It shows that information and communication technology is an important tool to reduce administrative burdens significantly. The HLG regrets that it was not possible to retrieve data for all information obligations and that therefore the burdens measured only represent parts of the burdens caused by the directive. In future measurements it

---

<sup>9</sup> The opinion can be downloaded from the HLG website: [http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/files/2010\\_05\\_20\\_hlg\\_ab\\_opinion\\_january\\_2009\\_extension\\_en.pdf](http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/files/2010_05_20_hlg_ab_opinion_january_2009_extension_en.pdf)

<sup>10</sup> Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC; and Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market.

should be ensured that missing data is collected to have all information obligations quantified.

## *2. Safety advisers for the transport of dangerous goods*

- (18) Directive 96/35/EC of 3 June 1996 together with other directives and international agreements lay down that undertakings whose activities include the transport of dangerous goods must appoint one or more safety advisers. These safety advisers shall prepare an annual report to the management of the undertaking or a local public authority on the undertaking's activities in the transport of dangerous goods. The report shall be preserved for five years and made available to the competent authorities at their request. Furthermore, the safety adviser shall prepare an accident report whenever an accident occurs. The administrative burdens of these two information obligations were assessed to be EUR 60 million per year.
- (19) The Directive has been recently repealed by Directive 2008/68/EC<sup>11</sup>. This new Directive brings simplification and harmonisation to the EU legislation concerning the transport of dangerous goods, as it puts together under the umbrella of one piece of legislation the rules applicable to all three land modes. Obsolete provisions are eliminated and all national derogations are brought to a single text. The applicable legal texts are shortened by around 2,000 pages. Nevertheless, the mentioned information obligations as such have remained unchanged. According to the measurement, with this codification measure an estimated reduction of burdens of 4% can be achieved, leading to savings of EUR 2.2 million as familiarisation time is decreased.
- (20) The HLG welcomes this codification measure and acknowledges that such codifications can indeed reduce administrative burdens. Though, this is unlikely to be perceived as a significant reduction of burdens by the affected businesses as the effect is relatively small. To relieve businesses more substantially in this field, the HLG calls upon the Commission to investigate in decreasing the frequency of the obligation to produce the safety report from every year to every third year, if no accidents have occurred during the year.

## *3. Abolition of discrimination in transport rates and conditions*

- (21) Regulation No 11 imposed many obligations on transport undertakings, including the duty to communicate tariffs and other conditions to their government, and to keep documentary evidence onboard. DG TREN (now DG MOVE) assessed that roughly 300,000 businesses were affected by this obligation, and that most of them are SMEs. These obligations imposed an administrative burden on businesses of EUR 188.7 million.

---

<sup>11</sup> Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods

- (22) The Council adopted a new regulation<sup>12</sup> amending Regulation No 11, by which the notification obligation is removed and the information to keep onboard has been included in other documents. This change brings an estimated administrative burden reduction of EUR 114.7 million (61%).
- (23) The HLG welcomes the reductions, especially because to a large extent SMEs benefit from the new regulation. SMEs suffer more from unnecessary administrative burdens than bigger companies. Special attention should therefore be devoted to the impact of information obligations on them.

#### 4. *Maritime safety: ship inspection and survey organizations*

- (24) Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations was repealed and recast by Directive 2009/15/EC and Regulation (EC) No 391/2009. The original directive was designed to reinforce and harmonise the Community arrangements regarding recognised organisations which inspect ships and issue ships' certificates, the so-called "classification societies".
- (25) CEPS estimated that Directive 94/57/EC triggered administrative burdens of approximately EUR 453,000 for classification societies, and that its recent repeal and recast did not affect this level. Therefore, the administrative burdens on classification societies were not reduced by the new legislations.
- (26) However, according to DG MOVE, the new legal framework of Directive 2009/15/EC and Regulation (EC) No 391/2009 leads to a substantial reduction of administrative burdens and compliance costs for ship owners and manufacturers. Until now, each national certifying body could force equipment manufacturers to undergo the same testing and certification procedure even if the item had been certified by a recognised organisation in another Member State against the same standards. This placed a significant economic and logistical burden on manufacturers while having no added safety value. The introduction of mutual recognition of class certificates by Art. 10(1) of Regulation (EC) No 391/2009 will improve market access and reduce the burdens significantly. The maritime industry has estimated that this new provision will lead to savings of EUR 500 million to 1 billion.
- (27) The HLG welcomes the substantial relief brought to the maritime industry. Mutual recognition is an important tool to reduce administrative burdens. Though, the HLG has no detailed information to scrutinize the estimated burden reduction of EUR 500 million to 1 billion and asks the Commission to report to the HLG on this estimation.

---

<sup>12</sup> Council Regulation (EC) No 569/2008 of 12 June 2008 amending Regulation No 11 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79(3) of the Treaty establishing the European Economic Community

## 5. *Transport, Customs and Food safety*

- (28) As Council Directives 89/662/EEC and 90/425/EEC do not only relate to transport, but also to customs and food safety, they were covered by the general HLG opinion on the extension adopted on 20 May 2010.

## 6. *Reporting formalities for ships*

- (29) Directive 2002/6/EC specifies the reporting formalities applying to all ships arriving in or departing from a Community port, irrespective of flag or trade. This Directive addresses Community recognition of standardized forms of the International Maritime Organisation (IMO). Upon arrival or departure those forms have to be filled out and the respective data has to be collected. According to CEPS, the administrative burdens imposed by this directive amount to EUR 559 million.
- (30) In January 2009, the Commission has proposed a repeal of this directive<sup>13</sup> as part of its initiative on a European Maritime Transport Space without Barriers. The objective is to reduce delays in maritime transport and reduce the burden on shippers, shipmasters, ship agents and ship operators. The reform aims to rationalise the transmission of administrative documents and eliminate duplication between requirements imposed by the Community and the IMO. In addition, it will make it possible to send the information electronically to a single competent authority nominated by the Member States. CEPS assessed an administrative burden reduction of 13% (EUR 75 million). According to the Commission's impact assessment the European Maritime Transport Space without Barriers in general will lead to a decrease of administrative burdens of EUR 2.4 billion but only a small part of these savings are directly related to Directive 2002/6/EC.
- (31) The HLG welcomes the reform as it seems to decrease the administrative burden in the maritime sector substantially. Nevertheless, as the HLG was not involved in the impact assessment process of the reform, it is currently unable to make a statement on the plausibility of the estimated burden reduction. The HLG therefore asks the Commission to report to the HLG on the burden reduction of this initiative.

## **IV. Advice of the HLG**

- (32) The HLG calls upon the Commission to present proposals to realize the reduction measures presented in the first opinion that so far have not been adopted by the Commission. This relates especially to the proposal to exempt craft businesses from the obligation to use a tachograph for distances of less than 150 km. The HLG urges the Commission to adopt this proposal without further delay.
- (33) The HLG calls upon the Commission to present a list of all proposals made by the HLG and their status so that the progress in reducing administrative burdens can be

---

<sup>13</sup> COM (2009) 11 of 21 January 2009

monitored. This is not limited to the transport sector but relates to all areas dealt with by the HLG.

- (34) The HLG asks the Commission to further investigate areas of the transport sector where administrative burdens can be reduced. Therefore, further legislative acts should be selected for measurement. The HLG reminds the Commission that the purpose of the measurement is to identify areas where administrative burdens can be reduced and not to quantify reductions already achieved.
- (35) The HLG asks the Commission to ensure that administrative burdens of new proposals are assessed carefully in impact assessments.<sup>14</sup>

Brussels, 8 July 2010

---

<sup>14</sup> The administrative burdens assessments of the recent proposal for a directive of a single European railway area (recast) and the proposals for regulations on the rights of passengers in international bus and coach transport and on the passenger rights when travelling by sea and inland waterway have not been fully reasonable. It is foreseen that the Director-General of DG MOVE will join the next meeting of the HLG to discuss this issue with the HLG.