



Study on Road Cabotage in the freight transport market

Final report

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Summary

Background

Due to the liberalisation of the international transport¹ market, intra-Community transport (i.e. transport between two Member States) has increased rapidly over the past 15 years. Domestic or national transport (i.e. transport within one Member State) is still a national competency, though liberalisation has been initiated by Council Regulation 3118/93, which says that any non-resident haulier holding the Community authorisation provided for in Council Regulation 881/92 is entitled to operate, *on a temporary basis*, national road haulage services in another Member State, without having a registered office or other establishment in that Member State. The difference between national transport and cabotage transport² is pivotal in this discussion and is the reason for the limitation in terms of temporality. The aim of Council Regulation 3118/93 is to allow the provision of transport services within a national market by non-resident hauliers. In practice it is not easy to demonstrate exactly when an activity ceases to be temporary and becomes permanent. To date, the Court of Justice of the European Union has not ruled on the interpretation of the temporary nature of transport services. What it has done however, is to define criteria on the temporary character of the provision of services. In its Interpretative Communication of January 2005³ (CIC), the Commission has based itself on this definition by the Court.

Purpose of the study

Having issued the interpretative communication on road cabotage the Commission would now like to acquire a more comprehensive understanding of the market for road cabotage services in the old Member States of the Union and Slovenia⁴. In this report the results of an analysis of road cabotage in the freight transport market are presented. The report considers quantitative and qualitative data on road cabotage, presents the national regulatory regimes on road cabotage that Member States may have put in place and it assesses the way in which Member States control this type of transport operation. By

¹ International transport is defined as a journey undertaken by a vehicle where the point of departure and the point of arrival are in two different Member States, with or without transit through one or more Member States or non-member countries.

² Cabotage transport is domestic transport undertaken by a non-resident haulier (e.g. domestic transport in Germany undertaken by a Dutch haulier).

³ Commission Interpretative Communication on the temporary nature of road cabotage in the movement of freight (2005/C 21/02), 26 January 2005.

⁴ In accordance with Article 12 of Council Regulation 3118/93 most cabotage restrictions have been lifted since 1 July 1998 for the 15 Member States within the European Union. After their accession on 1 May 2004 restrictions have been lifted for hauliers from Cyprus, Malta and Slovenia as well. Given the size of their fleets operating on the mainland of Europe, Malta and Cyprus are less relevant in this respect.

comparing road cabotage in the various Member States, common problems are identified and recommendations are made on how the various stakeholders engaged in road cabotage services can overcome these problems.

Common problems identified and recommendations to overcome these problems

Definition of cabotage transport operations

The current difficulties of a clear definition of cabotage prevent authorities in the Member States from communicating the precise limits and constraints cabotage operators have to comply with. Although the four criteria mentioned in de CIC provide a useful reference, it is highly recommended to include additional elements in the definition of cabotage transport, such as the following:

- Foreign hauliers may not perform cabotage transport when they enter and leave a country with empty vehicles. Cabotage transport may only be performed preceding or following a loaded international trip. This additional criterion is justified by the original aim of the liberalisation of cabotage transport, which was to increase efficiency and reduce the number of empty journeys.
- Foreign hauliers may not perform cabotage transport for the same company or industry repeatedly. If this does occur then the operation can be considered to have become permanent, and should no longer be seen as cabotage transport. Whether or not cabotage operations have become permanent could be easily determined by checking the frequency with which a transport operator has worked for one and the same shipper.

Enforcement of cabotage regulations

A second area that poses problems in the cabotage sector is related to the enforcement of cabotage regulations. This of course stems directly from the current definition on cabotage transport which leaves room for different interpretations. The problem may be exacerbated if stakeholders (i.e. authorities or organisations involved in enforcement, road hauliers and shippers) are unclear which social regulations are applicable to road cabotage operations. There may be a need to improve communication between the national authorities engaged in enforcement and the hauliers concerning the applicability of Council Regulations and Directives concerning cabotage transport. This is particularly the case for the Posting of Workers Directive, which was not even mentioned by the authorities during the stakeholder consultation. This is a remarkable omission given that each Member State is required to provide for cooperation between the public authorities which, in accordance with national legislation, are responsible for monitoring the terms and conditions of employment referred to in article 3 of this directive. Further, it is the national authorities' responsibility to strictly enforce the existing EU social regulations on road transport and cabotage transport in particular.

Finally, an improved definition on cabotage transport and better communication of the social regulations that are applicable to road cabotage transport will aid both the national authorities engaged in enforcement and transport companies active in cabotage transport. As a consequence difficulties concerning the enforcement of cabotage regulations will diminish.

Sommaire

Le contexte

Grace à la libération du marché international de transports⁵, les transports par route à l'intérieur de la Communauté (c'est-à-dire les transports entre deux États membres) ont augmentés rapidement. Les transports nationaux (c'est-à-dire les transports à l'intérieur d'un État membre) relève toujours de la compétence nationale, bien qu'une libéralisation a été initiée par le Règlement (CEE) no.3118/93 du Conseil, fixant les conditions de l'admission de transporteurs non-résidents aux transports nationaux. Ce règlement stipule que seuls les transporteurs titulaires de la licence communautaire prévue au Règlement (CEE) no.881/92 du Conseil peuvent être admis à effectuer, à titre temporaire, des transports nationaux dans un autre État membre, sans disposer d'un siège ou d'un autre établissement dans cet État membre. La distinction entre les transports nationaux et les transports de cabotage⁶ est essentielle dans cette discussion, et c'est la raison pour le caractère temporaire du cabotage. Le but du Règlement (CEE) no.3118/93 est d'admettre la prestation de services de transport dans un marché national par des transporteurs non-résidents. Dans la pratique il n'est pas facile de déterminer exactement quand une activité cesse d'être temporaire et devient permanent. Jusqu'à présent, la Cour de Justice de l'Union Européenne ne s'est pas prononcé sur l'interprétation de la nature temporaire des services de transport. En revanche, elle a définie des critères concernant le caractère temporel de la prestation de services. Dans sa Communication Interprétative de janvier 2005⁷ (CIC), la Commission s'est basée sur cette définition de la Cour.

Les objectifs de l'étude

Ayant publié la Communication Interprétative, la Commission veut obtenir maintenant une connaissance plus complète du marché des transports de cabotage par route dans les anciens États membres de l'Union et la Slovénie⁸. Ce rapport présente les résultats d'une analyse des transports de cabotage de marchandises pour compte d'autrui par route. Il considère les données quantitatives et qualitatives du cabotage par route, présente les

⁵ Le transport international est défini comme un voyage fait par un véhicule, dont le point de départ et le point d'arrivée se situent dans deux États membres différents, transitant ou non par un ou plusieurs autres pays, États membres ou non.

⁶ Le transport de cabotage est un transport national fait par un transporteur non-résident dans le pays d'accueil (par ex. un transport national en Allemagne effectué par un transporteur routier néerlandais).

⁷ Communication interprétative de la Commission sur le caractère temporaire du cabotage routier dans le transport de marchandises (2005/C 21/02), du 26 janvier 2005.

⁸ Conformément à l'article 12 du Règlement (CEE) no 3118/93 du Conseil, la plupart des restrictions sur le cabotage ont été levées depuis le 1 juillet 1998 pour les 15 États membres de l'UE. Après leur accession le 1 mai 2004, les restrictions ont également été levées pour les transporteurs de Chypre, Malte et la Slovénie. Vu la dimension de leurs parcs roulants sur le continent de l'Europe, Chypre et Malte ne sont pas très importants dans ce contexte.

régimes de réglementation nationaux que les États membres peuvent avoir mis en place et considère la façon dont les États membres contrôlent ces transports. En comparant le cabotage par route dans les différents pays, les problèmes communs sont identifiés et des recommandations sont formulées sur la façon dont les différents acteurs peuvent surmonter ces problèmes.

Les problèmes communs identifiés et les recommandations pour les surmonter

Définition des opérations de transport de cabotage

En ce moment les difficultés d'une définition claire du cabotage empêchent les autorités des États membres de communiquer les limites et contraintes précises que les opérateurs de cabotage par route doivent respecter. Bien que les quatre critères formulés dans la CIC présentent une référence utile, il est recommandé d'ajouter des éléments supplémentaires dans la définition du transport de cabotage, tels que les suivants :

- Les transporteurs étrangers ne sont pas admis au cabotage lorsqu'ils entrent et quittent le pays avec une voiture vide. Le cabotage n'est admis que quand il précède ou suit à un voyage international chargé. Ce critère additionnel est justifié par l'objectif à l'origine de la libéralisation du cabotage, c'est-à-dire d'augmenter l'efficacité et de réduire le nombre de voyages à vide.
- Les transporteurs étrangers ne peuvent pas faire du cabotage à plusieurs reprises pour la même compagnie ou industrie. S'ils le font, le service peut être considéré comme devenu permanent, et ne peut plus être considéré comme du transport de cabotage. Le caractère permanent ou non des services de cabotage peut être déterminé facilement en vérifiant la fréquence des prestations d'un transporteur pour le même chargeur.

L'observation des règles

Une autre catégorie de problèmes est liée au respect du règlement concernant le cabotage. Ces problèmes découlent évidemment de la définition actuelle, qui donne lieu à différentes interprétations. Les problèmes peuvent s'aggraver lorsque les acteurs concernés (c'est-à-dire les autorités ou organisations de contrôle, les transporteurs routiers et les chargeurs) sont dans l'incertitude en ce qui concerne les règles sociales qui sont applicables au cabotage par route. Il sera probablement nécessaire d'améliorer la communication entre les autorités nationales compétentes en matière de contrôle et les transporteurs, au sujet des Règlements et Directives du Conseil à appliquer aux transports de cabotage routier. C'est notamment le cas de la Directive concernant le détachement des travailleurs, qui n'était même pas mentionnée par les autorités lors de la consultation des partis intéressés. C'est une omission remarquable étant donné que chaque État membre est obligé d'assurer la coopération entre les autorités publiques responsables, selon la législation nationale, du contrôle des termes et conditions de travail mentionnés à l'article 3 de la dite Directive. En plus, les autorités nationales sont tenues à imposer strictement les règlements sociaux de la Communauté concernant les transports routiers et en particulier les transports de cabotage.

Enfin, une définition améliorée du transport routier de cabotage et une meilleure communication des règlements sociaux qui sont applicables au cabotage, aidera aussi bien les autorités de contrôle que les transporteurs faisant du cabotage. En conséquence,

les difficultés concernant l'imposition des règlements relatifs au cabotage routier diminueront.

1 Introduction

1.1 Background

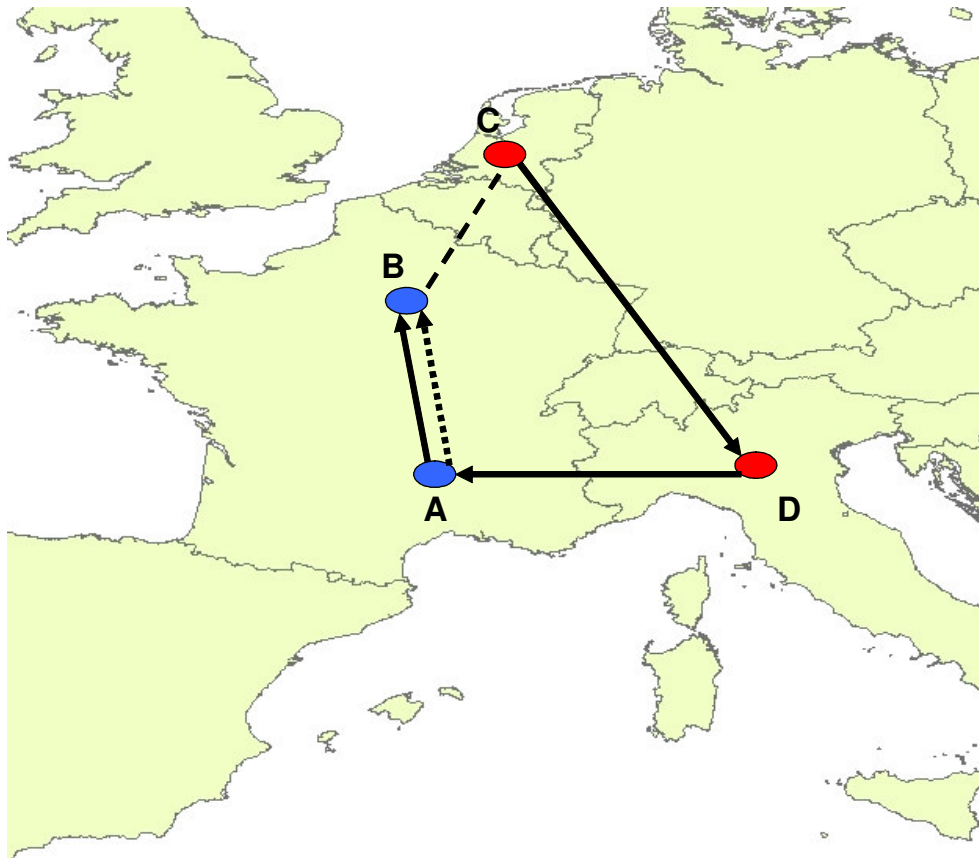
Road transport has undergone considerable changes over the last decade. The liberalisation of freight transport by road within the EU in the early 1990s has advanced the dominance of road transport within the inland freight transport sector. As a result of the Union's pre-accession strategy trade with Central and Eastern European countries has increased considerably. Most of these countries are Member States now, and apart from a stipulation that cabotage in the road transport market must be of a temporary nature, access for hauliers from the new Member States to the Single Market is unrestricted. Because international transport⁹ has been liberalised, intra-Community transport (transport between two Member States) has increased rapidly.

Total freight transport by road in the EU14¹⁰ accounted for around 1,440 billion tonne-kilometres in 2004. This volume is an aggregate of domestic transport (i.e. transport within one Member State) and international transport (i.e. transport between two different countries) activities. While international transport has been liberalised in the EU, the national transport markets are still regulated. Any company wishing to operate in the national market of another country on a regular or permanent basis needs to be legally established in that country. To allow for a more efficient use of resources (less empty mileage), transport companies are allowed to perform cabotage transport activities (in effect opening up the national transport market under certain conditions), with the limitation that it must be *temporary*. The figure below illustrates the different transport operations.

⁹ International transport means a journey undertaken by a vehicle where the point of departure and the point of arrival are in two different Member States, with or without transit through one or more Member States or non-member countries.

¹⁰ EU14 here refers to the old Member states excluding Greece (for which no data are available).

Figure 1.1 Domestic and international transport



In domestic or national transport a flow of goods between an origin A and destination B remains within the same country (in this case France). If this type of transport is carried out by a non-residential haulier it is cabotage transport (the dotted line A-B). By definition, international transport is border-crossing transport between an origin in one country and a destination in another country. International transport can be divided into international *bilateral* transport (for example transport between origin D and destination A carried by a French or Italian haulier) and *cross trade* (for example the transport between origin D and destination A carried by a Dutch haulier).

1.2 Road freight transport in a legal context

International transport

International transport in the EU was liberalised in 1992. Council Regulation 881/92 of 26 March 1992 applies to the international transport of goods by road for hire or reward for journeys carried out within the territory of the Community. From that date, restrictions imposed on the provider of services because of his nationality or because of the fact that he is established in a Member State other than that in which the service is to be provided, have been eliminated.

Domestic transport

Domestic or national transport has not been liberalised and remains a national competency. The difference between national transport and cabotage is the key to this

discussion. The requirement of temporality determines whether a non-resident haulier may carry out domestic transport in a certain country. According to article 1 of Council Regulation 3118/93 any road haulage carrier who is holder of the Community authorisation (provided for in Council Regulation 881/92) is entitled to operate national road haulage services for hire and reward in another Member State without having a registered office or other establishment therein, provided these services are performed on a temporary basis. The aim of Council Regulation 3118/93 is to allow the provision of transport services on a national market by non-resident hauliers.

Social legislation

Road transport services are also subject to social legislation in order to create a level playing field for the whole sector. Council Regulation 3820/85 of December 1985 deals with common rules on the minimum age of drivers, driving times, breaks and rest periods for drivers, prohibition of certain payments, control procedures and penalties.

Competition in the road transport market has given rise to an increase in breaches of certain regulations, particularly those concerning driving and resting times as laid down in Council Regulation 3820/85. As such infringements present a road safety hazard and are unacceptable in terms of unfair competition; Council Regulation 3821/85 of December 1985 and a subsequent amendment Council Regulation 2135/98 of September 1998 were introduced to lay down common rules on construction, installation, use and testing of recording equipment in road transport.

Council Regulation 3820/85 however does not cover other aspects related to working time in road transport (e.g. loading and unloading, technical maintenance and cleaning of the vehicle). Council Directive 93/104/EC of 23 November 1993 (the Working Time Directive) concerning certain aspects of the organisation of working time makes it possible to adopt more specific requirements for the organisation of working time. Council Directive 96/71/EC of December 1996 (the Posting of Workers Directive) says that in the event a worker is posted for a limited period to carry out work within the territory of a Member State, certain terms and conditions of employment (covering maximum working periods, minimum resting periods, minimum rates of pay, condition for hiring-out of workers, health, safety and hygiene at work, etcetera) which are applicable in the Member State where the worker is posted, must be complied with. Council Directive 2002/15/EC of March 2002 in particular concerns the organisation of working time of persons performing mobile road transport activities, with the aim of further improving road safety, preventing the distortion of competition and guaranteeing the safety and health of the mobile workers.

1.3 Road cabotage transport

Road cabotage transport is governed by Council Regulation No 3118/93 which *lays down the conditions under which non-resident carriers may operate national road haulage services within a Member State*. With the aim of increasing transport efficiency and reducing the number of empty journeys, cabotage transport was gradually introduced from 1990 onwards. Quantitative restrictions (quotas) were imposed on cabotage transport from the outset through a system of granting authorizations. Intra-Benelux cabotage was completely liberalised in 1992. The cabotage regime was extended to the

EFTA countries on 1 July 1994 with the exception of Austria, which joined on 1 January 1997, and Switzerland.

The process towards a definite system for cabotage operations was preceded by a progressive cabotage quota system in the period 1 January 1994 - 30 June 1998. Community cabotage in that period was restricted to a maximum number of cabotage authorizations per country. Each authorization was valid for 2 months. Member states could however request for the conversion of one cabotage authorization into 2 short-duration authorizations each valid for 1 month. The maximum numbers of quotas per Member State are presented in annex 8. A Commission report on the application of this scheme (COM/98/0047) showed that, although the number of quotas increased yearly, these quotas were largely underused and had not attracted ‘unscrupulous’ operators into specific national markets.

Abolition of the quota system

In accordance with article 12 of Council Regulation No 3118/93 of 25 October 1993, most cabotage restrictions have been lifted since 1 July 1998 in the 15 Member States of the European Union. From that date onwards Regulation No 3118/93 on freight transport cabotage stipulates that any non-resident carrier who is holder of the Community authorisation is entitled to operate, on a temporary basis and without quantitative restrictions, national road haulage in another Member State without having a registered office or other establishment in that state. Following their accession to the EU on 1 May 2004 restrictions have been lifted for hauliers from Cyprus, Malta and Slovenia as well.

1.4 Purpose of the project

Given this background, the present study focuses on the road cabotage market in the countries where it is permissible under Council Regulation No 3118/93 (EU 15 plus Slovenia¹¹). Relevant data has been collected and analysed. Another aspect of the study is to analyse the differences in regulatory regimes and enforcement with respect to cabotage in the various countries. By comparing experiences in different countries, common problems can be identified and recommendations can be given on how to solve these problems. The purpose of the study is threefold and is defined as follows:

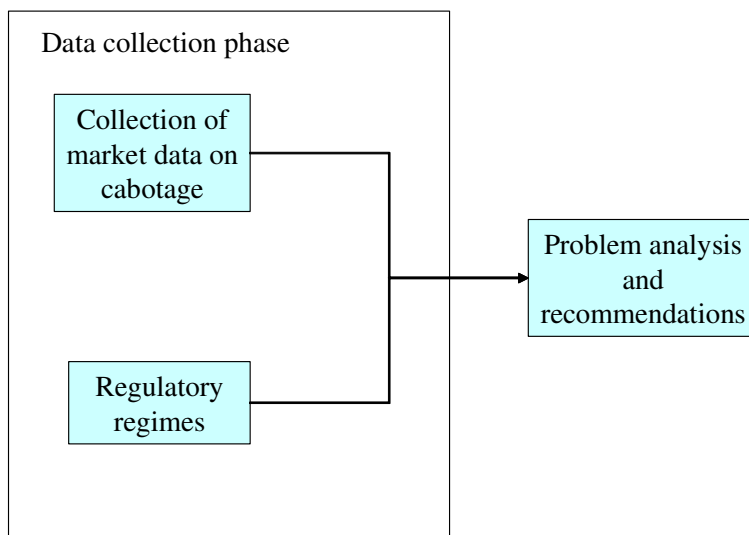
- Analysis of the market for road cabotage services in the EU-15 Member States and Slovenia.
- Comprehensive and comparative overview of the market for road cabotage services including the regulatory regime and its enforcement.
- A detailed analysis of the difficulties and problems encountered by the various parties with recommendations on how to overcome them.

¹¹ Malta and Cyprus are in this respect less relevant, as they are not expected to have hauliers active on the mainland of Europe

1.5 Approach of the study

In the following figure the overall approach of the study, consisting of three tasks, is presented.

Figure 1.2 Overall approach



Task 1: Analysis of the cabotage market

The first step was to collect relevant statistical data related to road cabotage services in the EU-15 Member States and Slovenia. Both quantitative and qualitative data were collected. Quantitative data was derived from statistics (mainly Eurostat); qualitative data on the functionality of the market was obtained through questionnaires sent out to road haulage organisations and shipper councils.

Task 2: Regulatory regime

The second task of the study was to assess the national regulatory regimes on road cabotage. In this task applicable laws, regulations, decrees or administrative practices in the different Member States (MS) were identified, as were the ways in which they are enforced by controlling bodies. This task was achieved through desk research and a questionnaire sent to controlling bodies in the MS.

Task 3: Problem analysis and recommendations

The results of the questionnaires sent out to the road haulier associations, shipper councils and regulatory bodies (i.e. Ministries of Transport) were compared and analysed which made apparent the main difficulties and problems facing the various parties across the Member States. Finally recommendations on how to overcome these difficulties were formulated.

1.6 Structure of this report

In the following chapter the cabotage market is quantified in terms of tonne-kilometres and qualitative aspects which specifically characterize cabotage transport services are considered. Chapter 3 looks at the regulatory regime on road cabotage addressing aspects such as applicable laws, regulations, decrees and administrative practices in the different Member States and how these are being enforced. Chapter 4 identifies the main differences between the MS, looks at problems with respect to the cabotage market and provides recommendations on how to overcome these problems.

2 Cabotage market analysis

2.1 Introduction

In order to analyse the cabotage transport market, information related to cabotage services in the Member States has been collected. This has been done via:

- Collection of statistical data (from Eurostat mainly);
- Questionnaires, which have been sent to road haulage organisations and shipper councils.

2.1.1 Statistics

Quantitative data concerning road cabotage transport has been collected via Eurostat. The following sources have been used for this purpose:

- New Cronos database (Eurostat);
- Road freight cabotage 1999-2001, Statistics in Focus (Eurostat, July 2003);
- Road freight cabotage 1991-2001, Statistics in Focus (Eurostat, April 2001);
- Trends in road freight transport up to 2003, Statistics in Focus (Eurostat, July 2005);
- Trends in road freight transport 1990-1999, Statistics in Focus (Eurostat, February 2002);

Data reliability

These statistics were collected via sample surveys, which by definition can sometimes result in over- or underestimation of the cabotage volume. Furthermore, variability in cabotage transport performance often occurs due to haulage contracts that have a limited time span. A haulier might thus perform cabotage transport operations in one year and lose this market to a transport operator registered in another country the following year. The problem of data reliability mainly concerns data from the period 1990-1998. From 1999 onwards data on cabotage transport is considered to be reliable¹². For that reason we will only present data from 1999 onwards.

Data communication on road cabotage between Member States and the Commission is laid down in article 5 sub 1 of the Council Regulation No 3118/93:

At the end of each quarter and within three months, which may be reduced by the Commission to one month in the case referred to in article 7, the competent authority or body of each Member State shall communicate to the Commission the data concerning the cabotage operations carried out during that quarter by resident carriers,

¹² The Cabotage database of DGTREN contains cabotage data prior to 1999 as well. Reporting on cabotage data was not covered by Council Directive 78/546/EEC, but by Council Regulation 1172/98. For that reason data before 1999 were adjusted to take into account increasing underreporting.

such data being expressed in tonnes carried and in tonnes-kilometres.

Since 1999 data on road cabotage have to be collected in the framework of Council Regulation 1172/98. The preceding directives did not cover the collection of data on cabotage.

2.1.2 Questionnaires

Besides quantitative data on cabotage transport performance, an effective analysis requires *qualitative* data such as duration, frequency, continuity, services provided, and periodicity of the cabotage operations. Also the views and interests of the active parties themselves are important for a better understanding of the cabotage market. This additional information has been collected through questionnaires, which were sent out to road haulage organisations and shipper councils in the 16 EU-countries involved. These questionnaires are enclosed in annexes 2 (road haulage organisations) and 3 (shipper councils).

The quantitative analysis of the road freight cabotage market is presented in section 2.2. The qualitative analysis on service aspects of road freight cabotage is presented in section 2.3. Conclusions follow in section 2.4.

2.2 Analysis of cabotage volumes

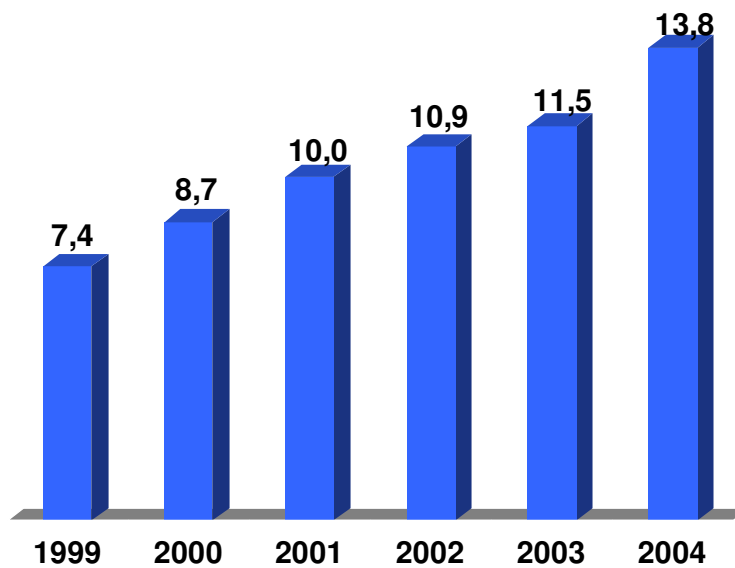
The figures on volumes of road cabotage transport presented in this section, concern the EU-14 (old Member States excluding Greece for which there is no data available). Because Slovenian hauliers have been allowed to execute cabotage transport since May 2004, cabotage figures for this country are presented separately.

Road cabotage transport only represents a small share of the total road transport market. At EU level, cabotage transport represents a share of 0.76% of the total road freight transport¹³. In 1999 total road cabotage by the EU14-hauliers¹⁴ accounted for 7.4 billion tonne-kilometres, which has steadily increased to 13.8 billion tonne-kilometres in 2004 (see figure 2.1).

¹³ Statistics in Focus: Road freight cabotage 1999-2001, Eurostat, July 2003.

¹⁴ The term hauliers used here refers to transport operators that perform road transport either on 'own account' or for 'hire and reward'. The first one is assumed to be very limited however, though not negligible.

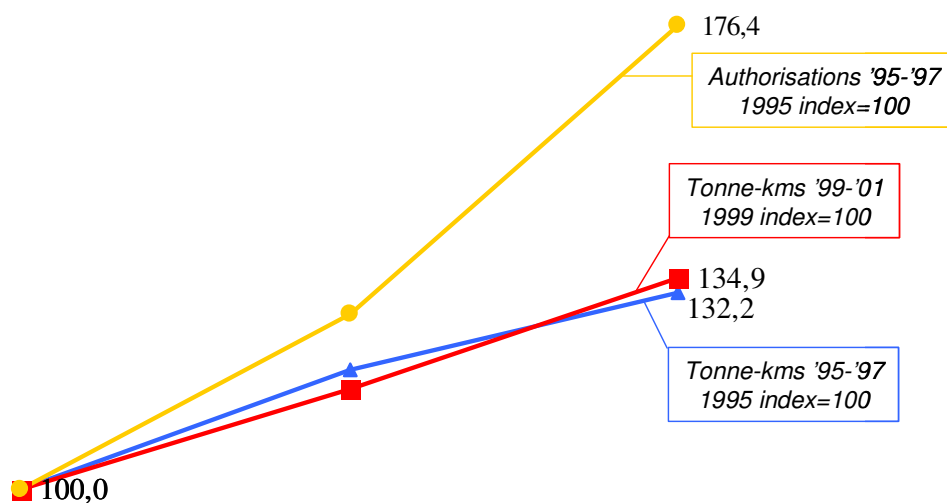
Figure 2.1 Road cabotage performance by EU hauliers (billion tonne-kilometres)



EU14 = EU15 "old Member States" excluding Greece
 Source: New Cronos, Eurostat

Based on these figures **road cabotage transport in the old Member States has increased by 86% in the period 1999-2004**. Although this seems a remarkable increase, the growth rate in cabotage transport performance in the period before the quota system ceased to apply (1 July 1998) is comparable to the period thereafter as can be concluded from the next figure.

Figure 2.2 Growth of cabotage tonne-kilometres before and after quota system



Source: Eurostat New Cronos, modified by ECORYS.

From this, it can be concluded that the rate of growth of cabotage tonne-kilometres has not changed remarkably since the quota system ceased to apply.

Although the share of cabotage transport in total EU-transport could be considered negligible, it might be significant in certain regions, such as port areas¹⁵. This section will therefore look at the situation in more detail by focusing on countries where cabotage transport plays an important role. Cabotage transport performance will be considered from two different perspectives:

- The country in which the cabotage transport operations take place (section 2.2.1).
- The hauliers who actually perform the transport operations (section 2.2.2).

2.2.1 The share of EU cabotage in each country

This subsection quantifies cabotage transport by the country in which it takes place. France and Germany are by far the most *cabotaged* countries. Because absolute growth in cabotage transport performance in Germany is rather small (from 2.5 billion tonne-kilometres in 1999 to 3.8 million tonne-kilometres in 2004), its share in total cabotage transport tonne-kilometres has been in decline since 1999. The same holds true for Italy. Total cabotage transport performance within France has tripled however in the same period (from 1.5 billion tonne-kilometres to 4.6 billion tonne-kilometres), therefore its share in total cabotage transport has rapidly increased since 1999. This significant increase in cabotage transport in France is largely due to hauliers from Luxembourg and Spain entering the French domestic market. Cabotage transport on French territory by Luxembourgian hauliers rose from 0.3 billion tonne-kilometres in 1999 to 1.2 billion tonne-kilometres in 2004. Cabotage transport on French territory by Spanish hauliers rose from 0.2 billion tonne-kilometres in 1999 to 0.8 billion tonne-kilometres in 2004. Cabotage transport within France by other ‘neighbouring’ countries (Belgium and Germany) has also increased.

Table 2.1 Breakdown of road cabotage by country in which it takes place (% based on tonne-kilometres)

	1999	2000	2001	2002	2003	2004
Belgium	6%	6%	6%	4%	5%	4%
Denmark	1%	1%	1%	1%	1%	1%
Germany	35%	31%	27%	28%	27%	27%
Greece	0%	1%	1%	1%	0%	0%
Spain	7%	5%	6%	6%	6%	7%
France	20%	25%	27%	31%	32%	33%
Ireland	0%	0%	0%	0%	0%	1%
Italy	13%	8%	9%	7%	8%	7%
Luxembourg	0%	0%	0%	0%	0%	0%
Netherlands	2%	3%	3%	3%	2%	2%
Austria	2%	3%	3%	2%	2%	2%
Portugal	0%	1%	0%	0%	0%	0%

¹⁵ The Burns report (November 2005) for instance raises the situation in Felixstowe and parts of Kent, where the share of cabotage transport is said to be much higher than elsewhere in the UK (see *The Burns Freight Taxes Inquiry*, page 55).

	1999	2000	2001	2002	2003	2004
Finland	0%	0%	0%	0%	0%	0%
Sweden	4%	3%	2%	2%	2%	3%
United Kingdom	10%	16%	13%	14%	14%	13%
Slovenia	0%	0%	0%	0%	0%	0%
Total	100%	100%	100%	100%	100%	100%

Source: New Cronos, Eurostat

The share of cabotage tonne-kilometres has also increased considerably in the UK since 1999. Italy is another important *cabotaged* country. Around 60% of all cabotage tonne-kilometres within the EU15 territory in 2004 took place in France and Germany and 20% in the UK and Italy. Since cabotage transport becomes commercially more interesting with larger transport distances, it is logical that these relatively large countries represent the majority of cabotage tonne-kilometres.

Cabotage penetration rate

The cabotage penetration rate shows the proportion of each country's domestic market (i.e. national transport plus cabotage transport) taken up by cabotage. This penetration rate is an indication of the market share of foreign hauliers within the domestic markets of the Member States. The following table shows that France and Belgium have the highest penetration rates. In these countries a relatively high share of domestic transport is performed by foreign hauliers. In France the share of domestic transport taken by foreign hauliers has increased substantially in the period 1999-2004 (from 0.94% to 2.56%), which is due in particular to an increase in the activities of Luxembourgian and Spanish hauliers.

Table 2.2 Cabotage as percentage of total domestic transport in the country where the cabotage takes place (based on tonne-kilometres)

	1999	2004
Belgium	2.25%	2.54%
Denmark	0.39%	1.75%
Germany	1.17%	1.69%
Greece	-	-
Spain	0.55%	0.60%
France	0.94%	2.56%
Ireland	0.06%	0.94%
Italy	0.61%	0.63%
Luxembourg	2.99%	2.03%
Netherlands	0.52%	0.75%
Austria	1.49%	2.17%
Portugal	0.21%	0.40%
Finland	0.00%	0.05%
Sweden	0.85%	1.09%
United Kingdom	0.37%	1.20%
Slovenia	-	-

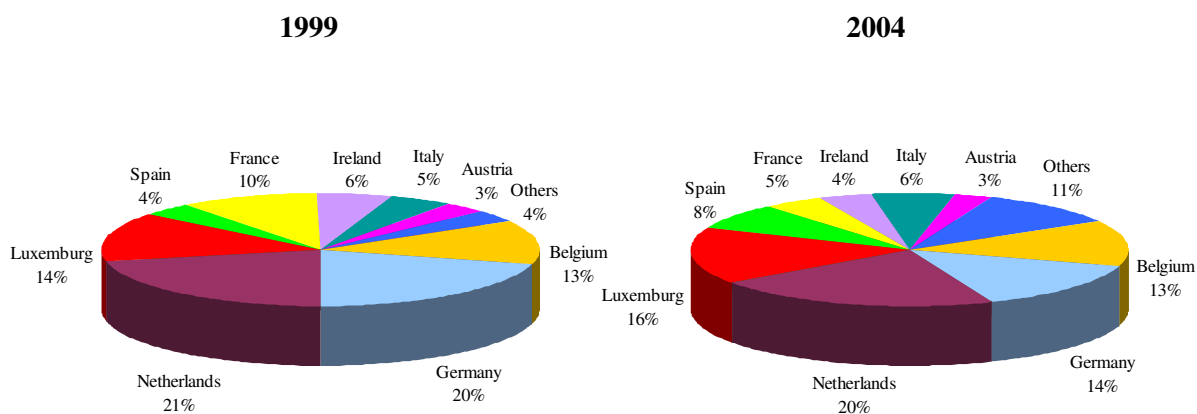
Source: Trends in road freight transport up to 2003, Statistics in Focus, Eurostat, July 2005.

2.2.2 The share of cabotage according to the nationality of the hauliers

The following figures represent cabotage transport performance by hauliers from 14 Member States¹⁶.

Cabotage transport performance by hauliers from the EU14 totalled 7.4 billion tonne-kilometres in 1999. This has increased considerably to 13.8 billion tonne-kilometres in 2004. Dutch hauliers are the most active in cabotage transport representing around 20% of total cabotage transport performance (in tonne-kilometres). Hauliers from Luxembourg also make up a significant share (16%) of the total cabotage transport performance. Because of their relatively small home market, Luxembourgian hauliers are more dependent on other (inter)national transport markets. Belgian and German hauliers also have a significant share of the total cabotage transport performance - 13% and 14% respectively.

Figure 2.3 Share in total cabotage transport by the haulier's nationality (based on tonne-kilometres)



a) excluding hauliers from Greece & Slovenia

b) 1999 data for Sweden are missing

Source: New Cronos, Eurostat

Slovenia

Eurostat only provides data on Slovenia for 2004. According to the Eurostat New Cronos database total cabotage transport performed by Slovenian hauliers accounted for 132 million tonne-kilometres in this year. The National Statistical Office of the Republic of Slovenia also provides relevant data. According to this source the total cross-trade and cabotage transport performed by Slovenian hauliers accounted for 710 million tonne-kilometres in 2001 and 1.4 billion tonne-kilometres in 2004¹⁷. The share of Slovenian hauliers in the total EU cabotage transport performance is very small (approximately 1%).

¹⁶ Figures on cabotage transport performed by hauliers from Greece have not been published in Statistics in Focus, nor in New Cronos. For Sweden, 1999-data are missing. Since Slovenian hauliers are allowed to execute cabotage operations from May 2004 onwards, data for Slovenia are presented separately.

¹⁷ Statistical Office of the Republic of Slovenia.

Table 2.3 Cross trade and cabotage transport performance by Slovenian hauliers (1000 tonne-kilometres)

	2001	2002	2003	2004
Cross trade and cabotage	709,900	675,200	755,200	1,392,400
Cabotage	-	-	-	132,262

Source: Statistical Office of the Republic of Slovenia; Eurostat, New Cronos Database.

The importance of cabotage transport from a hauliers' perspective

Cabotage transport can be of considerable importance for hauliers in some Member States, in particular those with small domestic markets. The next figure presents the share of cabotage transport as a percentage of all transport performed by hauliers from the various Member States. For Luxembourgian hauliers cabotage transport is very important. In 1999 more than 16% of the total transport performance of hauliers from this country concerned cabotage transport and this has steadily increased to approximately 24% in 2004. To a lesser extent cabotage transport is also important for Irish, Belgian and Dutch hauliers. In general terms cabotage transport is of greater importance to small Member States that are located in the centre of the EU or close to large countries such as Germany, France and the UK.

Table 2.4 Cabotage as a proportion of hauliers' total transport activity (based on tonne-kilometres)

	1999	2000	2001	2002	2003	2004
Belgium	2.5%	2.7%	3.1%	4.2%	3.7%	3.8%
Denmark	0.4%	1.0%	0.8%	0.6%	0.8%	1.1%
Germany	0.6%	0.5%	0.6%	0.6%	0.5%	0.6%
Greece	-	-	-	-	-	-
Spain	0.2%	0.2%	0.2%	0.3%	0.4%	0.5%
France	0.4%	0.4%	0.3%	0.3%	0.3%	0.3%
Ireland	4.1%	5.9%	4.4%	2.9%	3.1%	2.9%
Italy	0.2%	0.1%	0.3%	0.3%	0.3%	0.4%
Luxembourg	16.5%	16.2%	17.9%	21.6%	21.2%	23.6%
Netherlands	2.0%	2.1%	2.6%	2.3%	2.9%	3.3%
Austria	0.7%	1.0%	1.2%	1.1%	1.1%	1.0%
Portugal	0.4%	0.1%	0.5%	0.6%	1.2%	1.8%
Finland	0.1%	0.2%	0.2%	0.1%	0.1%	0.2%
Sweden	-	0.3%	0.5%	0.4%	0.6%	0.5%
UK	0.0%	0.1%	0.0%	0.1%	0.0%	0.1%

Source: New Cronos, Eurostat

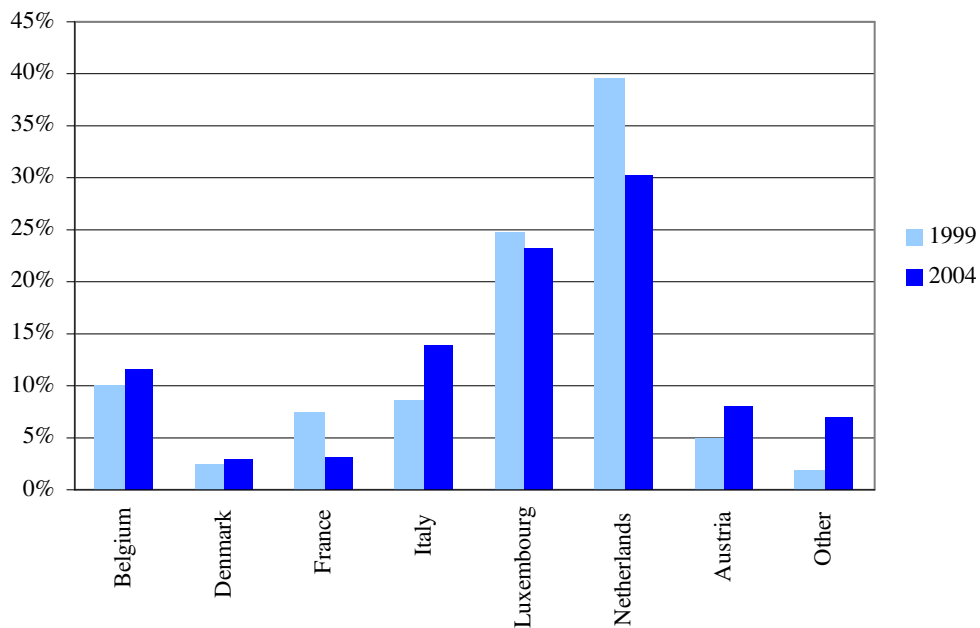
2.2.3 Cabotage transport by country where it takes place and by haulier

Having looked at the leading countries in terms of 'most cabotaged country' and 'most active hauliers in cabotage' it is interesting to examine whether or not specialisation in cabotage transport in terms of hauliers who dominate the cabotage market of a specific country. For this purpose we have analysed the situation in the four most cabotaged countries - Germany, France, Italy and the UK. The following figures present the share of foreign hauliers the cabotage markets of each of these countries.

The German cabotage market

Total cabotage transport on German territory amounted to 2.5 billion tonne-kilometres in 1999 and rose towards 3.3 billion tonne-kilometres in 2004. Hauliers from the Netherlands and Luxembourg dominate cabotage transport in Germany with shares of 30% and 23% respectively in 2004. The market share of Dutch hauliers declined while that of Belgian, Austrian and Italian hauliers increased in the period 1999-2004. The increasing share of 'other' countries can be ascribed to the increased market penetration by Spanish, Swedish and Slovenian hauliers.

Figure 2.4 Cabotage transport in Germany by hauliers' nationality (based on tonne-kilometres)

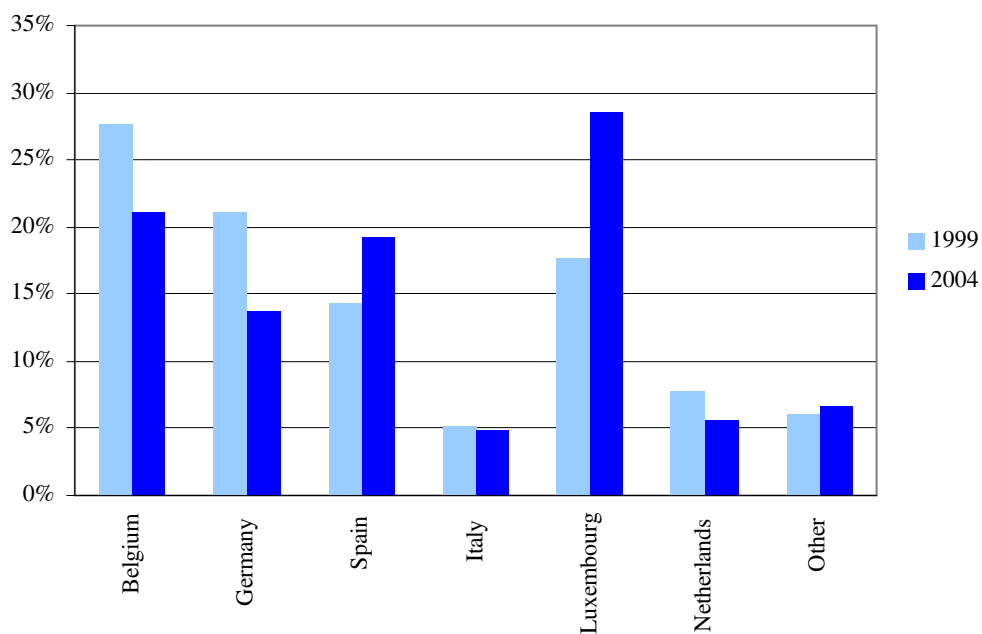


Source: Eurostat, New Cronos database.

The French cabotage market

Total cabotage transport on French territory totalled 1.5 billion tonne-kilometres in 1999 and rose spectacularly to 4.3 billion tonne-kilometres in 2004. Hauliers from Belgium and Luxembourg dominate cabotage transport in France with shares of 21% and 29% respectively in 2004. The market share of Luxembourgian hauliers has risen sharply from 18% in 1999 to 29% in 2004. The market share of German hauliers by contrast has declined substantially from 21% in 1999 to 14% in 2004.

Figure 2.5 Cabotage transport in France by hauliers' nationality (based on tonne-kilometres)

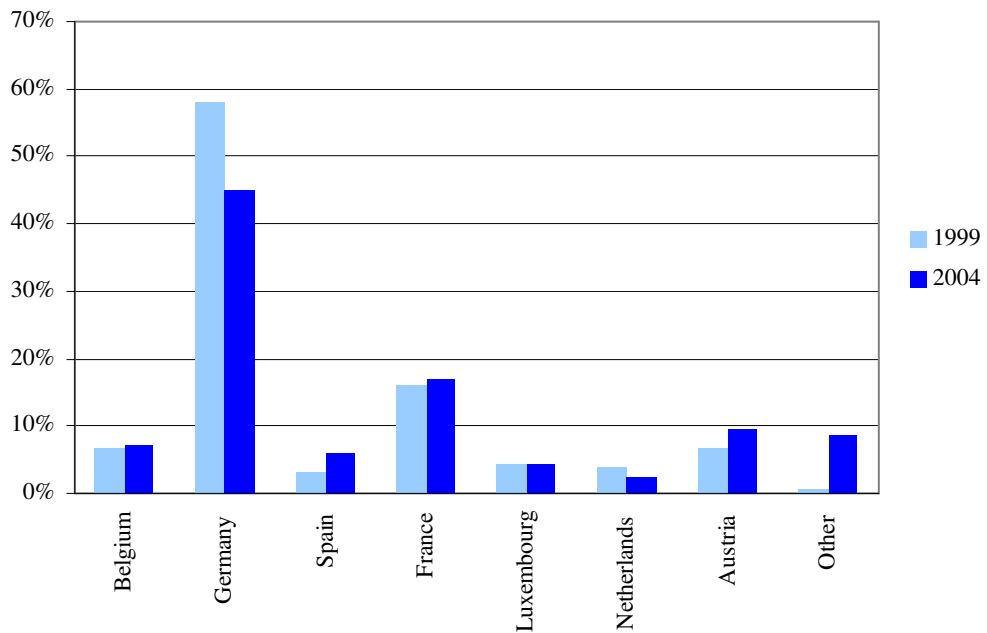


Source: Eurostat, New Cronos database.

The Italian cabotage market

Total cabotage transport within Italy totalled 0.9 billion tonne-kilometres in 1999 and stabilised more or less at that level in 2004. Hauliers from the Germany, France and Austria dominate cabotage transport in Italy with shares of 45%, 17% and 9% respectively in 2004. Market share of German hauliers has declined sharply from 58% in 1999 to 45% in 2004. The increasing share of the 'other' countries is due mainly to an increase in the activity of Slovenian hauliers who accounted for 7% of the total cabotage transport market in Italy in 2004.

Figure 2.6 Cabotage transport in Italy by hauliers' nationality (based on tonne-kilometres)

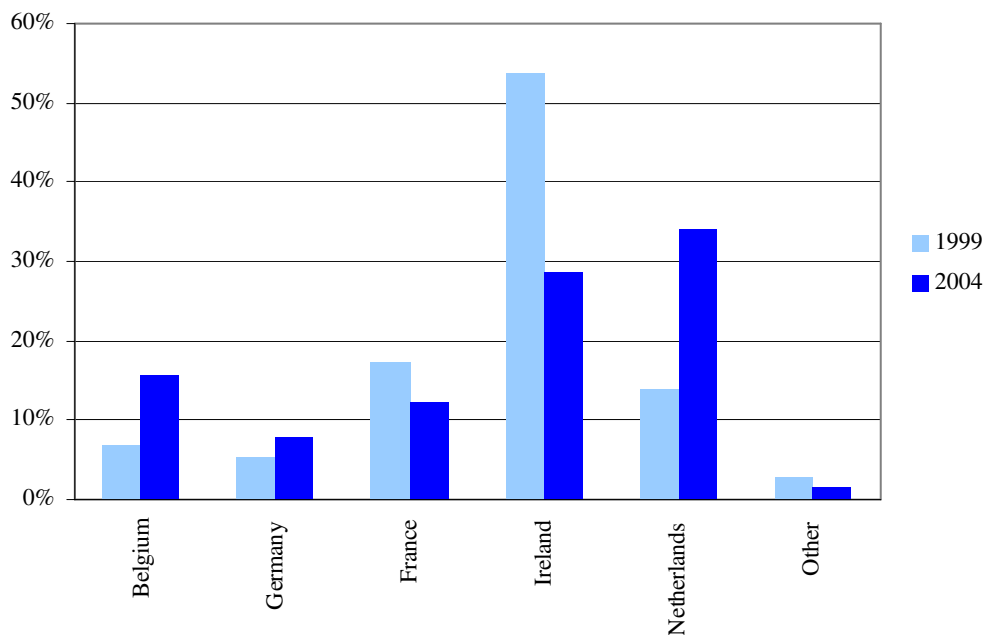


Source: Eurostat, New Cronos database.

UK cabotage market

Total cabotage transport within the UK amounted to 0.7 billion tonne-kilometres in 1999. By 2004 this volume had more than doubled to 1.6 billion tonne-kilometres. Hauliers from Belgium, Ireland and the Netherlands dominate cabotage transport in the UK with shares of 16%, 29% and 34% respectively in 2004. The market share of Irish hauliers has declined sharply from 54% in 1999 to 29% in 2004. In contrast to Irish hauliers, Belgian and Dutch hauliers have made significant gains. The Belgian share of the market rose from 7% in 1999 to 16% in 2004 and the Dutch share rose from 14% to 34% during this period.

Figure 2.7 Cabotage transport in the UK by hauliers' nationality (based on tonne-kilometres)



Source: Eurostat, New Cronos database.

So far cabotage in the road freight transport market has been analysed from a quantitative perspective. The next section considers different qualitative aspects of cabotage in the road freight transport market.

2.3 Analysis of cabotage transport characteristics

The response of transport organisations to the questionnaires makes clear that there is no such thing as a typical cabotage transport trip, although some common elements seem to exist:

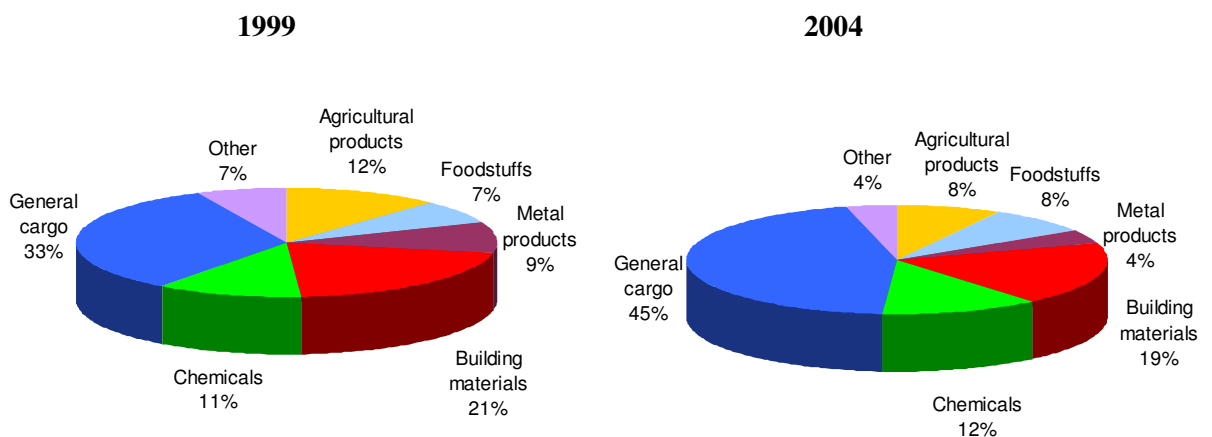
- Cabotage transport is frequently performed in order to limit empty mileage on the return leg of an international trip, or to improve the utilisation of the vehicle during waiting times (i.e. in port areas). For this reason cabotage trips are mostly of limited duration.
- The share of cabotage transport as a percentage of the total number of trips per year is less than 5% according to most respondents.
- That most cabotage is being performed in neighbouring countries (e.g. Luxembourgian, Spanish and Belgian hauliers who perform cabotage transport in France) can be deduced from the previous quantitative market analyses.

In this section qualitative information on the cabotage sector which has been collected via the questionnaires is presented. We consider the main commodities being carried in cabotage transport, the profitability of cabotage operations compared to other transport operations, and the temporary elements cabotage trips. Finally, some real-life cases are presented in order to explore the definition of cabotage transport.

2.3.1 Commodities in cabotage transport

An itemization of commodities carried by Dutch cabotage hauliers shows that raw minerals (NSTR 6), chemical products (NSTR 8) and general cargo (NSTR 9) make up the majority of the total goods carried in cabotage transport. Agricultural products (NSTR 0) and food products (NSTR 1) also have a significant share in the total.

Figure 2.8 Breakdown of cabotage transport by Dutch hauliers into commodities (based on tonnes)



Source: Centraal Bureau voor de Statistiek/Statline.

That this breakdown typical is for other Member States under review is confirmed by the response to the questionnaire: agricultural products, building materials and raw minerals, food and drinks, chemical products, and general cargo are mentioned as important commodities in cabotage transport.

2.3.2 Profitability in cabotage transport

The profitability of cabotage operations is comparable to the profitability in other market segments (i.e. international transport). In the stakeholder consultation road haulage organisations were asked to give their opinion on the general profitability of the cabotage market when compared to other markets. Most respondents considered profitability in the cabotage transport market to be more or less on a par with the profitability of international transport operations. A minority stated that profitability is equal to or less than the profitability of the domestic transport market.

2.3.3 Temporary elements in cabotage transport

The Commission Interpretative Communication¹⁸ (CIC) of January 2005 considers four criteria for assessing the temporary character of cabotage operations: duration, frequency, periodicity and continuity. These aspects have been included in the stakeholder consultation with the aim of assessing the temporary character of cabotage transport operations in different Member States.

Frequency of cabotage operations

The CIC defines **frequency** as the number of cabotage operations carried out per month or per year. Frequency has been raised in the stakeholder consultation by asking the road haulage organisations to provide a figure on the number of cabotage trips per year for an average company. The average number of cabotage trips a road haulage company carries out is estimated at less than 10 trips per year by most of the respondents. A single respondent put the figure between 10 and 20 trips per year and another respondent estimated it between 30 and 50 trips per year.

Duration of a cabotage trip

The CIC defines **duration** as the space of time (weeks, months) during which an operator carries out one or more cabotage operations. Duration is closely linked to frequency. Duration has been addressed in the stakeholder consultation by asking the road haulage organisations to estimate the average duration of a single cabotage trip. Most respondents were not able to provide an answer and those that did respond gave widely varying estimates. Two respondents estimated the average duration between 6 and 12 hours, one respondent put the figure at less than 6 hours, and one respondent estimated it between 12 and 24 hours. Assuming an average duration of a single trip (e.g. 12 hours) and an average frequency of trips (e.g. 10 trips per year), a different assessment of the temporary character of the actual service provided can be arrived at. In this example two extremes exist: a haulier could perform 10 different non-successive cabotage operations of 1 day each during the same year, or a haulier could perform 10 successive cabotage operations of 1 day each during the same year. The second situation – 10 successive cabotage operations of 1 day each – raises the question of continuity, meaning a period in which a haulier is engaged solely in cabotage operations. According to the CIC the essential element here is the permanence or constancy of the operations.

Periodicity and continuity of cabotage operations

Periodicity indicates the regularity of the cabotage operations (i.e. whether cabotage is carried out occasionally or regularly) and should not be confused with frequency. Periodicity was addressed in the stakeholder consultation by asking the road haulage organisations whether or not there is a variation in the number of cabotage trips carried out during the course of a year. All respondents answered in the affirmative, however the variation depends to a large extent on the country where cabotage operations are being performed and on the commodity that is being carried (which countries and commodities it concerns is not specified).

¹⁸ Commission Interpretative Communication on the temporary nature of road cabotage in the movement of freight (2005/C 21/02), 26 January 2005.

Continuity means that a haulier is engaged solely in cabotage operations within a certain period. As previously stated, the essential element here is the permanence of cabotage operations. Continuity was addressed in the stakeholder consultation by asking the road haulage organisations whether or not cabotage transport operations are generally performed on a permanent basis. The response was evenly split: 50% stated that cabotage transport is not being performed continuously and is only performed when the demand for transport operations in other markets is slack; the other 50% of haulage companies stated that they do perform cabotage transport on a continuous basis. It is however not possible to ascertain the length of the period referred to by these respondents. It is most likely that the respondents who said that cabotage transport is performed on a permanent basis mean in fact that cabotage transport operations are carried out each year, whereby the temporary character of it is maintained.

2.3.4 Examples of transport operations: cabotage transport or not?

During the meeting with road haulage organisations¹⁹ and representatives of the transport workers²⁰ the need for a uniform definition of the temporary concept became apparent. Concrete examples of transport trips were put forward by some of the participants in order to debate whether this can be characterized as cabotage transport or not. These examples are described hereafter.

Domestic transport to and from seaports

The first case to be debated concerns foreign hauliers who make use of waiting time in ports to perform cabotage transport. Waiting time can extend to several days. Foreign hauliers can improve vehicle utilisation during such periods by performing domestic transport in the country where the port is located. Although this could be considered to be cabotage transport, there might be a conflict with the regulation stating that cabotage transport should only be performed occasionally. On this point the Commission Interpretative Communication says that “the type of relations with customers based in the country in which the cabotage operations are being carried out should be occasional”; in this specific case there might be a conflict as soon as these operations become regular. In December 2005 the Vehicle Operator Services Agency (VOSA) – the agency responsible in the UK for ensuring that operators comply with legislation surrounding the use of goods vehicles – reported illegal cabotage operations by Dutch hauliers in the port of Felixstowe. These carriers are reported²¹ to arrive in the UK fully loaded on Monday and work on domestic journeys between the Channel ports and various destinations in the UK before returning to the Netherlands at the weekend. The same vehicles return the following Monday to carry out the same operations. Although the vehicles leave the country at least four times a month (each weekend), these operations are performed systematically, regularly and continually. Therefore, it seems difficult to argue that these operations are temporary.

¹⁹ This meeting was held on 21 November 2005 in Brussels at DGTREN's premises. A list of participants to this meeting is provided in annex 9.

²⁰ This meeting was held on 29 November 2005 at the European Transport Workers' Federation premises in Brussels.

²¹ See also the *Burns Freight Taxes Inquiry* (November 2005) at page 57.

The French sugar beet case

Each year during the sugar beet season hauliers, particularly from neighbouring countries,²² perform transport operations on a large scale within France. Because these operations last for an extended period and are performed on a regular basis, they fall within the domain of French national transport and foreign hauliers are subjected to French national regulations. In this example it is very clear that the transport activity has become permanent, because operations take place each year for an extended period of time. Therefore the sugar beet transport is not considered to be cabotage transport.

Domestic transport preceding or following an international transport operation

To further demonstrate whether or not a transport operation is cabotage transport, a further practical case is provided via the answers to the questionnaire. Foreign hauliers who perform international transport might increase vehicle utilisation by performing cabotage transport operations. A non-resident haulier may perform cabotage transport in a foreign country preceding or following international transport to or from that country (or another third country). Again, this type of transport operation can be considered to be cabotage transport as long as the operations have not become permanent. A transport operator who performs a weekly international transport service on a certain relation might increase the vehicle utilisation by performing cabotage transport as non-residential haulier in a certain country²³. However, as soon as this cabotage transport operation is being executed repeatedly and has become permanent, it is highly disputable to consider this still as cabotage transport.

As demonstrated by these cases, it is still difficult to define exactly when an activity ceases to be temporary and becomes permanent, although the Commission Interpretative Communication (CIC) provides jurisprudence²⁴ to shed light on this matter. The previous examples underline the conclusion of the CIC that each specific situation needs to be examined individually in the light of the considerations laid down in the CIC.

2.4 Conclusions

Road cabotage transport performance has almost doubled in 1999-2004

Road cabotage has grown steadily, although there is no significant difference in the growth rates of the periods before and after the quota system ceased to apply. Despite an 86% increase during the period 1999-2004 road cabotage transport still makes up only a small share of total road transport: 0.76%²⁵. This however does not mean we should neglect the importance of road cabotage in the EU, because road cabotage might be of greater significance in specific areas or regions (i.e. port areas and border areas).

²² Considering the breakdown of cabotage transport that takes place in France by the hauliers' nationality, this involves hauliers from Belgium, Spain, Luxembourg and Portugal in particular.

²³ A Dutch haulier performing a weekly transport service between Rotterdam and Munich might perform cabotage transport on the return trip between Munich and the Ruhr area.

²⁴ With the Gebhard judgement, the Schnitzer judgement and the Andreas Hoves judgement.

²⁵ Statistics in Focus: Road freight cabotage 1999-2001, Eurostat, July 2003.

In spite of its small share in total EU transport, cabotage is very important in some areas
In Belgium and France, for instance, more than 2% of the total domestic transport market is in the hands of foreign hauliers, and the share of these foreign hauliers has increased considerably in the period 1999-2003. From the perspective of active hauliers, road cabotage transport is also very important. This is especially true for hauliers from Luxemburg who performs around 18% of the total cabotage transport in the EU. This represents a quarter of the total transport performance of Luxembourgian hauliers.

Definition of cabotage poses difficulties, especially the temporary character

There is no such thing as a typical cabotage transport trip. However, cabotage transport is frequently performed in order to limit empty mileage on the return leg of an international trip, or to improve the utilisation of the vehicle during waiting times (e.g. in port areas). For this reason cabotage trips are in the most case limited in duration. This chapter has provided some examples of 'cabotage type' transport operations with the aim of further sharpening an understanding of the definition of the temporary nature of cabotage transport. As demonstrated by the examples, it remains difficult to define exactly when an activity ceases to be temporary and becomes permanent, although the Commission Interpretative Communication (CIC) provides jurisprudence²⁶ to shed light on this. The previous examples affirm the conclusion of the CIC that each specific situation needs to be examined individually in the light of the considerations laid down in the CIC.

²⁶ With the Gebhard judgement, the Schnitzer judgement and the Andreas Hoves judgement.

3 Regulatory regimes on road cabotage

3.1 Introduction

Council Regulation 3118/93 is directly applicable in all Member States

Council Regulation 3118/93 is the legal basis for road cabotage in the EU and is directly applicable in all Member States. Its Article 1 gives the following definition of road cabotage:

Any road haulage carrier for hire or reward who is a holder of the Community authorization provided for in Council Regulation 881/92 is entitled to operate, on a temporary basis national road haulage services in another Member State, without having a registered office or other establishment therein.

The lack of a definition of the concept of “on a temporary basis” has posed a problem for some time. It created uncertainty among operators in the transport sector as to the exact scope of the cabotage operations. Recently the Commission has adopted the Commission Interpretative Communication²⁷ (CIC) on the temporary nature of road cabotage in the movement of freight in order to address this problem. To date, the Court of Justice has not ruled on the interpretation of the ‘temporary’ nature of transport services. The CIC considers jurisprudence on the temporary nature of road cabotage in the movement of freight, describing different criteria for the provision of cabotage services. This says that the temporary character of cabotage transport activities should be assessed not only in the light of their *duration* but also in the light of their *frequency*, *periodicity* and *continuity*.

Duration refers to the period of time (weeks, months) during which an operator carries out one or more cabotage operations on the territory of a Member State other than the country where he is established.

Frequency relates to the number of operations per month or year.

Periodicity refers to the regularity of the operations, which is different from frequency; at this level account needs to be taken, for instance, of the type of relationship – regular or occasional – between the customers based in the country in which the cabotage operations are being carried out and the foreign haulier.

Continuity means that, in a given period, a haulier is engaged solely in cabotage operations.

²⁷ Commission Interpretative Communication on the temporary nature of road cabotage in the movement of freight (2005/C 21/02), 26 January 2005.

Some Member States apply additional regimes to Council Regulation 3118/93

Although Council Regulation 3118/93 applies directly to each Member State, some of them have seen a need to adopt additional national legislative elements concerning cabotage activities. The analysis on the road cabotage regimes that has been carried out in this study, points out that France, Italy and the UK apply additional specifications to Council Regulation 3118/93. The main reason for having additional legislation seems to be the need for a better specification of the temporary character of road cabotage operations and other critical aspects concerning cabotage. The French authority reports that the different conditions under which cabotage are performed are causing market distortions. Spain, Netherlands, Slovenia, Germany, Sweden, Luxembourg and Austria governments have not introduced any additional legal specifications to Council Regulation 3118/93. The following table provides an overview of the main legislative measures adopted by each of the considered Member States which are applicative to road cabotage.

Table 3.1 *Applicative measures by Member State*

Member State	Applicative Measures
Austria	no specific applicative measures.
Belgium	n.a.
France	- Administrative guideline ("Circulaire") dated January 22 nd 2002 (non published) on the duration of the road haulage. Provision declared nul and void by the Administrative Supreme Court (Conseil d'Etat); - Decree n°2004-1080 dated October 11st, 2004 concerning the road haulage services of goods ("relatif aux transports de cabotage routier de marchandises"). Provision declared nul and void by the Administrative Supreme Court (Conseil d'Etat); - The Law n° 2005-882 dated August 2nd 2005 on the orientations relating to the small and medium companies containing provisions on road haulage services. It was published in the Official Journal dated August 3rd 2005.
Germany	Circular of December 22nd 1998 "Regulation for freight transport and cabotage" (Verordnung über den grenzüberschreitenden Güterverkehr und den Kabotageverkehr).
Italy	- Decree 1575/80 of March 18th 2005; - Decree 2593/80 of March 24th 2005; - Circulare 1/2005 of July 27th 2005.
Luxembourg	no specific applicative measures.
Netherlands	Implementation of the Road Haulage Act - 5 art. 88 - art 98 of April 27th 1992 (Besluit goederenvervoer over de weg hoofdstuk 5 art 88 - art 98)
Slovenia	no specific applicative measures
Spain	no specific applicative measures
Sweden	no specific applicative measures
United Kingdom	Letter to the Member States' Ministry of Transport of September 2002

Relevant applicable regulations on working conditions

In relation to road cabotage regulations, other relevant Community acts are those concerning driving times, resting periods and other working conditions and those concerning enforcement. In chapter 1 the most relevant have been introduced already:

- Council Regulation 3820/85 of December 1985 on the harmonisation of certain social legislation to road transport deals specifically with common rules regarding the minimum age of drivers, driving times, breaks and rest periods for drivers, prohibition of certain types of payments, and control procedures and penalties;

- Council Regulation 3821/85 of December 1985 and a subsequent amendment Council Regulation 2135/98 of September 1998 lay down common rules on the construction, installation, use and testing of recording equipment in road transport, enabling a sound system for checking driving times and rest periods;
- The “working time directive” (Council Directive 93/104/EC of 23 November 1993) covers aspects of working time (e.g. loading and unloading, technical maintenance and the cleaning of vehicles) not covered by Council Regulation 3820/85;
- The “posting of workers directive” (Council Directive 96/71/EC of December 1996), lays down the terms and conditions of employment regards maximum work periods and minimum rest periods, minimum paid annual holidays, minimum rates to pay, conditions of hiring-out of workers, health, safety and hygiene at work, and equal treatment (non-discrimination). This directive states that in the event a worker is posted for a limited period to carry out work in another Member State, the terms and conditions of employment (covering maximum working periods, minimum resting periods, minimum rates of pay, conditions for hiring-out of workers, health, safety and hygiene at work, etcetera), which are applicable in the Member State where the worker is posted, are applicable.
- Council Directive 2002/15/EC of March 2002 covers specifically the organisation of working time of persons performing mobile road transport activities, with the aim of further improving road safety, preventing the distortion of competition and guaranteeing the safety and health of the mobile workers.

The next section describes the extent to which the previously mentioned regulatory regimes are actually being applied per country.

3.2 National practices per country

This paragraph provides an analysis of road cabotage transport regimes for each Member State that has been contacted: Austria, Belgium²⁸, France, Germany, Italy, Luxemburg, Netherlands, Slovenia, Sweden, Spain and the UK.

3.2.1 Austria

Road cabotage transport on Austrian territory is directly governed by Council Regulation 3118/93. With regard to the *temporary character* of road cabotage Austrian Authorities have not introduced any specifications or constraints additional to those contained in Council Regulation 3118/93.

Concerning the working conditions (e.g. driving times, rest periods and other working conditions for drivers), the Austrian Authorities state that the legislative regimes applicable to road cabotage operations do not differ from those applicable other forms to

²⁸ Belgium Authority does not provide any information and date concerning the regulation of road cabotage transport within Belgium territory.

road transport. Furthermore, the Austrian Authorities do not have any enforcement methods that specifically apply to road cabotage²⁹.

Concerning VAT in Austria, the fiscal system is applicable to all transport services within the country, regardless of the land of registration.

3.2.2 France

French Government has issued national specifications for Council Regulation 3118/93. The following national measures concerning the road cabotage transport activities are applicable to road cabotage operations on French territory:

- Administrative guideline ("Circulaire") dated January 22nd 2002 (non published) on the duration of the road haulage.
- Decree No.2004-1080³⁰ dated October 11th, 2004 concerning the road haulage services of goods.
- Law No.2005-882 dated August 2nd 2005 on the orientations relating to the small and medium companies containing provisions on road haulage services.

The main reason for introducing national legislation is because Council Regulation 3118/93 does not provide a precise definition on the “temporary” concept of cabotage transport operations. This encourages abusive practices that evade social and fiscal regulations and in this way undermines fair competition. In order to address the limitations of Council Regulation 3118/93, the French Authority has found it necessary to introduce specific national regulations in addition to this Council Regulation.

Concerning the temporary character of the road cabotage transport, French Authority stipulates that foreign hauliers are only allowed to operate on French territory for a period of 30 consecutive days and 45 non consecutive days in a calendar year. Recently the French Government has decided to consider truck drivers as posted workers if they perform cabotage transport on French territory for a week or more consecutively in which case French social legislation is applicable³¹.

Social conditions (driving time/rest periods and other working conditions for drivers) are regulated via Council Regulations 3820/85 and 3821/85. Article 325-5 of the French road regulations states that the calculation of consecutive driving time and suggested rest times should also include working hours performed outside French territory. As stated above, truck drivers are considered as posted workers if they perform cabotage transport for a week or more. They automatically fall under French social legislation. The Posting of Workers Directive, which is referred to in the introduction section of this chapter says that in the event a worker is posted for a limited period to carry out work on the territory of a Member State, certain terms and conditions of employment (covering maximum

²⁹ It is stated that national measures are still in a process of development. Although Member States are not forced to develop enforcement measures, the Austrian authorities say that the enforcement measures comply with Council Regulation 3118/93 on the provision of road haulage cabotage services.

³⁰ *Relatif aux transports de cabotage routier de marchandises.*

³¹ Source: *Nieuwsblad Transport*, 21 December 2005.

working periods, minimum resting periods, minimum rates of pay, condition for hiring-out of workers, health, safety and hygiene at work, etcetera), which are applicable in the Member State where the worker is posted, are guaranteed.

In relation to fiscal aspects of cabotage transport on French territory, enterprises established in another Member State which perform cabotage transport in France have to be registered under the French VAT system. Usually this procedure can be carried out in the Taxes Centre³² for non-resident people. Enterprises registered before January 1st 2002, can refer to Local Taxes Centres. The VAT registration number has to be filled in on the delivery note and foreign enterprises must declare and pay the VAT. At payment those enterprises are required to issue an invoice (or analogous document) and they must keep a duplicate for themselves.

On the invoices the VAT identification number of both taxpayer and client, the total sum before taxes, and the amount of tax paid (as specified in articles 289 and following of the taxes general code) must be recorded.

Regarding enforcement the French authority has communicated that enforcement methods are still being developed. Controlling and monitoring procedures have not been specified because the former procedures are still in preparation and the latter have not yet been applied. Regarding sanctions, the French authority has issued a statement that all foreign vehicles that do not respect the limitations concerning the temporary character of cabotage operations are prohibited from undertaking any further transport activity on French territory. Furthermore the hauliers that are banned from performing transport on French territory must also pay a € 15,000 fine and may be condemned to 1 year in prison. Moreover, the hauliers that do not respect the limitations applicable to cabotage transport on French territory have to pay a fine of € 7,500.

3.2.3 Germany

In addition to Council Regulation 3118/93, the German authority has issued the following national measure concerning road cabotage transport:

- Circular of December 22nd 1998 “Regulation for freight transport and cabotage”³³.

The German authority points out the need for a homogeneous cabotage regulation in Europe, in order to harmonise the competitive conditions among the Member States and to avoid distortion of competition. . The Federal Ministry of Transport claims that there is no additional regulation concerning the temporary character of cabotage operations within German territory, other than Council Regulation 3118/93.

Concerning the working conditions there are no specific rules applicable in Germany for the drivers engaged in cabotage transport services additional to EU Council Regulations.

³² Centre des impôts des non-résidents, 9 rue d'Uzès, 75094 PARIS

³³ *Verordnung über den grenzüberschreitenden Güterverkehr und den Kabotageverkehr.*

The Authority points out that there are no special rules concerning the fiscal aspects of road cabotage transport.

With regard to the enforcement of the regulatory regimes the German authorities carry out audits on vehicles operating within German territory by checking documents and in particular by analysing of freight slips (based on the road transport bilateral agreements that Germany has with most European Countries). By looking at these transport documents German authorities are able to ascertain whether road hauliers carry out transport services permanently and continuously. Road hauliers who do not adhere to the regulations and do not have the necessary transport authorisations can be fined under German law³⁴. The average sanction applied is about € 2,500.

3.2.4 Italy

In addition to Council Regulation No. 3118/93, the Italian Authority issued the following national measures concerning road cabotage transport activities:

- Decree of March 18th 2005 “Provisions concerning the execution within Italian territory of road cabotage activities on a temporary basis”³⁵;
- Decree of March 24th 2005 “Carrying out Act of the Decree of March 18th 2005 concerning freight road cabotage”³⁶.

The Italian Authority has recognised the necessity of introducing a national specification on verification and monitoring measures related to Council Regulation 3118/93. Such measures are not provided for in the Council Regulation. Furthermore the Italian Authority is of the view that the application of Council Regulation 3118/93 tends to lead to unfair competition among national and foreign companies that perform cabotage on Italian territory. According to these national measures, cabotage operators have to maintain a logbook containing the company’s data, vehicle number plate, information related to the cabotage operations (i.e. details concerning transport starting date, locations of loading and unloading, covered transport distance in kilometres, freight volumes and commodities. In order to implement the controlling procedures related to the temporary character of cabotage (according to Decree of March 24th 2005 art. 1, item 2), operators are obliged to indicate the dates they entered and left the Italian territory.

Concerning the *temporary character* of road cabotage transport operations in Italy, the Italian applicatory circular states that 30 days is the maximum period that a foreign haulier is allowed to operate on Italian territory. Furthermore, it stipulates that the cabotage vehicles must leave Italian territory at least once per month and that the maximum admitted permanence period is 60 days. Italian legislation is in compliance

³⁴ Güterkraftverkehrsgesetz, § 19 Abs. 1 Nr. 1 b i.V.m. § 3 Abs. 1.

³⁵ Disposizioni concernenti l'esecuzione in territorio italiano delle attività di cabotaggio stradale di merci a titolo temporaneo, published on the Official Gazette n°77 of April 4th 2005.

³⁶ Disciplina di attuazione del D.M. 18 marzo 2005 in materia di cabotaggio stradale di merci”, published on the Official Gazette n° 77 of April 4th 2005.

with Council Regulation 3118/93 allowing road cabotage transport on an occasional basis.

The working conditions in transport are regulated via Council Regulation 3820/85.

Responsibility for fiscal aspects related to road cabotage transport on Italian territory, in particular VAT, lies with the transport purchaser. The foreign haulier is required to invoice the Italian transport purchaser who must then specify the required tax amount. If the foreign haulier does not provide an invoice within one month of the performance of the transport service, the Italian transport purchaser will resort to auto-invoicing, specifying the haulier VAT registration number. Before carrying out transport operations, a foreign haulier has been registered at the Italian Tax Office and must appoint a tax representative.

Enforcement of the regulatory regimes concerning road cabotage operations takes the form of mobile roadside audits. Next to the regular inspection activities carried out by the police on road traffic, commercial vehicles are specifically checked in accordance with Council Regulation 1000/30 of June 6th 2000. Control activities are carried out by both technical staff and traffic police at mobile check points where vehicles are subject to both technical and administrative controls. Currently, 17 random mobile check points are operating within Italian territory. 10 additional mobile check points are planned before the end of 2006. In 2005 the Italian police checked about 12.000 vehicles, both Italian and foreign, but the available data does not allow an assessment of the number of vehicles engaged in cabotage activities.

Travel documents are audited which provides information on the number of trips that have been carried out, the transport distance covered and the quantity of freight transported per month and per year. The hauliers are required to record this information in logbooks.

According to Law No. 298/74 article 46, non-authorized transport or transport that does not respect the limits and constraints laid down in the transport authorization, operators can be fined (between € 2,065 and € 12,394 and in the case of frequently violations a heavier fine between € 2,582 and € 15,493). Additionally, in case of frequent violations vehicles can be impounded under Law No. 298/74 article 46.

3.2.5 Luxemburg

In Luxemburg road cabotage transport is directly governed by Council Regulation 3118/93. Regarding the *temporary character* of road cabotage transport, Luxembourgian authorities have not issued any additional specifications in relation to the time limits and constraints referred to in Council Regulation 3118/93³⁷.

³⁷ It is stated that according to Council Regulation 3118/93 Luxemburg manages road cabotage transport within the Luxemburg territory on the basis of the non-discrimination and liberalization principle.

Working conditions (driving time, rest periods and other working conditions for drivers) are governed by Council Regulation 3820/85.

In relation to fiscal aspects, the Luxembourgian authority has stated that there is no specific fiscal regime applicable to cabotage operations and that a non discrimination principle is being applied.

Furthermore the authorities in Luxembourg have not introduced specific enforcement measures applicable to road cabotage transport.

3.2.6 Netherlands

The Dutch authorities have issued the Road Haulage Act” chapter 5 art 88 - art 98 of April 27th 1992³⁸. This however does not contain elements additional to Council Regulation 3118/93.

In relation to the *temporary character* of road cabotage transport in the Netherlands, the Dutch authorities state that there are no additional limitations concerning the time period a vehicle is permitted to remain and operate within the country. Because Council Regulation is applicable law in each Member State, road cabotage operations are subjected to this regulation.

Regarding working conditions in transport operations the Dutch authority refers to Council Regulation 3820/85.

Concerning tax cabotage transport is subject to VAT in accordance with the fiscal regime applicable to national transport services. If the operator is not registered in the Netherlands then the responsibility for the payment and settlement of tax is shifted to the client.

The enforcement of the regulatory regime in the Netherlands is carried out by the Transport Inspectorate of the Netherlands, the national and regional police forces and customs officers. The Transport Inspectorate is responsible for enforcement policy and coordinates the activities of the various enforcement agencies. In relation to the traffic monitoring procedures, roadside checks are held by the above mentioned authorities throughout the year on all road types across the country, with an emphasis on main transport routes. In 2004 about 24.000 vehicles were inspected, including both national and foreign vehicles. The total number of vehicles operating within the country yearly is not known and the Dutch Authorities can not provide an estimate of the percentage of vehicles that have been inspected.

When a driver does not have a valid authorisation, the transport is stopped. If an operator who is registered in a foreign country carries out cabotage transport in the Netherlands without a valid authorisation, the operator will be fined a maximum of € 2,200.

³⁸ *Besluit goederenvervoer over de weg.*

3.2.7 Slovenia

Road cabotage transport on Slovenian territory is directly regulated by Council Regulation 3118/93. Articles 88-93 in the Slovenian Road Transport Act³⁹ contain provisions on road cabotage. Under this Road Act a Community authorisation is sufficient for foreign hauliers to operate within the country and the rules and limitations provided for by Council Regulation 3118/93 are applicable.

Concerning the temporary character of road cabotage transport, the Slovenian authority states that the Slovenian Road Transport Act does not pose any additional limits and constraints to the ones laid down in Council Regulation 3118/93.

Nor are there any specific enforcement measures. The Slovenian authority further states that no problems with foreign hauliers performing cabotage have occurred so far. Should such a problem occur, the Slovenian authority would deal with it depending on the seriousness and character of the infringement

3.2.8 Spain

Road cabotage transport on Spanish territory is directly regulated by Council Regulation 3118/93. In relation to the *temporary character* of road cabotage transport, the Spanish authority has not issued any further specifications to the time limits and constraints referred to in Council Regulation 3118/93 and in the Commission Interpretative Communication of 26th January 2005.

Concerning working conditions the Spanish authority states that Council Regulation 3820/85 is applicable to road cabotage transport on Spanish territory.

A foreign haulier, who performs cabotage activities on Spanish territory, does not have to include VAT in its own invoice. A Spanish transport company is subjected to VAT.

In order to enforce the regulatory regime with respect to cabotage operations, the Spanish authority states that transport documents are checked for compliance with the national regulation LOTT 16/1987 of July 30th 1987, Council Regulation 3118/93 and the Commission Interpretative Communication of 26th January 2005. National authorisations distributed by the Spanish authorities or a copy of the Community authorisation are required for cabotage transport operations in the country. In case of infringements, the applicable sanctions are also laid down in the aforementioned national regulation (LOTT 16/1987 of July 30th 1987).

³⁹ OJ SLO, NO 26/2005, Zakon o prevozih v cestnem prometu, Ur.l. RS, št.: 26/2005.

3.2.9 Sweden

Road cabotage transport on Swedish territory is directly regulated by Council Regulation 3118/93. To ensure that this regulation is adhered to, the Swedish government has formulated additional national regulations:

- Decree No. 1998/786 on recognised authorities in matters of international transports within the EEC. This decree was issued on June 25th 1998, published on July 7th 1998 and coming into force on October the 1st 1998.
- Decrees No. 1998:779 (Yrkestrafikförordningen) also issued on 25 June 1998, published on 7 of July 1998 and coming into force the 1 of October 1998. This decree makes it possible for a Swedish carrier to receive a traffic permit for the use of a vehicle registered in a different country.
- Regulation/Administrative practices by the Swedish Customs (Tullverkets föreskrifter och allmänna råd om internationella vägtransporter - 1998:36), issued on December 17th 1998, published on December 30th 1998 and coming into force on January 1st 1999.

The Swedish authorities point out that there is need for further clarification of the definition of the *temporary character* of cabotage transport. The current criteria laid down in the CIC is helpful but not very practicable from a judicial point of view. The criteria is of little assistance to judicial authorities in Sweden ruling upon whether or not a violation of the cabotage regime has occurred. Consequently the Swedish Government has asked the Road Administration to analyse the current regulations with respect to hire and reward transport, particularly those aspects concerning the monitoring and enforcement of transport operations. Foreign haulers who use their own transport authorisation to perform cabotage transport on Swedish territory have a small but growing share in commercial transport operations. Some of these operations are considered to be illegal such as when a vehicle operates within Sweden for a certain period (e.g. Monday to Saturday), leaves the country with empty vehicles for a shorter period (e.g. for only one day or a few hours via the Öresund bridge to Denmark) and then returns again with empty vehicles to continue operations within the Swedish domestic transport market. These transport operations of this kind that are performed on a regular basis are said to have become permanent and are therefore in conflict with Council Regulation 3118/93 which states that “any activity that is permanent, exercised continually and regularly” and “carried out systematically and not just on an ad hoc basis” (see Commission Interpretative Communication, section 4: Conclusion) can not be considered as cabotage transport.

In cases such as this the need to address unclear aspects of the current road cabotage regulation has become apparent. The Swedish government called for a review on 1 October 2005. The Swedish authorities are considering adding the following elements to their regulation:

- Foreign hauliers may not perform cabotage transport in Sweden as long as they come or leave the country with empty vehicles. Cabotage transport can be performed following a loaded international trip to Sweden (import), or preceding a loaded international trip from Sweden (export).

- Foreign hauliers may not perform cabotage transport for the same company or industry repeatedly.

Road cabotage transport carried out within Sweden is submitted to the fiscal regime generally applicable to all transport services. Specifically a tax rate of 25% is applied to goods transport services.

Enforcement of the regulatory regime is carried out through random roadside checks performed by the Swedish police force and Swedish Customs. Community authorizations and freight documents are examined by specially trained enforcers (police officers and vehicle inspectors) from the 21 regional police authorities who man the roadside inspection units. When a transport operator is in violating of Council Regulation 3118/93, the operator may be fined. A client who has commissioned such a transport and could reasonably be expected to know that the transport is in violation of cabotage regulations may also be subject to punitive measures. The controlling body also has the power to stop further transport and send the vehicle directly out of the country.

3.2.10 United Kingdom

In addition to Council Regulation 3118/93, the UK authority submitted a letter on September 2002 to the Member States' Ministry of Transport to address specific aspects of Council Regulation 3118/93, in particular the temporary character of cabotage operations. Following consultation with the Commission, the Department for Transport issued the following guidelines to the Vehicle Operator Services Agency (VOSA)⁴⁰, which are in line with the Commission Interpretative Communication:

1. The activity of a transport company is under no circumstances permanent, frequent, or on a regular or continuous basis;
2. If the vehicles of a company engaged in cabotage never leaves the UK territory there is an infringement of Council Regulation 3118/93;
3. Activities are carried out entirely on a casual and circumstantial basis at considerable and infrequent intervals;
4. There is proof of exit from the country on specific occasions, and at least once a month.

With reference to the temporary character of road cabotage transport on UK territory, the UK authority states that one of the criteria to be satisfied is that foreign vehicles must exit the UK territory at least once a month and that cabotage operations can only take place occasionally.

Working conditions in freight transport by road are regulated via Council Regulation 3820/85.

⁴⁰ This relies on the provisions of the Goods Vehicle Operator Licensing Act 2001, in conjunction with Article 8 of Council Regulation 3118/93.

The monitoring and enforcement of the regulatory regime is in the hands of VOSA. The chief punitive measures applied by this agency are:

1. Offenders are reported to the regulatory authorities in the land of origin of the vehicle.
2. Any further transport activity by the vehicle is prohibited, and the vehicle redirected to exit the country.
3. The vehicle is impounded.

During 2003 and 2004 VOSA conducted 12,679 traffic enforcement checks on foreign goods vehicles. Each of these inspections included a check on whether the appropriate Community Authorization was being carried on board. Furthermore the VOSA noted the origin and destination of the goods being transported within the UK. Based on these audits VOSA has drawn the conclusion that it is very difficult or next to impossible to judge whether a transport activity is violating cabotage regulations through roadside checks⁴¹.

The maximum penalty is £5000 or two years imprisonment. Where prosecution is not possible or ineffective, VOSA may impound the vehicle or vehicles being used. In practice VOSA has impounded only 4 foreign vehicles so far, but the threat has been effective in encouraging a number of other foreign hauliers to legalise their operations.

3.3 Conclusions

Some Member States feel a need for a clearer definition of the temporary concept

Council Regulation 3118/93 offers a harmonised EU-framework considering the conditions under which non-resident carriers may execute national road haulage services within Member States. This regulation is binding in its entirety and directly applicable in all Member States. Although Council Regulation 3118/93 applies directly to each Member State, some countries have seen the need to adopt additional national legislative elements concerning cabotage activities. The analysis on the road cabotage regimes that has been carried out in this study, points out that only France, Italy and the UK apply additional specifications to Council Regulation 3118/93. The main reason given for having additional legislation is the need for a clearer definition of the temporary character of road cabotage operations and other critical aspects concerning cabotage. Only the French, Italian and UK authorities have clarified the temporary concept by defining the maximum period a non-resident haulier is allowed to execute cabotage operations within their own national territories.

The Swedish Government has commissioned the national road administration to analyse the current regulations, particularly the aspects regarding the observance and control of transport operations, with the aim to find more practicable criteria on whether or not certain transport operations are cabotage transport. The Swedish authorities are considering adding new elements to their regulation regime.

⁴¹ This is affirmed in the *Burns Freight Taxes Inquiry* (see page 57 of The Burns report, November 2005)

With regard to working conditions Member States refer solely to CR 3820/85

Concerning the regulatory regime on working conditions in cabotage transport, the authorities who have been consulted have only made reference to Council Regulation 3820/85. This is remarkable given that other regulations and directives on working conditions which are applicable to road transport do exist (e.g. the Posting of Workers directive 96/71/EC of 16 December 1996, the Working Time Directive 93/104/EC of 23 November 1993, and Council Directive 2002/15/EC of March 2002).

Some countries have issued specific guidelines to enforce the regulatory regimes

In particular those countries that have recognised the need to adopt additional national legislative elements concerning cabotage activities (France, Italy and the UK), have also issued specific guidelines (Italy and the UK) or are at present developing guidelines (France) to enforce these regulatory regimes.

These preliminary conclusions are input for the next chapter which contains an analysis of the problems and goes on to look at possible solutions to overcome these problems.

4 Problem analysis and recommendations

4.1 Introduction

In chapter 2 we have concluded that although the share of cabotage transport in total EU transport (both domestic and international) is very low, cabotage transport is still of considerable importance in certain countries and in certain areas. Furthermore the cabotage transport market is still growing and therefore the importance of cabotage transport and related problems may be set to increase in the future. This chapter comprises an analysis of the main problems that are related to cabotage transport. It also provides directions of possible solutions to overcome these problems.

Stakeholder consultation

The information provided in this chapter has been collected through stakeholder consultation (national haulage organisations, shipper councils and the national Ministries of Transport or other regulatory and controlling bodies). For this purpose, a number of different questionnaires have been developed (see annexes 1-3). The information collected via the questionnaires provided a preliminary indication of problem areas and possible solutions. In order to further deepen the understanding of these general problems and possible solutions, a meeting with road haulage organisations⁴² was held (see annex 7). Finally, the cabotage related problems were discussed with representatives of transport workers from across the EU during a meeting with the European Transport Workers Federation⁴³.

4.2 Problem analysis

During the stakeholder consultation rounds two areas of difficulty which affect the road cabotage transport market were identified. These areas are:

- Definition of cabotage transport operations;
- Enforcement of cabotage regulations.

The exact nature of the difficulties and to what extent they affect the road cabotage transport market is discussed hereafter in separate subsections. The problem analysis here is focused on the current situation in the cabotage market⁴⁴.

⁴² Meeting on road cabotage in the freight transport market, held at 21 November 2005 in Brussels at DGTREN. This meeting was attended by representatives of 10 different road haulage organisations from 8 different European Countries.

⁴³ Meeting was held at 29 November 2005 in Brussels at the ETF's premises.

⁴⁴ This allows cabotage transport by the Old Member States, plus Slovenia, Malta and Cyprus.

4.2.1 Definition of road cabotage transport

As already stated in the Commission Interpretative Communication (CIC), the lack of a workable definition for the phrase “on a temporary basis” has posed a problem for some time. It created uncertainty among operators about the scope of operations permissible within the borders of another EU state. The practical cases described in section 2.3 also make clear the difficulties that exist in determining exactly when a transport activity ceases to be temporary and becomes permanent (with the exception of the ‘Sugar beet case’, which is clearly not a cabotage transport operation). Although the CIC provides jurisprudence⁴⁵ to shed light on this, it still leaves room for widely differing interpretations. The examples provided in section 2.3 corroborate with the conclusion of the CIC that each specific situation needs to be examined individually in the light of the considerations laid down in the CIC. Apparently other elements should be taken into account in the definition of cabotage transport.

Other elements to be included in definition of cabotage

Besides the issue concerning the definition of the phrase “on a temporary basis” there are other aspects that need to be addressed in order to judge whether or not a certain transport operation or service constitutes cabotage (see Commission Interpretative Communication, section 3.1.2). In Sweden the responsible authority is developing a new set of regulations on cabotage targeting specific transport practices by foreign hauliers active within the country. It concerns hauliers that work the Swedish domestic market for a certain period (e.g. Monday to Saturday), leave the country with empty vehicles for a short while (e.g. for only one day or a few hours via the Öresund bridge to Denmark) and return again with empty vehicles to continue domestic transport operations on Swedish territory. When performed on a regular basis these operations can be viewed as having become not any longer temporary and therefore do not constitute cabotage transport according to Council Regulation 3118/93 (see Commission Interpretative Communication, section 4: Conclusion). These operations are considered to be illegal by the Swedish authorities. To address the problem the following additional regulations are under consideration:

- Foreign hauliers may not perform cabotage transport in Sweden if they enter or leave the country with empty vehicles. Cabotage transport may only be performed following a loaded international trip into Sweden (import), or preceding a loaded international trip out of the country (export).
- Foreign hauliers are prohibited from performing cabotage transport for the same company or industry repeatedly.

Combined with the “other elements” which are considered in the CIC⁴⁶, the definition of cabotage operations could be improved upon, which would help relevant authorities and transport operators to determine whether certain activities are cabotage transport.

⁴⁵ With the Gebhard judgement, the Schnitzer judgement and the Andreas Hoves judgement.

⁴⁶ The organiser of the transport operation, the location of the centre of operations, and the number of lorries used by an operator (see CIC, section 3.1.2. on page 6).

4.2.2 Enforcing cabotage regulations

A second area that poses problems is related to the enforcement of cabotage regulations. This of course stems directly from the problems surrounding the definition of cabotage transport which leaves room for varying interpretations. This makes it difficult for authorities to assess when transport operators are violating the common rules which are applicable to the sector.

Enforcement of social rules

The problem may be exacerbated if it is unclear to the various stakeholders engaged in cabotage transport (e.g. authorities or organisations involved in enforcement, road hauliers, shippers), which social regulations are applicable to road cabotage operations. By avoiding social and/or fiscal costs that domestic operators must face foreign operators may gain an unfair competitive advantage. This in turn may prompt protective measures⁴⁷ in from the Member State in question. Article 7 of Council Regulation 3118/93 concerns the adoption of safeguard measures in the event of a serious disturbance of the national transport market which threatens the financial stability and survival of a significant number of road haulage companies.

Given the EU Regulations and Directives on social legislation in road transport, which have been discussed in chapter 3, it is doubtful whether hauliers performing cabotage transport are able to gain any kind of advantage over domestic hauliers through differences in social and/or fiscal treatment. There will always be disparity to some extent simply because of differences in the cost structure (e.g. disparity in fuel costs or freight taxes). This will increase the competitiveness of the market (especially when the other new Member States enter the cabotage market), lowering costs which will benefit shippers and other consumers of transport services.

In conclusion, a clear framework of regulation on social aspects and working conditions in the EU already exists and it is somewhat surprising that Member States are only referring to Council Regulation 3820/85. There seems to be a need to improve communication on the social rules applicable to road cabotage in the Member States.

4.3 Recommendations

In this last section possible solutions to the identified problems concerning road cabotage in the freight transport market are explored. The structure of the recommendations presented here follow directly from the problem areas identified in the previous section.

⁴⁷ The following examples are mentioned by the stakeholders: (1) Italian requirement of a drivers' logbook: drivers who perform cabotage transport are obliged to complete a logbook on their cabotage activities. The supply of logbooks is however insufficient and the system is regarded as too bureaucratic. (2) Restriction of cabotage duration in France: duration is limited to 30 days consecutive or 45 days non-consecutive during 1 year period. Although duration is short, foreign hauliers still have to comply with national French social regulations. Competitive advantages of foreign hauliers performing cabotage transport in France are being frustrated by French regulations (and it might frustrate efficiency in transport as well).

4.3.1 Include other elements in the definition of cabotage transport

The current difficulties concerning the definition of cabotage transport prevent the authorities in Member States from communicating and acting effectively. The limits of cabotage transport are unclear as are the constraints that cabotage operators have to comply with. Problems of interpretation stand in the way of a useful and complete dialogue over ‘road cabotage’ among the Member States themselves. To address this a clear definition of cabotage, harmonised between all Member States, should be provided for in improved EU regulation.

The difficulties with respect to the definition of cabotage transport centre on the interpretation of the phrase “*on a temporary basis*”. The duration criteria is not expounded upon. Although the four criteria mentioned in de CIC (duration, frequency, periodicity and continuity) provide a useful reference, it is highly recommended to enclose *other factors* in the definition of cabotage transport.

Other factors

There are initiatives in some Member States addressing the regulatory framework governing road cabotage (e.g. Sweden) and new elements in the definition of cabotage transport are being proposed. Examples of these new elements are:

- Foreign hauliers may not perform cabotage transport as long as they enter or leave the country with empty vehicles. Cabotage transport can only be performed following a loaded international trip or preceding a loaded international trip.
- Foreign hauliers may not perform cabotage transport for the same company or industry repeatedly.

The first of these proposed additions is justified because cabotage transport was originally conceived with the aim of reducing the number of empty journeys during the course of international transport operations and in this way increasing transport efficiency.

The second proposed addition is closely related to the criterion *periodicity*, which states that cabotage operations should only be carried out occasionally. If a foreign haulier is carrying out domestic freight services repeatedly for the same customer, the operation has become systematic, and can no longer be considered to be cabotage transport. To enforce the measure the frequency with which a transport operator carries out services for one and the same shipper can be checked.

The additional criteria would sharpen the definition of road cabotage, enable authorities to better control the actual operations, and facilitate the transport companies active in cabotage transport by taking away uncertainty.

4.3.2 Improve communication with stakeholders on social legislation

The Council Regulations 3820/85, 3821/85 and 2135/98 lay the basis for a harmonised EU-framework of common rules on social aspects and the monitoring of transport operations which are also applicable to cabotage transport by road. The Working Time Directive (2002/15/EC) and the Posting of Workers Directive (96/71/EC) further

contribute to an equal treatment of companies that provide transport services throughout the EU. There might be a need however to improve communication between the national authorities engaged in the enforcement of regulations and hauliers concerning the applicability of these Council Regulations and Directives with respect to cabotage transport in particular. This is particularly the case for the *Posting of Workers Directive*, which did not even gain a mention by the authorities during the stakeholder consultation. This is remarkable given that each Member State is required to ensure cooperation between the public authorities which, in accordance with national legislation, are responsible for monitoring the terms and conditions of employment referred to in article 3 of this directive (see article 4 ‘Cooperation on information’ of the Posting of Workers Directive). Further, it is the responsibility of the national authorities in the EU to strictly enforce the existing common social regulations that cover road transport and cabotage transport in particular. This is of growing importance due to the enlargement of the market as the hauliers from new Member States are allowed to carry out road cabotage.

Finally, an improved definition on cabotage transport (including additional clarification of the phrase “*on a temporary basis*” and other elements⁴⁸) and a clear communication on the social rules that are applicable to road cabotage transport will assist the national authorities engaged in the enforcement of these rules on one hand, and the transport companies active in cabotage transport on the other hand. As a consequence difficulties with the enforcement of cabotage regulations will diminish⁴⁹.

48 Foreign hauliers may not perform cabotage transport in Sweden as long as they come or leave the country with empty vehicles. Cabotage transport can be performed following a loaded international trip to Sweden (import), or preceding a loaded international trip from Sweden (export). Foreign hauliers may not perform cabotage transport for the same company or industry repeatedly.

49 A critical factor here is also the availability of well educated control officers who can audit the cabotage aspects of transport operations frequently.

Annexes

Annex 1 Questionnaire for Ministries of Transport / Controlling bodies

Note: The questionnaires which are sent out are being introduced by an official letter from the European Commission and a short introduction on the background and aim of this study.

Austria

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E-Mail: Christian.schimanofsky@bmvit.gv.at.

Belgium

Not available

France

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Germany

Federal Ministry of Transport, Building and Housing
Division S 36
Robert-Schuman-Platz 1
53175 Bonn
Dr. Siegrid Penndorf
Assistant Head of Division
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Fax: +49 (0) 228 300-1470
E-Mail: siegrid.penndorf@bmvbw.bund.de

Italy

Department for Road Transport
Freight and Passengers Road Transport General Division
Freight International Road Transport – ex APC 3
Dr. Camillo Lobina
Tel: +39 6 41584102/4110
Fax: + 396 41584111

Luxemburg

Ministry of Transport
Guy Status
11, Rue Notre Dame
L-2938 Luxembourg
Tel: 478-4437

Netherlands

Regulation Authority Information
Policy and Legislation:
Ministry of Transport
DGTL/Road haulage division
Huib Kasteleijn
P.O. Box 20904
2500 EX The Hague
The Netherlands
Tel: +31 70 3511642
Fax: +31 70 3511693
E-mail: huib.kasteleijn@minvenw.nl

Licensing organisation for professional operators:

NIWO
P.O. Box 3004
2280 MB Rijswijk
The Netherlands
Tel: +31 70 3992011
Fax: +31 70 3908704

Slovenia

Slovenia does not provide any answer to the proposed questionnaire. Some information was in the text of the following e-mail:

“In Republic of Slovenia we do not have any special provisions concerning road cabotage. We are conducting according to Council Regulation (EEC) No 3118/93 of 25 October 1993 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State. Slovenian Road Transport Act (OJ SLO, NO 26/2005, Zakon o prevozih v cestnem prometu, Ur.l. RS, št.: 26/2005) in Articles from 88 to 93 contains provisions on road cabotage. This Act allows road cabotage without any special prohibition (haulier only needs to have EU licence), without any time limitations, vehicle characteristics etc.

As in Slovenia we do not have any special regime for road cabotage, we saw no purpose in handing out empty questionnaire, so we are giving only short answer. Slovenia is not a very interesting country for foreign hauliers to perform cabotage in, because we are too small. As till now, we did not have any problems with foreign hauliers performing cabotage and if such problem should occur, we would deal with it depending on the problem or on the infringement”.

Spain

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Sweden

Swedish Customs (MS Regulatory Authority)
Box 12 854
SE-112 98 STOCKHOLM
SWEDEN
Contact person: Road cabotage
Mr Hans ERIKSSON
Swedish Road Administration
Society and Traffic
SE-781 87 BORLÄNGE
SWEDEN
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United Kingdom

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Department for Transport
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SW1P 4DR
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2) Member State applicatory circular information

Question: Please list below the number, date and publication date of all regulatory acts (applicable laws, regulations, decrees or administrative practices, instructions to controlling bodies, etc.), if any, concerning cabotage transports which apply in your Member State. Please also enclose in your answer the eventual modifications applied to these acts or complementary documents.

Answers:

Austria

There is no national regulation so far, but Regulation 3118/93 and (Information) 2005/C21/02 are observed.

Belgium

Not available

France

January 22nd, 2002 Circular about cabotage practice not conforming to regulation, revoked by Council of State of June 2003. This circular set in one week the maximum continuative duration of the cabotage activities within French territory. All the vehicles that carry out cabotage operations on national territory for more than one week commit an infraction.

The Circular No. 2004/9 of March 18th, 2004, related to the application of the revised EU regulation No. 3118/93 of October 25th, 1993 that sets the admission conditions for non resident hauliers to carry out transport activities within a Member State.

Decree No. 2004-1080 of October 11th 2004 concerning road cabotage transport, which execution was stopped by Council of State on November 18th, 2004, until the time of the judgement regarding the decree cancellation. This decree submits road cabotage activity within French territory to a double limitation:

- No more than 10 consecutive days
- No more than 15 days in a period of 60 days

Law No. 2005-882 of August 2005, in favour of small and medium firms, has modified and integrated several regulations and decrees concerning cabotage activity. The implementation of these provisions is subordinate to the applicative text publication.

Germany

Council Regulation 3118/93 is directly applicable national legislation. Details are regulated in *Verordnung über den grenzüberschreitenden Güterverkehr und den Kabotageverkehr* from 22 December 1998, as last amended by decree from 29 June.

Italy

- Decree of March 18th 2005 “Provisions concerning the execution within Italian territory of road cabotage activities on a temporary basis”;
- Decree of March 24th 2005 “Carrying out Act of the Decree of March 18th 2005 concerning freight road cabotage”;
- Circular No. 1/2005 of July 26th 2005.

Luxemburg

None

Netherlands

- Road Haulage Act” chapter 5 art 88 - art 98 of April 27th 1992(Besluit goederenvervoer over de weg hoofdstuk);
- Implementation of the Road Haulage Act (Wet goederenvervoer over de weg 1992).

Slovenia

Spain

Spain does not have any specific national regulation concerning road cabotage transport. This activity is directly regulated by the Council Regulation 3118/93.

Sweden

Law - *Yrkestrafiklagen* (1998:490). Issued the 11 of June 1998, published the 22 of June 1998 and coming into force 1 October 1998.

Decree No 1998/786 on eligible authorities in matters of international transports within the EEC. This regulation takes the place of the Law on professional traffic No. 1998:490. This decree was issued on June 25th 1998, published on July 7th 1998 and coming into force on October the 1st 1998.

Decrees - *Yrkestrafikförordningen* (1998:779). Issued 25 June 1998, published 7 July 1998 and coming into force 1 October 1998. This decree concerns the possibility for a Swedish carrier to receive a traffic permit of using a vehicle registered in a different country for his own enterprise.

Regulation/Administrative practices, Swedish Customs - *Tullverkets föreskrifter och allmänna råd om internationella vägtransporter* (TFS 1998:36). Issued in December 17th 1998, published in December 30th 1998 and coming into force the 1st of January 1999;

United Kingdom

In September 2002, following consultation with the Commission, the Department for Transport issued the following guidelines to the enforcement agency VOSA:

- 1) The activity of a transport company is under no circumstances permanent, frequent, or on a regular or continuous basis.
- 2) If the vehicles of a company engaged in cabotage never leave the UK there is an infringement of the Regulation
- 3) That activities are carried out entirely on a casual and circumstantial basis at considerable and infrequent intervals
- 4) There is proof exit from the country on specific occasions, and at least once a month.

3) Temporary character of the cabotage operations

3.a) Duration the cabotage vehicle is permitted to remain and operate in the Member State.

Question: Could you indicate the period of time (weeks, months) during which an operator is permitted to carry out one or more cabotage operations in your country?

3.b) Frequency the cabotage vehicle is permitted to operate in the Member State.

Question: Could describe how many cabotage operations per month a foreign haulier is permitted to carry out in your country?

3.c) Periodicity the cabotage vehicle is permitted to remain and operate in the Member State.

Question: Could you describe the regularity of the cabotage operations (i.e. whether the cabotage is carried out occasionally or regularly) permitted in your country?

3.d) Continuity the cabotage vehicle is permitted to remain and operate in the Member State.

Question: Could you describe the continuity of the cabotage operations (i.e. continuity means that, in a given period, a haulier is engaged solely in cabotage operation; the essential element is the permanence or constancy of the operations) permitted in your country?

Answers:

Austria

2 months for the time being, according to the *Kraftfahrgesetz* (Motor Vehicle Act).

Belgium

Not available

France

3a) According to the regulation of August 2nd, 2005 road cabotage activity is subject to two limitations:

- No more than 30 consecutive days;
- No more than 45 days on a period of 12 months.

Generally, the law says that a haulier does not comply with the Communitarian cabotage regulation if he carries out:

- A continuative, regular and systematic road cabotage activity on French territory;
- A continuative, regular and systematic road cabotage activity that develops through locations or facilities placed on French territory.

3b) The provision introduced at point 3a, that establishes a double limitation concerning both consecutive duration (maximum 30 consecutive days) and cumulative duration (maximum 45 days in a one year period), allows transporters to plan and organize their own transport activities in the established limited period.

3c) The provision introduced at point 3a, that establishes a double limitation concerning both consecutive duration (maximum 30 consecutive days) and cumulative duration (maximum 45 days in a one year period), allows transporters to plan and organize their own transport activities in the established limited period.

3d) The provision introduced at point 3a, that establishes a double limitation concerning both consecutive duration (maximum 30 consecutive days) and cumulative duration (maximum 45 days in a one year period), allows transporters to plan and organize their own transport activities in the established limited period.

Germany

There is no specific rule for the definition of temporary character of cabotage activities.

Italy

3a) The vehicle that has a cabotage book can carry out road cabotage activity within Italian territory for a maximum period of 30 days even if non consecutive, in a period of 60 days. The vehicle has to get out from the Italian territory at least once a month.

3b) According to point 3a it is possible to carry out an indefinite number of travels per each day and therefore per each month.

3c) According to Council Regulation 3118/93, cabotage activity can be performed exclusively on occasionally.

3d) Vehicles that carry out cabotage activities can carry out also other transport activities during the same time period.

Luxemburg

No limitation

Netherlands

Since 1 July 1998 liberalised cabotage, no limitations for the 15 EU Member States plus Slovenia, Malta and Cyprus since 1 May 2004.

Slovenia

Spain

According to the criteria presented in the Commission Interpretative Communication of 2004.

Sweden

No general interpretation of this criterion. In general, it is considered a violation of Council regulation 3118/93, when a transport company is not established in Sweden performs domestic transport services which are permanent and the vehicle in question never leaves the country.

United Kingdom

One of the criteria that needs to be satisfied is that non-resident EU vehicles must exit the UK at least once a month. Road cabotage transport can only take place on an occasional basis.

4) Please indicate to which authority the cabotage documents have to be returned at the end of the validity period.

Answers:

Austria

There are no special documents being prescribed so far.

Belgium

Not available

France

The application and control procedures, introduced at point 3a, will be discussed in an applicative text, now in progress.

Germany

There are no special cabotage documents.

Italy

Cabotage documents, at the end of their validity period or in case of request of new documents, have to be given back to Freight and Passengers Road Transport General Division - Freight International Road Transport – ex APC 3.

Luxemburg

Not available

Netherlands

No cabotage documents applicable.

Slovenia

Not available

Spain

There are no specific documents for cabotage activities. As the national transport activities, transporters have to bring the documents established in the FOM/238/2003 of January 31st 2003.

Sweden

Not available

United Kingdom

Not available

5) Prices and conditions to receive the cabotage documents.

Question: Could you describe which the procedures are and which amount has to be paid to receive the cabotage documents? Furthermore could you enclose a copy of the documents request form?

Answers:

Austria

See previous answer,

Belgium

Not available

France

The application and control procedures, introduced at point 3a, will be discussed in an applicative text, now in progress.

Germany

There are no special rules for this.

Italy

Transporters have to pay a tax of € 14.62 for each application of cabotage activities; there is a limitation of 5 cabotage logbooks. Furthermore, transporters have to pay a tax of € 7.80 for each requested cabotage book. Obviously, the enterprise which executes cabotage operations has to hold the cabotage Community License.

Luxemburg

Not available

Netherlands

Not available

Slovenia

Not available

Spain

Not available

Sweden

Not available

United Kingdom

Not available

6) Cabotage vehicle characteristics

Question: Please describe the cabotage vehicle characteristics in relation to weight, dimension, etc. specified in the Member State applicatory circular.

Answers:

Austria

The cabotage system applies for all foreign vehicles, regardless their maximum permissible weight and dimension.

Belgium

Not available

France

Vehicles not registered in France that operate on French territory, have to comply with the road regulation. In particular, in relation to vehicles weight and dimensions, they have to comply with road regulation - articles R. 312-1 and following.

Germany

There are no special rules for this.

Italy

Not available

Luxemburg

Characteristics specified in EU texts.

Netherlands

There are no specific characteristics for cabotage vehicles. In general weights and dimensions (Directive 96/53) are specified in "Voertuig reglement". Some municipalities have limitations for distribution vehicles in weights and/or measurements.

Slovenia

Not available

Spain

Not available

Sweden

Not available

United Kingdom

Vehicles must be licensed and registered in accordance with the relevant legislation in the operator's country of establishment and operate under cover of an EC Community Authorization certificate.

7) Prescription related to certain freights categories transport

Question: Please describe, if specified in the applicatory circular, the freight categories that are not allowed to perform cabotage transport or the restrictions under which cabotage transport is allowed for these categories in the Member State.

Answers:

Austria

Not available

Belgium

Not available

France

Council Regulation 3118/93 refers to dangerous freight transport, perishable products transport and living animals. Transporters that carry out road cabotage on French territory have to comply with the specific rules related to these kind of transports and furthermore have to keep all the necessary documents during the development of transport activities.

Germany

There are no special rules.

Italy

Not available

Luxemburg

Not available

Netherlands

Not available

Slovenia

Not available

Spain

Not available

Sweden

Not available

United Kingdom

Not available

8) VAT and other taxes on transport services

Question: Please describe the fiscal aspects of the cabotage transport services in the Member State, with particular reference to the VAT system.

Answers:

Austria

The VAT system is applicable for all transport services within the Austrian territory, regardless the national registration of the vehicle.

Belgium

Not available

France

In relation to fiscal aspects of cabotage transport within French territory, enterprises established in one of the Community Member States other than France and that perform cabotage within French territory, have to be registered to the French VAT system

(generally this procedure can be carried out in the Taxes Centre for no-resident people - *Centre des impôts des non-résidents*, 9 rue d'Uzès, 75094 PARIS). Enterprises registered before January 1st 2002, can refer to Local Taxes Centres. The VAT registration number has to be reported on the delivery note.

Foreign enterprises have to declare and pay the VAT. Following the payment those enterprises have to issue an invoice (or analogous document) of which they have to keep duplicate invoice.

The invoices have to report: the VAT identification number of taxpayer and client, the total amount before taxes, the taxes amount (articles 289 and following of the taxes general code).

Germany

There are no special rules for the fiscal aspects of the cabotage transport services. VAT isn't known here.

Italy

The fiscal aspects related to road cabotage transport on Italian territory and in particular the VAT is charged to the transport purchaser. The foreign haulier has to issue an invoice to the Italian transport purchaser who has to specify the required tax amount. In particular, if the foreign haulier does not issue the invoice on or before one month after the transport services have been performed, the Italian transport purchaser will provide the auto-invoicing, specifying the haulier VAT registration number. If the foreign haulier provides transport services in favour of private subject, before carrying out transport operations, he has to register to the Italian Tax Office and to appoint a tax representative.

Luxemburg

No particular regime (principle of non discrimination).

Netherlands

VAT is applicable to national transport, therefore also for cabotage transport services. As the operator is not established in the Netherlands the payment and settlement is shifted to the shipper/principal.

Slovenia

Not available

Spain

The foreign haulier who performs cabotage activities on Spanish territory does not have to include the VAT amount in its own invoice. The Spanish transport company is liable to VAT.

Sweden

Not available

United Kingdom

Uncertain as this is a matter for the Finance Ministry.

9) Time and conditions of transport drivers employment

Question: Please describe, if present, any condition related to the drivers' working conditions in the cabotage transport services such as the consecutive time of driving and the advised time to rest.

Answers:

Austria

Drivers working conditions in cabotage transport services do not differ from "normal" working conditions (driving time, resting time, etcetera).

Belgium

Not available

France

a) Driving time and suggested rest times

In relation to time and conditions of transport drivers' employment, France applies directly the Council Regulations No. 3820/85 e 3821/85.

According to article L. 325-5 of road regulation, the calculation of consecutive driving time and suggested rest times should also include working hours performed outside the French territory.

b) Social Conditions

The French Regulation provides that French social regime is directly applicable to road transport enterprises employee. The employers involved in cabotage activities, will be submitted to legislative, regular and conventional disposals applicable to employees of French enterprises operative in the same activity sectors, in relation to:

- personal and collective freedom, in relation to professional contract and right to strike;
- duration of work, compensatory time, vacations, temporary absence, maternity leave, paternity leave, compulsory inscription to leave and bad whether cash;
- guaranteed minimum wage, including the increase for additional working time;
- conditions of guarantee for temporary workers;
- Safety, health, sanitary regulations;
- Professional equality, protection of maternity, work admission age, children employment, work duration, young people night work;
- Illegal work.

(Article L. 342-3 of code of professional conduct)

The conditions and the application modalities of the provisions reported above, the conditions under which the declarative procedures of foreign tax-payer will be required, will be included in an applicative text which is now in progress.

Germany

There are no special rules for the drivers' working condition in the cabotage transport service.

Italy

Cabotage transporters have to comply with the Council Regulation 3820/85 concerning driving time and suggested rest times. Furthermore, transporters have to keep on board all the documents proving the working relation between haulier and cabotage enterprise. In case that the haulier does not belong to a Community Member State, he needs a declaration that confirms the permission to perform cabotage activities.

Luxemburg

Regulation 3820/85.

Netherlands

Driving and resting times in conformity with Regulation 3820/85 are applicable. Maximum working time must be adhered to.

Slovenia

Not available

Spain

Council Regulation 3820/85 is applied.

Sweden

Not available

United Kingdom

Subject to relevant EC legislation.

10) Controlling strategies carried out by the Controlling Bodies

Questions:

10a): Please describe the controlling procedures put into practice by the controlling bodies in your country in order to observe if the national applicative regime is being complied with by the road hauliers.

10b): Please describe the traffic monitoring procedures that are carried out in your country in order to observe if the national applicative regime is being complied with by road hauliers.

10c): Please describe the restrictive measures that are imposed by the controlling body in your country in case road hauliers do not comply with the national applicative regime.

10d): Please describe possible other sanctions (if there are any) imposed by the controlling body in your country in case road hauliers do not comply with the national applicative regime.

Answers:

Austria

Not available

Belgium

Not available

France

10a) The control procedures presented at point 3.a are still in progress and will be treated in a Council of State Decree.

10b) At present no controlling procedures are implemented.

10c) Further to the regulation of August 2nd 2005, the vehicles of enterprises which are not allowed to perform cabotage activities on French territory or vehicles that do not comply with the rules pointed out under 3a, are impounded. Following the regulation of August 2nd 2005:

- Transporters of countries which are not allowed to perform cabotage activities are liable to a fine of € 15,000 and one year of prison. The court can render a complementary punishment of interdiction to perform cabotage activities for one or more years.
- Transporters that do not comply with provisions presented at point 3.a are liable to a sanction of € 7,500.

Germany

Within the scope of controlling the company of the customers of road hauliers, operators can be inspected in order to find out if they comply with the national applicative regime. By checking the documents of the customers the controlling bodies will find out contracts with road hauliers of other countries. They also can find out whether the road hauliers carry out the transport permanently and continuously. On the road the controlling bodies can only look for the EU-licences as evidence of regular transport. Road hauliers who exceed the temporary aspects of cabotage transport behave irregular. They do not have the necessary permit. Under German law (§ 19 Abs. 1 Nr. 1 b i.V.m. § 3 Abs. 1 Güterkraftverkehrsgesetz) a fine can be imposed.

No other sanctions are possible.

Italy

10a) Road Side checking points carried out by specific authorities.

10b) Monitoring activities are addressed mainly to the control of number of trips, distances covered (in km) and freight volumes and categories by year and month. Those data are regularly registered in cabotage logbooks by the hauliers.

10c) According to the law 298/74 (articles 26 and 46), there are sanctions for performing cabotage activities without authorization and proper title.

10d) In case of infringements, hauliers are subject to a monetary sanction and in some cases to the impounding of the vehicle.

Luxemburg

Not available

Netherlands

Enforcement of the national regime is carried out by the Transport Inspectorate of the Netherlands (*Inspectie Verkeer en Waterstaat, Toezichtteenheid Goederenvervoer*), the national police (*Korps Landelijke Politiediensten*), some regional police forces and

customs officers. The Transport Inspectorate is responsible for the controlling policy to which other enforcement bodies adhere. Roadside checks are held by the above mentioned authorities throughout the year on all roads across the country with emphasis on main transport routes. In 2004 about 24,000 vehicles have been inspected.

In case a transport is not covered by a valid authorisation, the transport is stopped. The operator concerned has the opportunity to call in another operator to continue the transport of the load. In such incidences discharge of liability to conviction by payment of a fixed penalty is offered by means of the officer of Justice.

Slovenia

Not available

Spain

In order to enforce the regulatory regime with respect to cabotage operations, the Spanish authority states that transport documents are checked in compliance with the national regulation LOTT 16/1987 of July 30th 1987, Council Regulation 3118/93 and the Commission Interpretative Communication of 26th January 2005. Documents required for cabotage transport are national authorisations distributed by the Spanish authorities or a copy of the Community authorisation. In case of infringements, the sanctions applied are in accordance with previous mentioned national regulation (LOTT 16/1987 of July 30th 1987).

Sweden

Not available

United Kingdom

Vehicle Operator Services Agency (VOSA) relies on the provisions of the Goods Vehicle Operator Licensing Act 2001, in conjunction with Article 8 of EC Regulation 3118/93.

This is at the discretion of VOSA. Restrictive measures that are imposed by the controlling body in your country in case road hauliers do not comply with the national applicative regime:

1. Reporting offenders to the competent authorities in the state of the establishment of the vehicle.
2. Prohibition of the vehicle, including redirecting the vehicle out of the country.
3. Impounding of the vehicle.

11) Other Elements

Question: If you wish, please provide any further comments, which were not touched upon yet in the previous questions, and which you think are important.

Answers:

Austria

A special cabotage regulation, which will be similar to the Italian, is under preparation.

Belgium

Not available

France

a) Economic Context

The European Commission registered a considerable increase of cabotage activities in recent years (3.5 billion tonne-kilometres). About 1/3 of European cabotage activities is carried out on French territory. French market penetration index is 2.1%. The principal actors that operate on French market are Luxembourg and Belgium (that control about 50% of cabotage market), up above Spain, Germany, Netherlands and Italy.

The numbers connected to cabotage activities – on which the official statistics are based – are not really explicative for the cabotage reality, because they do not take into consideration those data related to illegal cabotage activities which came out following controlling procedures carried out on French territory (new Member States not allowed to perform cabotage activities during the transition period, countries not belonging to the European Commission).

At October 18th 2005, more than 700 enterprises not established in France, operating in cabotage transport, registered at non residents' taxes centre (versus 358 in November 9th 2004).

The road cabotage issue is far from being only related to the sugar beet campaign that had a considerable importance in the media during 2005. Actually, cabotage activities are performed within different sectors: agricultural products, food, manufacturing products, press distribution, liquid products, automotive products, etcetera.

The consequences deriving by the rapid development of cabotage activities do not have to be minimized. Actually, the domestic and international markets register considerable losses consequent to the non-harmonized transport situation especially in relation to the social and fiscal aspects. This situation brings excessive transport prices tensions that destabilize the market.

The present juridical context is not satisfying. Cabotage activity is regulated by Council Regulation 3118/93 of October 25th 1993, which defines cabotage as the transport activity in which any road haulage carrier for hire or reward who is a holder of the Community authorization [...] shall be entitled to operate, on a temporary basis national road haulage services in another Member State, without having a registered office or other establishment therein. Following to several annexes, the regulation provided different interpretations and applications within the Member States because of the lack of a European Community definition of the temporary concept. This brought to the development of abusive practices that distort the application of social and tax rules and therefore the competition game.

To obviate to the inadequacy of regulation 3118/93, some Member States (Greece, UK, Italy and France) adopted national measures to establish the necessary law frame for cabotage transports. Nevertheless, those national provisions bring inequalities within the European Community.

It is not useful to forbid cabotage activities, it is on the contrary necessary to define clear rules that do not bring any interpretation difficulty and that provide the Member States with the necessary means to improve and control cabotage activities, in order to ensure equality and juridical security.

This situation needs solutions on a European level. Actually, transport policy is a European policy included in title V (articles 70 to 80) of the European Community treaty. In particular, article 71 of treaty maintains that “in relation to article 70 and on the basis of the special aspects of transports, the Council deliberating on the bases of article 251 and following the Economic and Social Committee and Regional Committee consultations, states:

...b) the non residents’ transporters admission conditions to national transports within a Member State”.

b) The review of Council Regulation 3118/93 is an absolute and urgent necessity

France agrees with the verification presented by the Commission in the Interpretative Communication and published in the Commission Official Journal of January 26th 2005, that specifies that “economic operators have the right to know the real extension of their possibility to perform cabotage operations and the Member States have the right to protect their market from the operators that under a false imagine of temporary activity, perform a continuative activity without complying with the specific rules concerning the establishment in the State that gives hospitality”.

The present disposals of Council Regulation 3118/93 do not allow putting into practice the rights of the economic actors and of the Member States, nevertheless perfectly identified.

It is therefore indispensable to review as soon as possible Council Regulation 3118/93 – that is not longer adapted to reality – to institute easy and clear rules for cabotage transport, that furthermore allow to guarantee a honest competition and a harmonic functioning of the European market. France is ready to provide suggestions in this direction. The regulation of the cabotage question is as more urgent as briefer is the transition period of the new Member States, that could finish at latest in May 2009.

Germany

A different interpretation and application of the temporary concept of cabotage does not result in a fair competition and results in uncertainty of the trade. A uniform interpretation and application in the Community is mandatory. Germany is for measurable criteria and they must be checked.

Italy

The office for the cabotage book issue does not require any document that confirms the vehicle possession and the community license. It is only required a declaration of the contents presented in those documents.

Luxemburg

Luxembourg does not apply any restriction, but only the liberalization and non discrimination principle.

Netherlands

Flagging out vehicles to a daughter company in another Member State and deploying the vehicle in the Member State where the mother country is registered is a recent development that gives the opportunity to choose from the best of both worlds.

Slovenia

Not available

Spain

Not available

Sweden

Not available

United Kingdom

Not available

Annex 2 Questionnaire for road haulage organisations

Note: The questionnaires which are sent out are being introduced by an official letter from the European Commission and a short introduction on the background and aim of this study.

If there are no data sources available to answer the questions, please provide us with your own **expert judgment** and indicate that the answer is based on an expert judgment. Before filling in the questionnaire, please complete the following table.

We can assure you that your answers will be treated with the utmost confidentiality.

Organisation	
Task of organisation	
Country	
Name (contactperson)	
Function	
Telephone	
E-mail	

Section 1: Basic information regarding cabotage ‘countries’ and ‘commodities’

Question: Which share of the road haulage companies registered in your country does your organisation represent?

____%

Answers:

R1	R2	R3	R4	R5	R6	R7	R8	R9	R10
90%	20%	60%	30%	33%	-	85%	50%	-	35%

Question: What is the total volume of cabotage transport per year being performed by road haulage companies registered in your country? Please provide the volumes (tonnes and tonne-kilometres) for the most recent year available.

Year:

- Total volume _____ 1000 tonnes
- Total volume _____ million tonne-kilometres

Answers:

	R1	R2	R3	R4	R5	R6	R7	R8	R9	R10
Tonnes	376	10,000		564			106	12,546		480
Tonne-kms	170	1,800		254			70	2,274		1,200

Question: What are the main countries where road haulage companies registered in your country perform cabotage transport?

- Austria _____%
- Finland _____%
- Greece _____%
- Luxemburg _____%
- Slovenia _____%
- UK _____%
- Belgium _____%
- France _____%
- Ireland _____%
- Netherlands _____%
- Spain _____%
- Other EU _____%
- Denmark _____%
- Germany _____%
- Italy _____%
- Portugal _____%
- Sweden _____%
- Other non-EU _____%

Answers:

	R1	R2	R3	R4	R5	R6	R7	R8	R9	R10
A		12,0%						0,1%		
B		1,3%						30,7%		
D		2,6%						0,2%		
SU		0,0%								
F		30,3%			35%			4,7%		10,0%
D		0,0%		38%	55%		40%	44,2%		9,0%
GR		2,9%								
IRE		0,0%								
I		21,9%			1%			0,6%		
L		0,3%			1%					
NL		3,8%			6%					8,0%
P		0,2%								
SI		0,0%								
E		10,4%			1%			0,6%		60,0%
S		6,7%		12%			35%	1,7%		
UK		7,6%			1%			15,1%		
Other EU		0,0%		13%				0,3%		3,0%
Other non-EU		0,0%		36%			25%	1,8%		
Don't know	x									

Question: What are the main commodities in cabotage transport by road haulage companies registered in your country?

- Agricultural products _____%
- Food and drinks _____%

- | | | | |
|-----------------------|--------|-------------------------|--------|
| • Solid mineral fuels | _____% | Oil and oil products | _____% |
| • Ore, metal scrap | _____% | Iron and steel products | _____% |
| • Raw minerals | _____% | Building materials | _____% |
| • Fertilisers | _____% | Base chemicals | _____% |
| • Chemical products | _____% | General cargo | _____% |
| • Containers | _____% | Other products | _____% |

Answers:

	R1	R2	R3	R4	R5	R6	R7	R8	R9	R10
Agricultural				5%	15%	5,7%				
Food&Drinks				18%				9,2%		
Solid mineral fuels				1%				1,1%		
Oil & oil products				1%				0,3%		
Ore, metal scrap								2,4%		
Iron & steel prod.								4,0%		
Raw minerals								16,4%		
Building materials				2%			15%	5,6%		
Fertilisers								1,2%		
Base chemicals				1%				5,9%		
Chemical products								6,6%		
General cargo				23%			70%	9,7%		80%
Containers								13,8%		
Other products								18,3%		20%
Don't know	x	x								

Section 2: Information regarding the cabotage services provided

Please answer the following questions from the perspective of road haulage companies registered in your country which are actually performing cabotage transport. If you have no data available, please provide your expert opinion.

Question: Can you give a description of a typical cabotage transport trip performed by a road haulage company registered in your country?

Answers:

- There is no such thing as a typical cabotage transport trip. Cabotage trips are mostly limited in time, as they are done to limit empty trips, when coming back from an international trip, when the transport demand in the own market is low.
- There is no such thing as a typical cabotage transport trip.
- Cabotage connected to haulage of trailers from the ports to Central and South Europe (mainly general cargo).
- Cabotage operations are as diverse as road transport. However the majority of cabotage operations in a country are linked with international transport to that country.
 - Lisbon-Madrid-Barcelona-Valencia.

Question: Assuming an average number of operational hours of approximately 2600 hours per vehicle (or driver) per year, could you estimate what time road haulage companies registered in your country spend on average in one of the following market segments?

	Total operational time per year
Domestic transport	___%
International bilateral transport	___%
Cross trade	___%
Cabotage transport	___%
Total	100 %

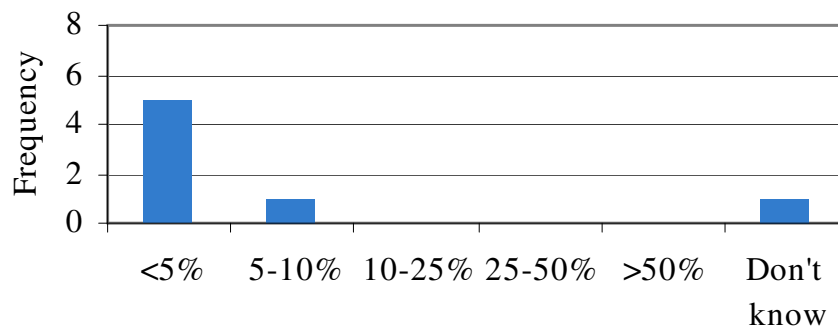
Answers:

	R1	R2	R3	R4	R5	R6	R7	R8	R9	R10
Domestic transport		75%		46%	34%		90%	74%		30%
Int.bilat.transport		24%		51%	61%		5%	21%		55%
Cross trade					1%		3%	3%		1%
Cabotage		1%		1%	4%		2%	2%		14%
Don't know	x									

Question: What is the share of cabotage transport performed by road haulage companies registered in your country in the total number of trips per year of these companies?

- < 5% 5-10% 10-25% 25-50%
 >50%

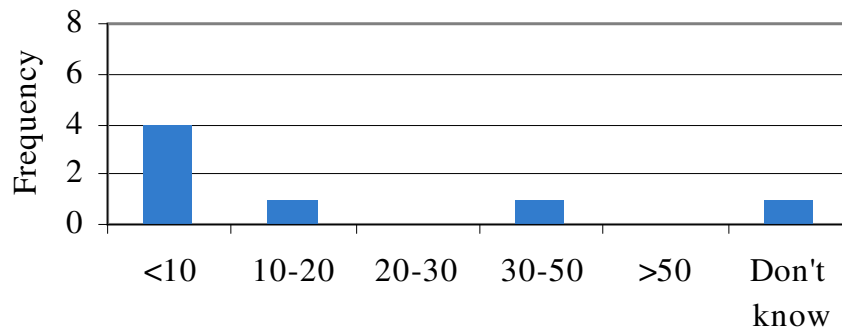
Answers:



Question: How many cabotage trips per year does an average road haulage company registered in your country perform?

- < 10 10-20 20-30 30-50
 >50

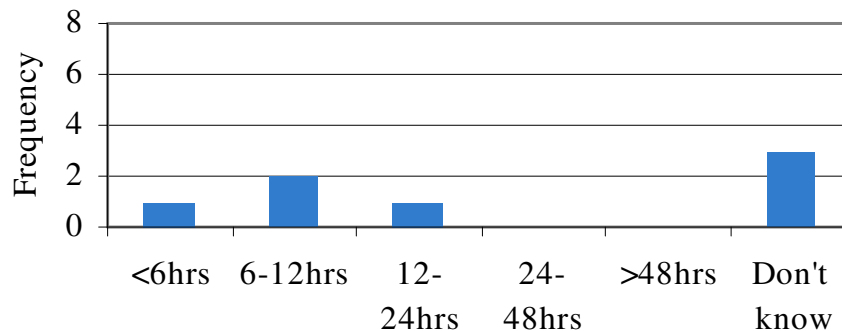
Answers:



Question: What is the average duration of a cabotage trip performed by road haulage companies?

- < 6 hrs
 6-12 hrs
 12-24 hrs
 24-48 hrs
 >48 hrs

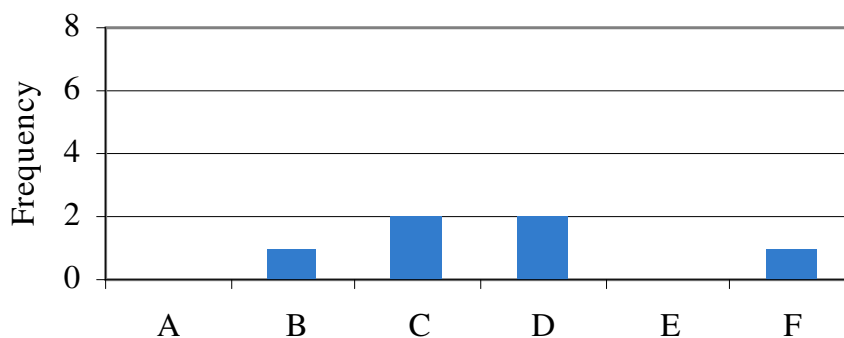
Answers:



Question: Does the number of cabotage trips performed by road haulage companies vary during the year? Please tick the most appropriate answer:

- No
 Yes, the number of cabotage trips varies during the year, with most trips during the 1st / 2nd / 3rd / 4th quarter.
 Yes, but variation depends per country where cabotage is performed
 Yes, but variation depends per commodity that is transported
 Yes, but the variation depends more on the service being provided.

Answers:



A = No

B = Yes, the number of cabotage trips varies during the year, with most trips during the 1st / 2nd / 3rd / 4th quarter.

C = Yes, but variation depends per country where cabotage is performed

D = Yes, but variation depends per commodity that is transported

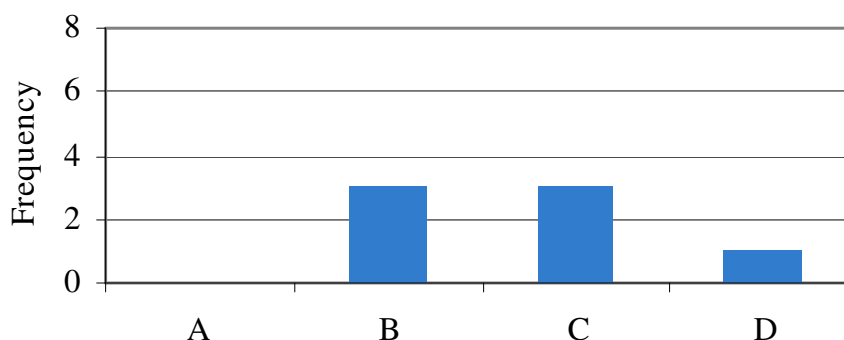
E = Yes, but the variation depends more on the service being provided

F = Do not know

Question: Do road haulage companies generally perform cabotage transport on a permanent basis? Please tick the most appropriate answer:

- Haulage companies registered in my country do not perform cabotage transport at all.
- No, cabotage transport is only being performed when transport demand in other markets is low.
- Yes, haulage companies perform cabotage transport on a continuous basis.

Answers:



A = Haulage companies registered in my country do not perform cabotage transport at all.

B = No, cabotage transport is only being performed when transport demand in other markets is low.

C = Yes, haulage companies perform cabotage transport on a continuous basis.

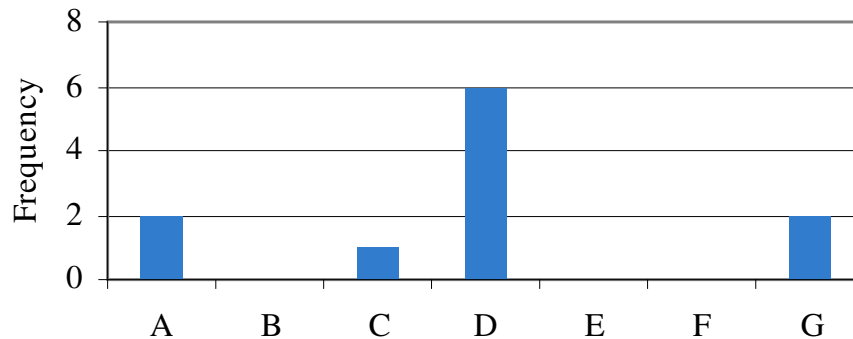
D = Do not know

Section 3: Information regarding developments in the cabotage market

Question: What is your opinion on the profitability in the cabotage market in general in relation to other markets? Please tick the most appropriate answer:

- Profitability of cabotage transport is rather low compared to profitability of domestic transport.
- Profitability of cabotage transport is rather low compared to profitability of international transport.
- Profitability of cabotage transport is more or less equal to profitability of domestic transport.
- Profitability of cabotage transport is more or less equal to profitability of international transport.
- Profitability of cabotage transport is rather high compared to profitability of domestic transport.
- Profitability of cabotage transport is rather high compared to profitability of international transport.
- No opinion / do not know

Answers:

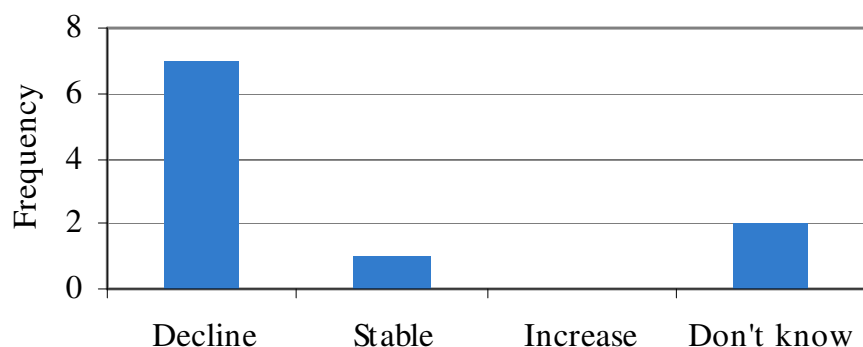


- A = Profitability of cabotage transport is rather low compared to profitability of domestic transport.
- B = Profitability of cabotage transport is rather low compared to profitability of international transport.
- C = Profitability of cabotage transport is more or less equal to profitability of domestic transport.
- D = Profitability of cabotage transport is more or less equal to profitability of international transport.
- E = Profitability of cabotage transport is rather high compared to profitability of domestic transport.
- F = Profitability of cabotage transport is rather high compared to profitability of international transport.
- G = Do not know

Question: How will profitability to your opinion develop within the next few years?

- Decline
- Stable
- Increase
- No opinion / do not know

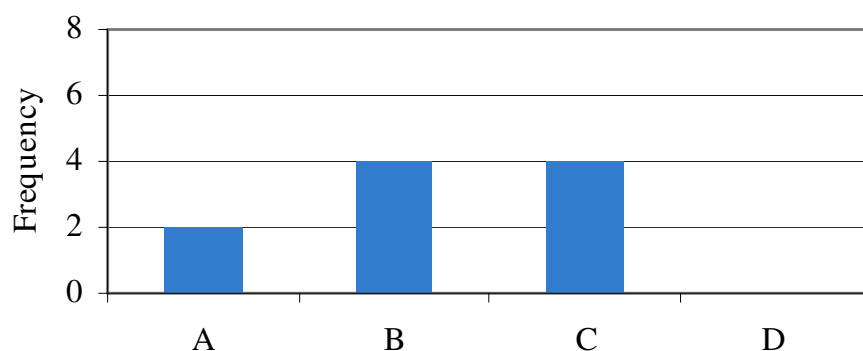
Answers:



Question: What is your opinion on the impact of road cabotage on transport efficiency? Please tick the most appropriate answer:

- Cabotage transport has a low impact on the efficiency of road transport.
- Cabotage transport has a medium impact on the efficiency of road transport.
- Cabotage transport has a high impact on the efficiency of road transport.
- No opinion / do not know

Answers:



A = Cabotage transport has a low impact on the efficiency of road transport.

B = Cabotage transport has a medium impact on the efficiency of road transport.

C = Cabotage transport has a high impact on the efficiency of road transport.

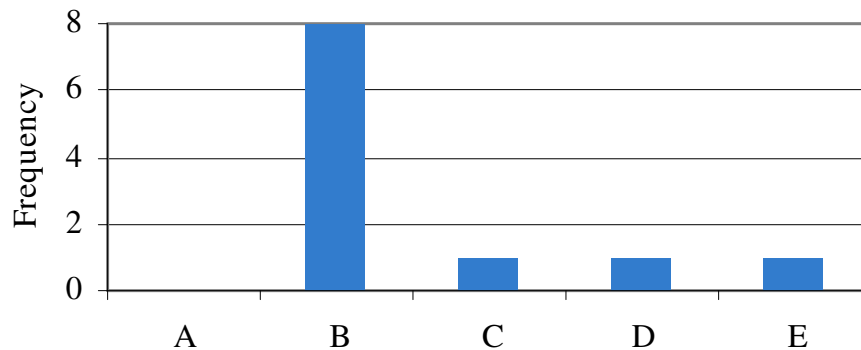
D = No opinion / do not know

Question: What is your opinion on the EU enlargement in relation to the cabotage market? Please tick the most appropriate answer:

- The EU enlargement does not change competition on cabotage markets where road hauliers registered in our country have already penetrated.
- The EU enlargement means an increase of competition on cabotage markets where road hauliers registered in our country have already penetrated.

- The EU enlargement means an opening of new cabotage markets where road hauliers registered in our country are already penetrating or can penetrate in near future.
- No opinion / do not know
- Other, namely (please give your opinion in box below):

Answers:



A = The EU enlargement does not change competition on cabotage markets where road hauliers registered in our country have already penetrated.

B = The EU enlargement means an increase of competition on cabotage markets where road hauliers registered in our country have already penetrated.

C = The EU enlargement means an opening of new cabotage markets where road hauliers registered in our country are already penetrating or can penetrate in near future.

D = No opinion / do not know

E = Other, namely: EU enlargement opens cabotage market for foreign companies which have lower social and fiscal costs. This falsifies the competition conditions. Our companies in contrary are therefore not in the position to perform cabotage transport in other countries.

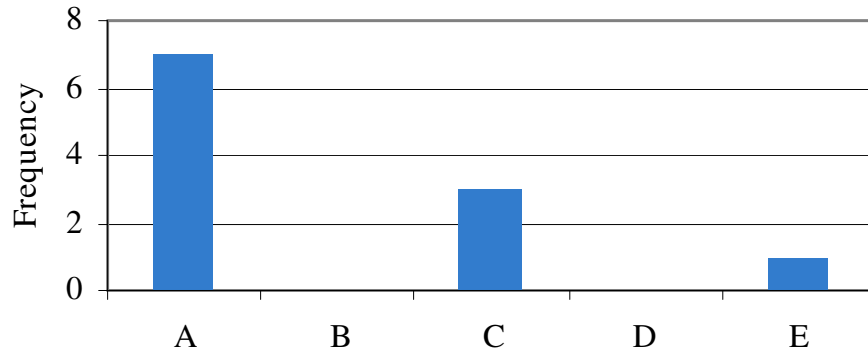
- EU enlargement opens cabotage market for foreign companies which have lower social and fiscal costs. This falsifies the competition conditions. French companies in contrary are therefore not in the position to perform cabotage transport in other countries.

Question: If EU enlargement will increase the share of cabotage transport, who will profit most to your opinion? Please tick the most appropriate answer:

- Transport operators from the new Member States will profit most from a higher share of cabotage transport.
- Transport operators from the old Member States will profit most from a higher share of cabotage transport.
- Both operators from the old and new Member States will profit from a higher share of cabotage transport.
- No opinion / do not know

Other, namely (please give your opinion in box below):

Answers:



A = Transport operators from the new Member States will profit most from a higher share of cabotage transport.

B = Transport operators from the old Member States will profit most from a higher share of cabotage transport.

C = Both operators from the old and new Member States will profit from a higher share of cabotage transport.

D = No opinion / do not know

E = Other, namely (see box below):

- Forwarders, brokers and buyers of transport services.

Question: What are the main problems road haulage companies operating in cabotage markets are facing to your opinion? (Please give your opinion in box below):

Answers:

- The lack of definition of Cabotage. What does “temporary” mean?
- Lack of harmonization / illegal employment.
- Lack of harmonization.
- No specific problems, though in some MS measures that disturb free circulation of goods still exist.
- Distortion of competition.
- In Italy the national cabotage rules are discriminative because hauliers need to inform the time spend in Italy, but the bookkeeping is not possible because of the lack of forms needed for that. In Germany the national authorities demand special cabotage insurance even in cases that are not cabotage operations but international transport. In France the local police control the driving and rest times in a discriminative way.
- To comply with national regulations imposes an additional administrative burden. Whereas the limitation of the duration of a cabotage operation seems to be acceptable, a limitation of the total days of cabotage (per year 30 days at a stretch or 45 days in total) like in France is not. Moreover the view that drivers are subject to national social standards on the basis of the posting directive in a cabotage operation lasting longer than 1 week is unworkable and useless when cabotage operations are restricted in time. Often restrictions in cabotage are used as a cure for specific national transport problems but these measures affect the operations of all foreign companies in the same way.
- The major problem is the difference in treatment and the application of rules by authorities concerning foreign heavy vehicles.
- Restrictions in several countries (UK, F) are the reason for decrease of business.

Question: How can the previous mentioned problem(s) be solved to your opinion? (Please give your opinion in box below):

Answers:

- One clear and harmonised definition of cabotage within EU and same sanctions for everyone breaking the cabotage rules in all countries
- Harmonize fiscal and social matters/efficient controls and measures illegal employment
- Protecting measures that disturb free circulation of goods should not be tolerated
- Precision on definition of temporary, improve controlling and sanction procedures/measures, harmonization of competitive conditions, amendment of cabotage regulation.
- By acting in favour of cabotage in previous examples.
- Restrict the duration of a cabotage operation to the period as mentioned in the Commission Interpretative Communication only. Enforce this rule in an efficient

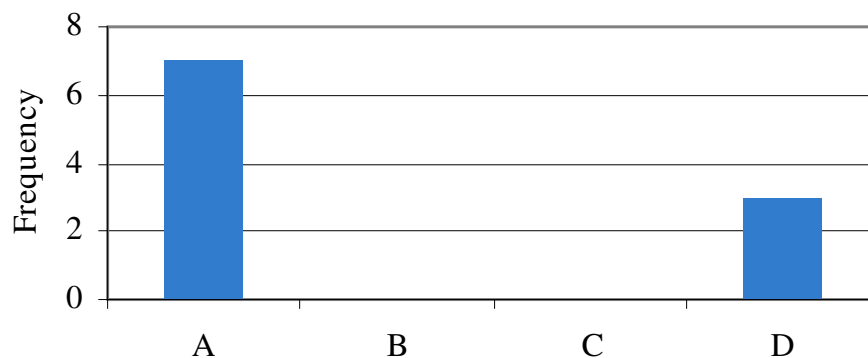
and effective way. No other restrictions should be possible. The applicability of the posting directive is not useful, impossible to enforce and contradictory to the character of cabotage.

- It's a cultural problem and the time and inspection tight by EU.

Question: How will the cabotage market develop in relation to other markets in future for road haulage companies registered in your country?

- Share of cabotage transport in total transport volumes will decrease for the road haulage companies registered in our country.
- Share of cabotage transport in total transport volumes will stabilize for the road haulage companies registered in our country.
- Share of cabotage transport in total transport volumes will increase for the road haulage companies registered in our country.
- No opinion / do not know

Answers:



A = Share of cabotage transport in total transport volumes will decrease for the road haulage companies registered in our country.

B = Share of cabotage transport in total transport volumes will stabilize for the road haulage companies registered in our country.

C = Share of cabotage transport in total transport volumes will increase for the road haulage companies registered in our country.

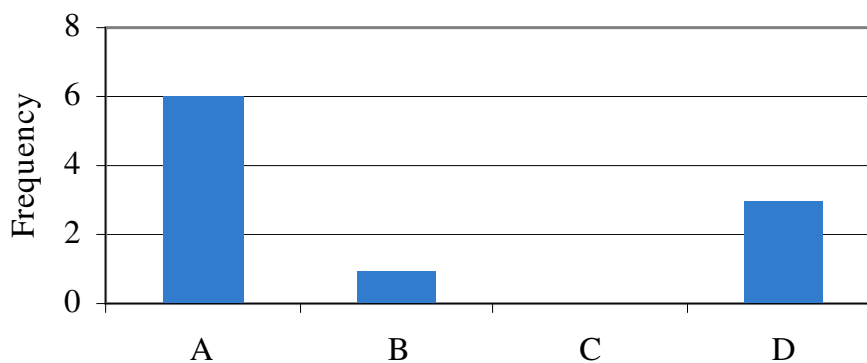
D = No opinion / do not know

Question: How will the cabotage transport volume develop in future for road haulage companies registered in your country?

- Total cabotage transport volumes will decrease for the road haulage companies registered in our country.
- Total cabotage transport volumes will stabilize for the road haulage companies registered in our country.
- Total cabotage transport volumes will increase for the road haulage companies registered in our country.

No opinion / do not know

Answers:



A = Total cabotage transport volumes will decrease for the road haulage companies registered in our country.

B = Total cabotage transport volumes will stabilize for the road haulage companies registered in our country.

C = Total cabotage transport volumes will increase for the road haulage companies registered in our country.

D = No opinion / do not know

Question: What are the reasons behind these developments?

Answers:

- Haulage companies in Sweden have higher costs than hauliers from other countries and will therefore lose market shares to hauliers from other countries.
- The enlargement of the EU with the new member States. The Road haulage companies from the new member States are working at such low prices, that it is impossible to compete with them. The more they will be allowed to do cabotage, the more cabotage trips will be lost by our companies.
- Transport costs for national hauliers much higher than for foreign hauliers
- Because of low salaries of companies in new EU Member States, these will gain larger market share in Finland.
- Access for new MS to existing cabotage markets for Dutch operators.
- Ambient regulation with high tax for crossing, the economic situation of the principal EU countries.

Questions?

We would like to thank you for filling in this questionnaire. We kindly ask you to return the completed questionnaire not later than 9 November 2005. If you have any questions, please contact us:

Jeroen Bozuwa en Eric van Drunen

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Annex 3 Questionnaire for shipper councils

Note: The questionnaires which are sent out are being introduced by an official letter from the European Commission and a short introduction on the background and aim of this study.

If there are no data sources available to answer the questions, please provide us with your own **expert judgment** and indicate that the answer is based on an expert judgment. Before filling in the questionnaire, please complete the following table.

We can assure you that your answers will be treated with the utmost confidentiality.

Organisation	
Task of organisation	
Country	
Name (contactperson)	
Function	
Telephone	
E-mail	

Section 1: Basic information regarding cabotage ‘countries’ and ‘commodities’

Road cabotage = domestic transport carried out by a transport operator (including transport on own account) in another Member State than where this transport operator is established.

Question: Which share of total shippers with own account transport registered in your country does your organisation represent?

____%

Answer:

R1	R2	R3	R4	R5
90%	100%	25%	8%	-

According to article 1.4 of Regulation 3118/93 “any undertaking entitled in the Member State of establishment (in accordance with the MS legislation) to carry out road haulage operations for own account shall be permitted to carry out cabotage operations on own account”.

Please answer the following questions from the perspective of own account transport companies registered in your country who are actually performing cabotage transport. If you have no data available, please provide your expert opinion.

Question: What is the total volume of cabotage transport per year being performed by own account transport companies registered in your country? Please provide the volumes (tonnes and tonne-kilometres) for the most recent year available.

Year:

- Total volume _____ 1000 tonnes
- Total volume _____ million tonne-kilometres

Answer:

	R1	R2	R3	R4	R5
Tonnes	-	-	-	50	-
Tonne-kilometres	-	-	-	13	-

Question: What are the main countries where those own account transport companies registered in your country perform cabotage transport?

- Austria _____%
- Finland _____%
- Greece _____%
- Luxemburg _____%
- Slovenia _____%
- UK _____%
- Belgium _____%
- France _____%
- Ireland _____%
- Netherlands _____%
- Spain _____%
- Other EU _____%
- Denmark _____%
- Germany _____%
- Italy _____%
- Portugal _____%
- Sweden _____%
- Other non-EU _____%

Answers:

	R1	R2	R3	R4	R5
Austria					
Belgium					
Denmark					
Finland					
France	100%			30%	
Germany				25%	
Greece					
Ireland					
Italy				2%	
Luxembourg				3%	
Netherlands				35%	

	R1	R2	R3	R4	R5
Portugal					
Slovenia					
Spain				2%	
Sweden					
UK				3%	
Other EU					
Other non-EU					
Don't know					

Question: What are the main commodities in cabotage transport by own account transport companies registered in your country?

- | | | | |
|-------------------------|--------|-------------------------|--------|
| • Agricultural products | _____% | Food and drinks | _____% |
| • Solid mineral fuels | _____% | Oil and oil products | _____% |
| • Ore, metal scrap | _____% | Iron and steel products | _____% |
| • Raw minerals | _____% | Building materials | _____% |
| • Fertilisers | _____% | Base chemicals | _____% |
| • Chemical products | _____% | General cargo | _____% |
| • Containers | _____% | Other products | _____% |

Answers:

	R1	R2	R3	R4	R5
Agricultural	x			20%	
Food & Drinks			x	5%	
Solid mineral fuels					
Oil & oil products	x				
Ore, metal scrap					
Iron & steel prod.					
Raw minerals	x			7%	
Building materials				10%	
Fertilisers				8%	
Base chemicals					
Chemical products			x	45%	
General cargo			x	5%	
Containers					
Other products			x		
Don't know					

Question: Can you give a description of a typical cabotage transport trip performed by an own account transport company registered in your country?

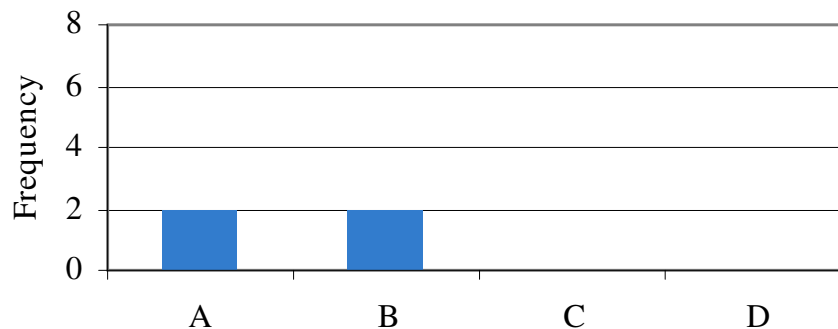
Answers:

- Most of own account transports are performed under “long time rental“ contracts.
- Belgium-France-Germany-Belgium.

Question: Do own account transport companies generally perform cabotage transport on a permanent basis? Please tick the most appropriate answer:

- Own account transport companies registered in my country do not perform cabotage transport at all.
- No, cabotage transport is being performed occasionally (i.e. to increase the load factor of the transport vehicles).
- Yes, haulage companies perform cabotage transport on a continuous basis.
- Do not know.

Answers:



A = Own account transport companies registered in my country do not perform cabotage transport at all.

B = No, cabotage transport is being performed occasionally (i.e. to increase the load factor of the transport vehicles).

C = Yes, haulage companies perform cabotage transport on a continuous basis.

D = Do not know.

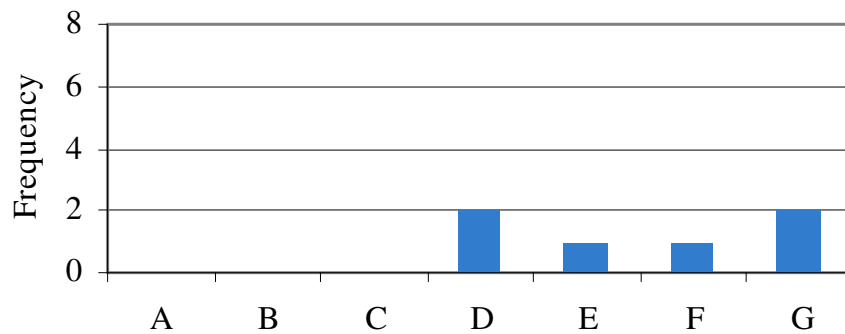
Section 2: Information regarding developments in the cabotage market

Question: What is your opinion on the profitability in the cabotage market in general in relation to other markets? Please tick the most appropriate answer:

- Profitability of cabotage transport is rather low compared to profitability of domestic transport.
- Profitability of cabotage transport is rather low compared to profitability of international transport.

- Profitability of cabotage transport is more or less equal to profitability of domestic transport.
- Profitability of cabotage transport is more or less equal to profitability of international transport.
- Profitability of cabotage transport is rather high compared to profitability of domestic transport.
- Profitability of cabotage transport is rather high compared to profitability of international transport.
- No opinion / do not know

Answers:

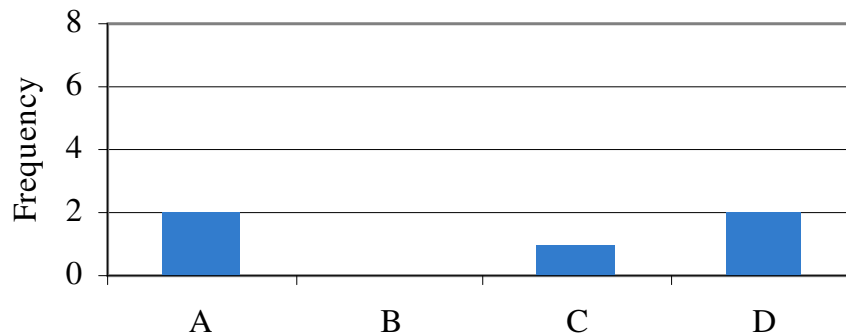


- A = Profitability of cabotage transport is rather low compared to profitability of domestic transport.
- B = Profitability of cabotage transport is rather low compared to profitability of international transport.
- C = Profitability of cabotage transport is more or less equal to profitability of domestic transport.
- D = Profitability of cabotage transport is more or less equal to profitability of international transport.
- E = Profitability of cabotage transport is rather high compared to profitability of domestic transport.
- F = Profitability of cabotage transport is rather high compared to profitability of international transport.
- G = No opinion / do not know.

Question: How will profitability in cabotage transport develop within the next few years to your opinion?

- Decline
- Stable
- Increase
- No opinion / do not know

Answers:

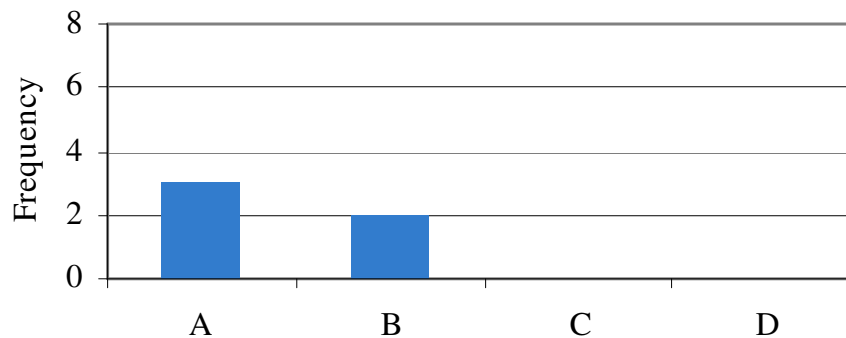


A = Decline B = Stable C = Increase D = No opinion/do not know

Question: What is your opinion on the impact of road cabotage on transport efficiency? Please tick the most appropriate answer:

- Cabotage transport has a low impact on the efficiency of road transport.
- Cabotage transport has a medium impact on the efficiency of road transport.
- Cabotage transport has a high impact on the efficiency of road transport.
- No opinion / do not know

Answers:



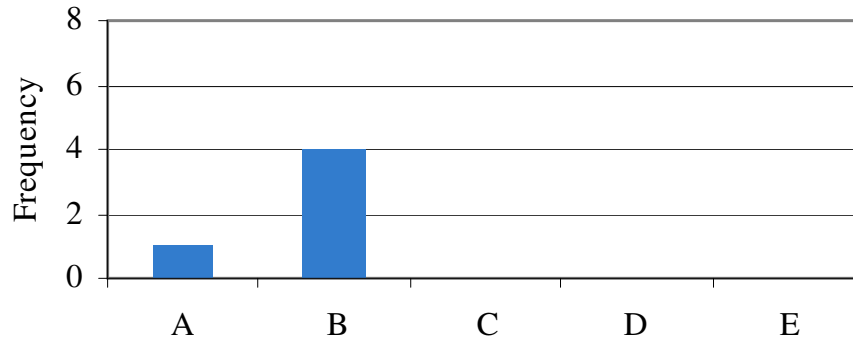
A = Cabotage transport has a low impact on the efficiency of road transport.
B = Cabotage transport has a medium impact on the efficiency of road transport.
C = Cabotage transport has a high impact on the efficiency of road transport.
D = No opinion / do not know.

Question: What is your opinion on the EU enlargement in relation to the cabotage market? Please tick the most appropriate answer:

- The EU enlargement will not change anything for the cabotage market.
- The EU enlargement will lead to an increase of the share of cabotage transport.
- The EU enlargement will lead to a decrease of the share of cabotage transport.
- No opinion / do not know

Other, namely (please give your opinion in box below):

Answers:



A = The EU enlargement will not change anything for the cabotage market.

B = The EU enlargement will lead to an increase of the share of cabotage transport.

C = The EU enlargement will lead to a decrease of the share of cabotage transport.

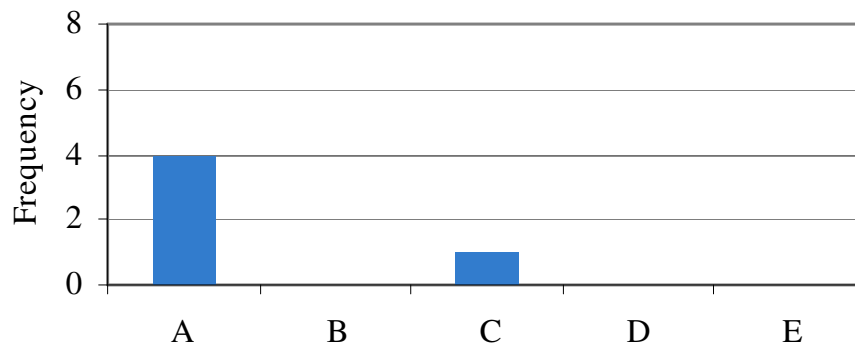
D = No opinion / do not know.

E = Other, namely (please give your opinion in box below):

Question: If EU enlargement will increase the share of cabotage transport, who will profit most to your opinion? Please tick the most appropriate answer:

- Transport operators from the new Member States will profit most from a higher share of cabotage transport.
- Transport operators from the old Member States will profit most from a higher share of cabotage transport.
- Both operators from the old and new Member States will profit from a higher share of cabotage transport.
- No opinion / do not know
- Other, namely (please give your opinion in box below):

Answers:



- A = Transport operators from the new Member States will profit most from a higher share of cabotage transport.
B = Transport operators from the old Member States will profit most from a higher share of cabotage transport.
C = Both operators from the old and new Member States will profit from a higher share of cabotage transport.
D = No opinion / do not know
E = Other, namely (please give your opinion in box below):

Question: What are the main problems operators in cabotage markets are facing today to your opinion? (Please give your opinion in box below):

Answers:

- Some M.S try to limit the duration cabotage and to implement control measure to restrict it.
- Severe fall in rates in traditional traffic; big problems of survival for smaller operators in the old MS.
- Pressure on cost effectiveness due to increasing new MS penetration in the cabotage market.
- The domestic operators in Austria are faced with the competition coming from the foreign countries, especially with the competition coming from the new member states. That reasons a drifting down of prices in the own country. Some countries – like Italy and France – are already defending their markets with limiting measures. Also in Austria some limiting measures are planned and should be announced in the Austrian *Güterbeförderungsgesetz* (law for forwarding goods) by the 1st of January 2006.

Question: How can the previous mentioned problem(s) be solved to your opinion?
(Please give your opinion in box below):

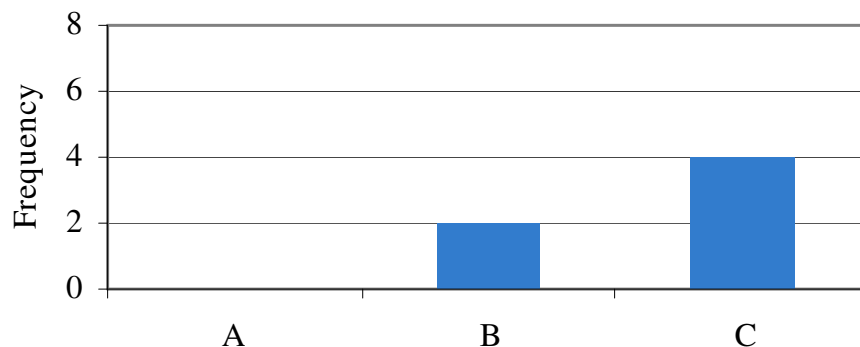
Answers:

- Harmonisation of competition rules (fuels, driving hours, social regulations).
- Business need to become more professional; look at possibility of flagging out to new MS with cheaper costs; work in conjunction with other hauliers (e.g. pallet network etc.).
- To enforce the obligation for new MS to have a branch representation in the country where they want to perform cabotage and enforce the regulations for drivers throughout the EU.
- The European Union has to renew and review the regulation 3118/93. A new basis for the current situation has to be created. The “new 3118/93” has to point out what the term “TEMPORARY” stands for. The regulation which is planned in Austria could be an example for this process!

Question: How will the cabotage transport volume develop in future to your opinion?

- Total cabotage transport volumes in the EU will decrease in future.
- Total cabotage transport volumes in the EU will stabilize in future.
- Total cabotage transport volumes in the EU will increase in future.

Answers:



A = Total cabotage transport volumes in the EU will decrease in future.

B = Total cabotage transport volumes in the EU will stabilize in future.

C = Total cabotage transport volumes in the EU will increase in future.

Question: What are the reasons behind these developments?

Answers:

- New MS carriers have an advantage of competitiveness they try to utilize more and more.
- The stabilization may take some time, but when the standard of living in the new member countries rise, the cabotage will find its natural share based on international activities in general.
- As wages/social conditions in the new MS increase/improve the new MS will lose the current competitive edge.
- Since production locations are relocated freely within the expanded EU the commercial cabotage (not with own transport) will increase as hauliers expand their operational radius within the EU.
- The enlargement of the European Union! Since May 2004 there are 15 old member states facing 10 new members with totally different cost structures. The result is a distortion of competition!!

Questions?

We would like to thank you for filling in this questionnaire. We kindly ask you to return the completed questionnaire not later than 9 November 2005. If you have any questions, please contact us:

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F: +31 10 452 3680

jeroen.bozuwa@ecorys.com

eric.vandrunen@ecorys.com

Annex 4 List of Ministries of Transport / Controlling bodies

Member State	Authorities
1 Austria	<p>Regulatory Authority: BUNDESMINISTERIUM FÜR VERKEHR, INNOVATION UND TECHNOLOGIE</p> <p>Address: Radetzkystraße 2 A-1030 Vienna AUSTRIA</p> <p>Phone contacts: 0043 01 71162 1205 http://www.bmvit.gv.at</p>
2 Belgium	
3 France	<p>Regulatory Authority: Ministry of Transport, Infrastructures, Tourism and Sea ("Ministère des Transports, de l'Équipement, du Tourisme et de la Mer")</p> <p>Address: Grande Arche / Arche Sud / 92055 La Défense Cedex FRANCE</p> <p>Phone contacts: Tél. : +33 1 40 81 21 22 or on road transports +33 1 40 81 16 72 http://www.equipement.gouv.fr</p>
4 Germany	<p>Federal Ministry: Bundesministerium für Verkehr, Bau- und Wohnungswesen</p> <p>Invalidenstraße 44, D-10115 Berlin E-Mail: buergerinfo@bmvbw.bund.de</p> <p>Supervisory Authority: Bundesamt fuer Gueterverkehr Werderstr. 34, D-50672 Koeln eMail: presse@bag.bund.de</p> <p>Professional Association: Bundesverband Gueterkraftverkehr Logistik und Entsorgung (BGL) e.V. Breitenbachstraße 1, D-60487 Frankfurt am Main e-mail: bgl@bgl-ev.de</p>
5 Italy	<p>Regulatory Authority: Infrastructures and Transport Ministry</p> <p>Address: Piazzale Porta Pia, 1 - 00161 Rome Phone contacts: 0039 6 44121 http://www.infrastrutturetrasporti.it</p>
6 Luxembourg	<p>Regulatory Authority: Ministry of Transport</p> <p>Address: 11 rue Notre Dame L-2240 Reg. Authority: Guichet d'Authorisations Address: 4 rue de l'ancien Athenée</p>
7 Netherlands	<p>Regulatory Authority: Ministry of Transport, Public Works and Water Management</p> <p>Address: Plesmanweg 1-6 2597 JG Den Haag</p>

Member State	Authorities
	<p>Phone (general): +31 (0)70 351 61 71 www.verkeerenwaterstaat.nl Directorate-General for Freight Transport Address: Nieuwe Uitleg 1 2514 BP Den Haag Telephone number: +31 (0)70 351 61 71 <i>For permissions:</i> NIWO Address: Veraartlaan 10 2288 GM Rijswijk (ZH) Telephone: +31 70 - 399 20 11 Fax: +31 70 - 390 87 04 www.niwo.nl</p>
8	<p>Slovenia Regulatory Authority: Ministry of Transport of the Republic of Slovenia Address: Langusova 4, 1000 Ljubljana, Slovenia Phone contacts: +386 1 478 81 39 http://www.sigov.si/mpz/ang.html</p>
9	<p>Spain Regulatory Authority: Dirección General de Transportes por Carretera- Ministerio de Fomento Address: Paseo de la Castellana, 67 28071 Madrid Phone: 915 977 000 http://www.fomento.es atencionciudadano@mfom.es portal@administracion.es</p>
10	<p>Sweden Regulatory Authority: Swedish Road Administration Director-general Ingerman Skogo 78 187 Borlange Phone: +46 771119119 e-mail: vagverket@vv.se</p>
11	<p>United Kingdom Regulatory Authority: Department for Transport (DFT) Address: Great Minster House 76 Marsham Street London SW1P 4DR Phone Contacts: 020 7944 8300 http: www.dft.gov.uk. e-mail: goods.operator@dft.gsi.gov.uk or tachographs.policy@dft.gsi.gov.uk</p>

Annex 5 List of road haulage organisations

	Country	European interest groups	Contact
1	EU	International Road Transport Union (IRU)	Mr. Hubert Linssen 32-34 avenue de Tervuren, Box 37, 1040 Brussels T: +32 2 743 25 80 E: Brussels@iru.org www.iru.org
2	Netherlands	Transport and Logistics Netherlands (TLN)	Mr. Frank Steijn Boris Pasternaklaan 22, 2700 KS Zoetermeer T: 079 3636 111 E: Fsteijn@tln.nl www.tln.nl
3	Finland	Finnish Transport and Logistics	Mr Pasi Moisio Nuijamiestentie 7, PL 38, 00401 Helsinki, T: (09) 478 999 E: pasi.moisio@skal.fi
4	France	Fédération des entreprises de transport et de logistique de France (TLF)	Mr. Herve Cornede 71 rue Desnouettes, 75724 PARIS CEDEX 15 T: 01 53 68 40 40 E: hcornede@e-tlf.com E: tlf@e-tlf.com www.e-tlf.com/accueil.htm
5	Denmark	Danish Transport and Logistics (DTL)	Mr. Michael Svane Gammeltorv 18, 1019 København K T: 70 159 500 E: dtl@dtl-dk.dk www.dtl-dk.dk/docs/kontaktntl.asp
6	Germany	Bundesverband Güterkraftverkehr Logistik und Entsorgung (BGL)	Mr. Dirk Saile Rue d'Arlon 55, 1040 Brussels T: +32 2 230 1082 Dr. Prof. Schmidt Breitenbachstraße 1, 60487 Frankfurt am Main T: (069) 79 19-0 E: bgl@bgl-ev.de www.bgl-ev.de/web/home/index.htm
7	France	Federation Nationale des Transports Routiers (FNTR)	Mrs. Melanie Zylberberg Rue du Marteau 21, 1000 Brussels T: +32 2 229 5380 E: bureau.bruxelles@fntr.fr www.fntr.fr/
8	Belgium	Federation Belgique des Transporteurs (FEBETRA)	Mr. Philippe Degraef Rue de l'Entrepôt, 5A T: +32 2 425 6800 E: febeta@febeta.be www.febetra.be
9	UK	Road Haulage Association	Mr. Peter Cullum

	Country	European interest groups	Contact
		(RHA)	35 Monument Hill, Weybridge, Surrey KT13 8RN T: +44 01932 841515 E: weybridge@rha.net www.rha.net/
10	Greece	Fédération Hellénique des Transports Routiers Internationaux (OFAE)	Mrs. Cornelia Asendei Rue Patission, 351 – GR - 11144 Athenes T: 0030 21 0201 97 60/2 E: ofae@otenet.gr
11	Spain	Asociacion del Transporte Internacional por Carretera (ASTIC)	Mr. Carlos Pascual C/ Fernandez de la Hoz, 78 Entreplanta – E – 28003 Madrid T: 0034 91 451 48 07 E: cpascual@astic.net
12	Ireland	Irish Road Haulage Association (IRHA)	Mr. Jonathan Moloney CGI Building, Unit 12 – Blanchardstown Corporate Park – Blanchardstown – Dublin 15 – IE T: 00353 1 822 48 88 E: info@irha.ie www.irha.ie
13	Italy	Unione Italiana delle Camere di Commercio, Industria, Artigianato e Agricoltura (UICCIAA)	Mr. Romano Manoni UICCIAA – Dept Formalités Commerce International – Piazza Sallustio 21 – Roma 00187 T: 0039/06 470 42 35 E: commercio.estero@unioncamere.it ou romano.manoni@unioncamere.it www.unioncamere.it
14	Luxemburg	Confédération Luxembourgeoise du Commerce (CLC)	Mr. Thierry Nothum CLC – rue Alcide de Gaspéri, 7 – LU 2014 Luxembourg T: 00352/43.94.44-1 E: Thierry.nothum@clc.lu www.clc.lu
15	Austria	Arbeitsgemeinschaft Internationale Strassenverkehrsunternehmen Österreichs (AISÖ)	Mr. Rudolf Bauer AISÖ – Wiedner Hauptstrasse 68 – AT 1040 Wien T: 0043/1.961.63.63 E: rudolf.bauer@aisoe.at www.aisoe.at
16	Portugal	Associação Nacional de Transportadores Públicos Rodoviários de Mercadorias (ANTRAM)	Mr. Abel Marques ANTRAM – Rua do Conselheiro Lopo Vaz – Edifício Varandas do Rio – Lote AB – Escritório A – Lisboa 1800-142 T: 00351/218/544 100 E: abel.marques@antram.pt www.antram.pt
	Portugal	DGTTF - Direcção Geral de Transportes Terrestres Fluviais	DGTT - Direcção Geral de Transportes Terrestres Avenida das Forças Armadas, n.º 40 1649-022 Lisboa T: 21 794 90 00

	Country	European interest groups	Contact
			F: 21 797 37 77 E: dgtt@dgtt.pt
17	Sweden	Svenska Akeriförbundet (SA)	Mr. Bertil Dahlin SA – Box 504 Vendevägen 90 – Danderyd 182 15 – Suède T : 0046/8/753.54.00 E : bertil.dahlin@akeri.se www.akeri.se
18	Slovenia	GIZ INTERTRANSPORT	Mr. Milan Svetek Intertransport Tivolska cesta 50 – P.p. 01-119 – Slovenia Ljubljana 1001 T: 00386/1/231.9.31 E: tir@intertransport.si www.intertransport.si

Annex 6 List of shipper councils

	Country	Contact
1	EU	European Shippers Council Ms. Nicolette van der Jagt / Mr. Dick van den Broek 50, rue Wiertz, T: +32 2 230 2113 / E: nicolette.vdjagt@europeanshippers.be / www.europeanshippers.com
2	Netherlands	EVO Mr. Bart Lammers Kadelaan 6, 2700 AJ Zoetermeer T: 079 341 4641 www.evo.nl
3	France	Association des Utilisateurs de Transport de Fret (AUTF) Mr. Didier Leandri 91 rue du Fbg St Honoré, 75008 PARIS T: 01 42 68 34 80 E: info@autf.fr www.autf.fr
4	Belgium	vzw OTM Lieven Bauwens Building Martelaarslaan 49 9000 GENT E: info@otmbe.org / T: +00 09 265 18 81 / F: +00 09 266 14 41 / W: http://wko.at/vp
5	Denmark	
6	Germany	M.Ploetzke@BDI-ONLINE.DE
7	Greece	
8	Spain	
9	Ireland	reg.mccabe@ibec.ie
10	Italy	Confindustria (providers and shippers)
11	Luxembourg	
12	Austria	Dr Daniela Domenig Wirtschaftskammer Österreich Abteilung für Verkehrs- und Infrastrukturpolitik Wiedner Hauptstraße 63 A-1045 Vienna Austria E: daniela.domenig@wko.at / T: +43 5 90900 4027 / F: +43 5 90900 4030 / W: http://wko.at/vp
13	Portugal	Mr A B Henriques Conselho Português de Carregadores Praça das Industrias P-1399 Lisboa-Codex Portugal

	Country	Contact
		E: cpc@ajp.pt / T: +351 91 3601115 / F: +351 91 3635608
14	Finland	Mrs Maire Kaartama Confederation of Finnish Industry and Employers Eteläranta 10 SF-00130 Helsinki Finland E: maire.kaartama@tt.fi / T: +358 9 6868 2548 / F: +358 2060 30411 / W: http://www.tt.fi
15	Sweden	Mr Kenneth Ramberg Confederation of Swedish Enterprise S-114 82 Stockholm Sweden Visiting address: Storgatan 19 E: kenneth.ramberg@swedishenterprise.se / T: +46-8-553 431 11 / F: +46-8-553 431 81 W: http://www.swedishenterprise.se
16	United Kingdom	Contacts Dr Andrew Traill Freight Transport Association Hermes House St Johns Road Tunbridge Wells TN4 9UZ KENT England E: atraill@fta.co.uk / T: +44 1892 52 61 71 / F: +44 1892 53 49 89 / W: http://www.fta.co.uk
17	Slovenia	

Annex 7 List of participants to the stakeholder meeting at 21-11-2005

Name	Organisation	Country
1. Melanie Zylberberg	FNTR	France
2. Henk Kramer	Transport & Logistiek Nederland	Netherlands
3. Jeanet Tieben	NIWO	Netherlands
4. Dirk Saile	Bundesverband Güterkraftverkehr Logistik und Entsorgung	Germany
5. Isabelle De Maegt	FEBETRA	Belgium
6. Freija Fonteyn	SAV	Belgium
7. Karen Dee	Road Haulage Association	UK
8. Pasi Moisio	Finish Transport and Logistics SKAL	Finland
9. Antonio Marques	ANTRAM	Portugal
10. Ribeiro de Camros	ANTRAM	Portugal
11. Georg Wieser	WKO	Austria
12. Günther Ettl	DGTREN	
13. Tom Howes	DGTREN	
14. Jeroen Bozuwa	ECORYS	
15. Paul van de Lande	ECORYS	
16. Pierluca Mezzetti	Ernst & Young	
17. Ilaria Anna De Dominicis	Ernst & Young	

Annex 8 Cabotage quotas by Member States

Table b8.1 Cabotage quotas by Member State

Member State	1995	1996	1997	1 st half 1998
Belgium	3647	4742	6223	4045
Denmark	3538	4600	6037	3925
Germany	5980	7774	10203	6632
Greece	1612	2096	2751	1789
Spain	3781	4916	6452	4194
France	4944	6428	8436	5484
Ireland	1645	2139	2808	1826
Italy	4950	6435	8445	5490
Luxembourg	1699	2209	2899	1885
Netherlands	5150	6695	8786	5711
Austria	0	0	4208	2736
Portugal	2145	2789	3661	2380
Finland	1774	2307	3029	1969
Sweden	2328	3027	3973	2583
United Kingdom	3103	4034	5295	3442
Total	48291	62187	85203	56090

Source: European Commission, Council Regulation (EEC) No 3118/93 of 25 October 1993.