



OPINION OF THE HIGH LEVEL GROUP

Subject: Administrative burden reduction; priority area *Transport*

I. Background

- (1) The High Level Group (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.¹ The HLG has appointed Mr. Ludewig and Mr. Teli•ka 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.² For the priority area transport, the Action Programme originally covered the following pieces of legislation:
 - Ø 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
 - Ø 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) In the context of the Action Programme for Reducing Administrative Burdens, the Commission hired a Consortium³ to help mapping and measuring information obligations in the 13 priority areas. According to the preliminary figures presented by the Consortium, the total administrative costs for the two acts in scope within the priority area amount to approximately €3.104 bn.

¹ Cf. Commission Decision C(2007)4063.

² Cf. Communication from the Commission COM(2007)23 final, 2.3.

³ Capgemini, Deloitte, Rambøll management; assigned by the Commission to measure administrative burden based on certain EU legislation and to identify measures to reduce this burden.

- (4) The main bulk of the administrative costs can be attributed to Regulation (EC) No 561/2006 (€ 3.102 bn.), and in particular to the obligation, for truck and bus drivers, to record their working and rest time. 97 % of these costs or €3 bn. have been classified as administrative burdens and a part of them are directly linked to an international regulation.
- (5) The administrative costs for Directive 2004/49/EC are much smaller but impose relatively important costs on a limited number of railway undertakings and infrastructure managers. They have been measured at €2.7 m., of which 99.8 % or €2.6 m. have been classified as administrative burdens.
- (6) Both pieces of legislation are fairly recent: the obligation for road transport businesses to install digital tachographs in their new vehicles entered into force on 1 May 2006 and Member States' deadline for transposing the Railway Safety Directive expired on 30 April 2006, but a number of them did not respect this deadline in practice. Measurement results are thus based on interviews with businesses having little experience (and sometimes no experience at all) with the various information obligations and mostly have an indicative value.
- (7) With its Third Strategic Review of Better Regulation in the European Union⁴ the Commission announced an extension of the action programme to include a further 30 legislative acts. Six legislative acts out of the 30 relate to the transport sector.

II. Preparation of this opinion and way forward

- (8) A specific stakeholder consultation was organised to prepare this opinion of the HLG on Transport. A large number of stakeholders active in various transport sectors were invited to formulate reduction ideas concerning the two acts in scope as well as on all EU pieces of legislation linked to their activities. In total, the rapporteurs received more than 60 proposals, including some preliminary reduction recommendations drafted by the Consortium (cf. Annex).
- (9) All stakeholders were then invited to present and discuss their ideas with both rapporteurs and representatives of the European Commission. This meeting took place on 16 February 2009 and was attended by about 40 participants. All ideas were reviewed. Following further clarifications by stakeholders, some of them were considered as touching upon the political objectives of the legislation and were therefore going beyond the scope of the HLG. On other ideas, the European Commission explained that it was already in the process of tackling the problem or agreed to proceed with specific actions.⁵ However, on some ideas submitted by stakeholders concrete conclusion could not be reached, generally because further details were required to understand the exact nature of the problem raised.
- (10) The rapporteurs therefore proposed that further work is undertaken concerning the remaining open points by the European Commission services on the one side and stakeholders on the other side, with a view to reach a conclusion on all of

⁴ Cf. Commission Communication COM(2009) 16.

⁵ Those proposals are marked with italic and bold letters in the Annex.

them by June. A second meeting is foreseen then to take stock on progress achieved and will feed into a second opinion to be adopted by the HLG in July 2009. This second meeting and the second opinion will also deal with the six legislative acts recently included for the transport sector into the action programme.

III. Reduction recommendations / stakeholders' suggestions

- (11) As explained above, the HLG has taken into consideration a variety of suggestions submitted by stakeholders as well as some first reduction recommendations collected by the consortium concerning the acts in scope of the Action Programme. Those proposals entail a huge potential for the reduction of administrative burdens. Considering only the proposals related to the Road Sector a reduction of more than €1.2 bn. could be achieved according to the estimates of the Consortium.

1. Proposals related to the Railway Sector

- a. Directive 2004/49/EC on safety on the Community's railways (Railway Safety Directive)

- (12) The Railway Safety Directive includes 6 information obligations, including the submission of a safety report (concerning both railway undertakings and infrastructure managers) which is among the most costly ones. Some of the difficulties identified by businesses are linked with the recent character of the legislation.
- (13) The application for a safety certificate concerns railway undertakings when applying for operations both in their own Member State and in other Member States. This is the most costly information obligation identified in the Railway Safety Directive. Stakeholders pointed at the need for clarifications concerning the renewal of those certificates.
- (14) For those first two information obligations as well as for the application for a safety authorisation (concerning infrastructure managers), stakeholders have argued that national transposition measures were diverging too much, thereby hindering cross-border operations. They would thus welcome further harmonisation of those transposition measures.
- (15) Stakeholders underlined that European legislation should avoid a duplication of the assessments of conformity done by the National Safety Authority (NSA) and Notified Bodies in the context of the Railway Safety Directive and the Railway Interoperability Directive. They asked for a better match of both Directives and proposed, in particular, that the scope of the Technical Specifications for Interoperability (TSIs) is extended. Furthermore, they raised a specific issue concerning the assessment of conformity of existing railway infrastructure with TSIs by Notified Bodies, arguing that this was superfluous. Finally, stakeholders underlined that National Investigation Bodies were sometimes overzealous and duplicating the work of NSA.

- b. Directive 2008/57/EC on the interoperability of the rail system within the Community (Recast)
- (16) Stakeholders raised the issue of an overlap between the European Register of Approved Vehicle Types (ERAVT) and the national vehicle registers and asked that a duplication of information in both registers is avoided. Stakeholders propose that authorisations granted on national level should be automatically forwarded to the European Railway Agency (ERA).
- (17) In addition, stakeholders pointed at the need to abolish the requirement to submit a maintenance schedule for each new EC verification when national rules already meet the requirements of the TSI.

2. Proposals related to the Road Sector

- a. Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport (tachograph regulation)
- (18) As the tachograph currently records driving times only, Art. 2, 6 (5) of the tachograph regulation impose the obligation to fill in forms on drivers when a driver is not working, e.g. in case of holidays, due to illness or the driver's rest time exceeds 24 hours. According to stakeholders this obligation is burdensome especially as those forms have to be signed by the driver and the employer and have to be kept in the truck for the last 28 days in original. The burden of this obligation would be reduced significantly by deleting the obligation to have the forms signed by the employer or accepting copies of the attestation forms. According to preliminary estimates of the Consortium this proposal represents savings of around €184 m.
- (19) Using the digital tachograph, data that is stored on the driver card has to be downloaded every 28 days. As downloading data from the driver card currently takes 20-30 minutes per case and often cannot be done on the premises of the company, this obligation is very burdensome for drivers. This burden could be reduced by increasing the minimum period for downloads from 28 to 40 days, decreasing the download frequency per year from 12 to 9. The Consortium estimates a burden reduction of €176 m.
- (20) Various stakeholders note that the devices for the digital tachograph currently allowed are technically outdated. Therefore, the use of the tachograph could be less burdensome if the relevant devices were improved. Proposals from stakeholders and the Consortium mention in this regard the use of one standard form for the extracted tachograph file, the increase of the number of extracting locations to download the data and the possibility to use wireless data extraction and sending to the back office. Although the latter is already allowed and done in some Member States the Consortium expects a total saving potential by technical improvements of up to €664 m.

In the end, according to the stakeholders a system should be applicable where different technical devices such as the tachograph, devices for the operation of toll-systems, route-planning etc. are integrated in a single on-board computer.

- (21) According to Art. 13 (1) of the tachograph regulation Member States may grant exemptions for vehicles or combination of vehicles with a maximum permissible mass not exceeding 7.5 tonnes used for carrying materials, equipment or machinery for the driver's use in the course of his work, if the vehicle is used within a 50 km radius from the base of the undertaking and on condition that driving the vehicle does not constitute the driver's main activity. Due to stakeholders the restriction of this exemption possibility to a radius of 50 km is not appropriate as many of those companies in focus of this provision work in a bigger range around their company base than 50 km. The radius for this exemption could therefore be expanded to 150 km as this would not significantly touch road safety according to stakeholders. For this proposal the Consortium has estimated a reduction of burdens up to €59 m.⁶

Furthermore, there are companies producing goods to be sold and distributed mainly in the region where they were produced such as beer or wheat from regional breweries and mills. Such companies currently cannot be exempted by Member States according to Art. 13 (1) of the tachograph regulation as their drivers do not carry materials, equipments or machinery for the driver's use in the course of his work. Nevertheless, they are – with regard to road safety aspects – comparable to the groups mentioned in Art. 13 (1) as driving and distributing the goods are not their major activity and are limited to a small radius of approximately 150 km from the base of their undertaking. Therefore, Member States could be granted the possibility to exempt such companies additionally.⁷

- b. Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers

- (22) Directive 2003/59/EC will come into force for freight traffic in 2009. This directive prescribes rules for Member States for setting up a professional competence certification and five-yearly compulsory refresher training of professional drivers in goods and passenger transport by road besides their regular driving licence. In Art. 2 (g) drivers of vehicles carrying material or equipment to be used by the driver in the course of his or her work are exempted, provided that driving the vehicle is not the driver's principle activity. As mentioned above, there are groups of companies such as brewers and millers which are comparable to the exempted companies but for which the current exemption does not apply. Such companies could also be exempted from the respective directive. As the initial qualification is expected to cost at least €4000 per driver, the periodic training € 500 per driver, this proposal has an enormous burden reduction potential.

- c. Directive 2002/15/EC on the working time of persons performing mobile road transport activities

- (23) Directive 2002/15/EC imposes information obligations on transport companies to maintain records to show compliance with the working time directive in respect of each mobile worker, to provide copies of the hours worked at the request of a

⁶ The estimates of the German confederation of crafts and small businesses rise even up to savings of 60-90 Million €for Germany only.

⁷ The German brewers expect savings by such an exemption of 15 Million €for Germany.

mobile worker and to provide copies of records to an enforcement officer. These information obligations that are likely to create administrative burdens of up to € 90 m. could be dealt with by allowing the usage of on-board computers or should be abolished completely. As according to the Commission without these information obligations the respective directive would be rather empty, repealing the Directive would also be an option.

d. Other proposals

- (24) Stakeholders furthermore call for the creation of a European electronic register for road transport undertakings: such a register could facilitate enforcement and lead to the removal of the obligation to have paper documents on-board the vehicle. In addition, it would entail efficiency gains since the amount of times vehicles need to be stopped for checks would be significantly reduced.
- (25) Recently, several European cities have introduced environmental zones. Most often, local rules and enforcement rules are applicable so that the road transport sector needs to comply with various inhomogeneous regimes. Therefore, stakeholders call for the creation of European framework rules for the introduction of environmental zones in cities and a system whereby access documents are mutually recognised for the same vehicle categories all over Europe.
- (26) Due to the absence of European rules international transport of abnormal loads is particularly burdensome to organise. Rules are often laid down at local or regional level rather than at national level. European rules which could harmonise and simplify different national and local rules could contribute substantially to the reduction of the administrative burden relating to the transport of abnormal loads.

3. Proposals related to the Aviation Sector

- (27) Today, an employee who needs airside access to multiple airports in different Member States needs to get clearance from each country and may need to obtain individual clearance for different airports within one country. As the different clearance documents are governed by European rules, there could be a mutual recognition of passes which allow access to restricted areas of the airport.
- (28) In various fields within the aviation sector it seems that European rules are applied differently by the National Aviation Authorities in the Member States. Certification of aircraft, for example, is not done in the same way by National Aviation Authorities although regulated through European rules. Certificates currently are not mutually recognised in the European Union. Stakeholders therefore propose to create a European aircraft register so that any European operator would be able to fly any aircraft registered in this registry in any Member State without the need for any additional approvals.
- (29) An operator occasionally needs to seek approval to fly an aircraft which is deemed unfit to fly under normal rules. This can happen, for example, when an operator wishes to transfer an aircraft with specific faults to its maintenance base at another airport. By now, the National Aviation Authorities were responsible for the approval decision. Currently the National Aviation Authority and the European Air Safety Agency can be involved in the approval process. A simpler process returning approval to a single body would reduce administrative burdens.

- (30) Currently, a European air accident investigation bureau does not exist. Nevertheless, stakeholders point out, that air accident investigations would be performed more efficiently through one single European body than different national authorities.

4. Proposals related to the Maritime and Inland Waterway Transport Sector

- (31) According to stakeholders goods onboard ships automatically lose their Community Status when the ship leaves the port of a Member State and thereby the customs territory. Through the application of a status of an “authorised regular shipping service” the situation has been simplified as a vessel travelling between two EU ports does not have to prove that the goods onboard have a Community status. This is different when the vessel has to make a stopover in a port outside the EU. The solution would be the application of a “European Maritime Transport Space”.
- (32) Stakeholders mention that in various pieces of regulation concerning inland waterway transport the same problems constantly arise: lack of mutual recognition between Member States on certifications; differences in interpretation and implementation of European law in the Member States leading to legal uncertainty; arbitrary, frequent and time consuming inspections. This relates especially to Regulation (EC) No 185/2005 establishing the standard import values for determining the entry price of certain fruit and vegetables, Directive 2005/65/EC on enhancing port security and Directive 2008/98/EC on waste.

IV. Advice of the HLG

- (33) The HLG asks the Commission to reflect further on the problems raised by stakeholders in the railway sector (cf. 11 - 17) in cooperation with the European Railway Agency (ERA), National Safety Authorities (NSA) and stakeholders themselves. In particular, the different rules for assessments of conformity done by the NSA according to the Railway Safety Directive and the Notified Bodies according to the Railway Interoperability Directive should be brought in line so that a duplication of assessments is avoided. Additionally, the Commission is invited to consider the need to issue guidelines in order to avoid diverging national transposition measures in this area. The HLG will take stock of progress achieved in its second opinion scheduled for adoption in July 2009.
- (34) On the Road Sector the HLG calls upon the Commission to present ambitious proposals to reduce the administrative burdens mentioned taking into account the concrete recommendations made by stakeholders (cf. 18 – 24). For many of the recommendations comitology procedure seems to be applicable so that these issues generally can be tackled fast. There was agreement between stakeholders and the Directorate-General for Energy and Transport at least on the proposals mentioned in (18)-(20) and (23)-(24) accounting for a reduction in administrative burdens of up to almost €1.2 bn. The HLG therefore is confident that the business affected can be relieved soon substantially. Regarding the proposals mentioned in (21) and (22) the HLG asks the Commission to investigate whether the suggestions can be brought in line with the policy objective of road safety and come up with a concrete proposal on this issue.

The HLG expects the Commission to report on the progress made in this area by the end of this year the latest.

- (35) Referring to the “other proposals” in the Road Sector (cf. 25-26) and the proposals related to the Aviation Sector (27-30) the HLG asks the Commission to reflect further on the issues raised and to seek solutions to relieve stakeholders as soon as possible.
- (36) With regard to the Maritime and Inland Waterway Sector (cf. 31-32) it has to be noted that the Directorate-General for Energy and Transport recently has carried out a study on “Administrative and Regulatory Barriers in the field of Inland Waterway Transport”. Conclusions of this study are scheduled to be drawn together with stakeholders in March. The HLG advises the Commission to tackle the specific administrative burdens mentioned by stakeholders in this area in the context of the work following from the study in close cooperation with all relevant stakeholders.

In addition, the HLG points at the importance of the problems linked with the revision of the implementing of the Customs Code (Regulation (EEC) No 2454/93 and asks the Commission to involve all relevant transport stakeholders extensively in this process to ensure that solutions found meet their expectations.

- (37) Even though some of the issues raised and proposals made by stakeholders prior and in the meeting with the Directorate-General for Energy and Transport were not directly linked to administrative burdens (cf. Annex) the HLG advises the Commission to take all stakeholders’ contributions carefully into account and find adequate solutions on the underlying problems.
- (38) In addition to concrete problems and proposals linked to a certain transport mode, stakeholders also addressed general issues that lead to unnecessary burdens: especially the multitude of studies carried out or assigned by the Commission and the various questionnaires thus to be filled out by stakeholders are perceived to be burdensome. The Commission should avoid asking stakeholders to fill out questionnaires on the same or similar issues repeatedly. It should also take care that questionnaires are sent out in a coordinated way to one central body within a company and not to different directorates within a company.
- (39) Furthermore, stakeholders mentioned several pieces of legislation currently in the legislative procedure that will create unnecessary administrative burdens once adopted. This shows that the importance of administrative burdens in impact assessments still has to increase dramatically. The HLG therefore advises the Commission to ensure that every new proposal has an estimation of the administrative burdens related to it and that less burdensome options have been considered.
- (40) The HLG takes note of the extension of the action programme by a further 30 legislative acts. Although, the extension of the programme is generally welcomed especially concerning six further legislative acts to transport, the HLG would have appreciated to be consulted by the Commission prior to the adoption of the list. This applies even more as the extension of the action programme is a task of the HLG explicitly mentioned in Art. 2 of the HLG’s mandate.

- (41) It has to be mentioned that the total amount of administrative burdens for the entire transport sector is still unknown. It is unclear to what extent the burdens stemming from the directive and regulation already measured and the six additional legislative acts can be seen as representing the burdens for the entire sector. As this information is necessary to determine the basis for the calculation of the 25% reduction target the Commission needs to find a way to show to what extent the measurement results can be related to the total burden.
- (42) The HLG invites the Commission to report to the rapporteurs on the progress made and the open issues to be tackled in the whole transport sector in due time prior to the second stakeholder meeting scheduled for June.

Brussels, 4 March 2009