

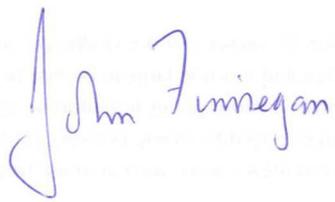
Task B – Executive Summary

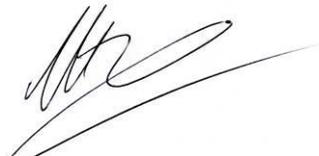
Analyse the State of the European Road Haulage Market, Including and Evaluation of the Effectiveness of Controls and the Degree of Harmonisation

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Executive Summary

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Introduction

Task B of this study consists of analysing the state of the European Union (EU) road haulage market. Included in the report are sections on the current market situation, harmonisation of admission to the profession of transport manager and driver, harmonisation of enforcement, harmonisation of taxation and infrastructure charging, social harmonisation and harmonisation of road safety and security.

Article 17(3) of Regulation (EC) No 1072/2009¹ requires the Commission to draw up a report on the state of the Community road transport market by the end of 2013. Task B aims to assist the Commission in submitting this and is designed by AECOM in such a way that allows it to directly feed into the obligatory report.

In addition Task B is intended to highlight the extent to which enforcement, road user charges, social legislation and safety legislation are harmonised. The evidence this provides will allow DG MOVE to justify either further opening of domestic road freight markets on the grounds that there is now a level-playing field between hauliers from different Member States or that it cannot recommend further opening of domestic road freight markets. This could be the case if, due to the different levels of regulation and other conditions faced by hauliers, market opening would lead to unfair competition between hauliers and undesirable market effects.

Overview of Market Situation

Road freight accounts for 73% of all inland freight in the EU. As such, the effective and efficient operating of the road haulage market is critical to the European economy. Establishing a fair but competitive market across Europe is essential if this is to be achieved. Access to the road haulage market and certain social and safety conditions (such as drivers' hours) are regulated at an EU level. However there are variations in operational cost structures, most notably fuel and driver wages. Whilst this provides competitive advantages for some hauliers and preferential freight rates for the shipper, the opportunity for further market liberalisation in the form of relaxation of cabotage controls is not universally welcomed by the haulage community.

Our review of the road freight sector showed that there is increasing consolidation in the market but that there is extensive use of sub-contracting to smaller companies. Operators based in the newer Member States (EU-12²) have expanded to reach a dominant position in bilateral trade and a growing share in EU-15³ cross-trade. The number of vehicles and trade continues to grow albeit slower in some areas than others.

In the short to medium term EU-12 hauliers can be expected to further increase their market share in all markets, particularly EU-15 cross-trade and this is likely to feature operators from Bulgaria and Romania in larger numbers now restrictions on cabotage operations by hauliers from these Member States have been lifted.

Harmonisation for Admission to the Profession of Transport Manager & Driver

EU legislation defines the requirements to be met pursuing an occupation as a road haulage operator and as a haulage driver. Specifically, Regulation (EC) No 1071/2009⁴ sets down the requirements for pursuing an occupation as road haulage operator while Directive 2003/59/EC⁵ defines the requirements for drivers.

¹ Regulation (EC) No 1072/2009 – of the European Parliament and of the Council of 21 October 2009, on the common rules for access to the international road haulage market, *Official Journal L 300*, 14/11/2009 P. 0072 - 0087

² EU-12 means the collection of 12 Member States that all joined the EU after the 1st May 2004. Member States belonging to the group of EU-12 are: Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia.

³ EU-15 means the collection of 15 Member States of the EU prior to the accession of 10 new Member States on 1st of May 2004. Member States belonging to the group of EU-15 are: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the United Kingdom.

⁴ Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 – establishing common rules concerning conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 1996/26/EC, *OJ L 300*, 14.11.2009, p. 51–71

The survey and country analysis results indicate that Regulation (EC) No 1071/2009 setting the conditions for access to the profession of road haulage operator is not yet being implemented in a correct and consistent way across Member States. While hauliers based in every Member State are all subject to the requirements of the Regulation, some Member States impose additional requirements such as minimum tonnage or number of vehicles. In addition, the cost of obtaining an operator license or Community Licence varies significantly between Member States. There is also some variance observed in the requirements for an individual to qualify as a 'Transport Manager'. These were minor variants in the length and type of examination required of candidates wishing to qualify as transport managers. Overall, these differences could materially affect the costs and the conditions of access to the profession, and so could have a distortive effect on the single market for haulage services.

The Commission report on the implementation of Directive 2003/59/EC on the initial qualification and period training of drivers concludes that whilst the Directive allows Member States latitude in respect of testing versus course work to attain qualification and that training courses and teaching methods are not standardised. The equivalence of the qualifications system and the efficiency in ensuring the required qualification is guaranteed by the national training systems which have to meet the requirements of Annex 1 regarding subject matter and the structure of tests.

Similarly, the survey and country analysis results indicate that Directive 2003/59/EC on access to the profession of road haulage driver is being implemented in a correct and consistent way across Member States. It is notable however that the cost of the training necessary to qualify as a driver varies greatly between Member States. The cost of initial driver training to obtain a Certificate of Professional Competency ranges from as little as €125 in Hungary and €68 in Cyprus to as much as €6,000 in Finland and up to €3,500 in Germany. In some states, in particular Finland, public funding is available for all or part of the cost of training as a haulage driver. There are also significant gaps in the mutual recognition of Certificate of Professional Competency by Member States.

The high cost of qualifying as a driver in some Member States may restrict the supply of new drivers at a time when shortages of qualified drivers are an acknowledged problem for the industry. Gaps in the mutual recognition can also restrict the free movement of qualified drivers to work in different parts of the EU. However these distortions on the labour market are not sufficiently material to road hauliers to create a distortion on the market for road haulage services. In particular, they do not create a cost advantage for hauliers from a particular Member State which would allow hauliers from that Member State to compete 'unfairly' if the market for road haulage services was liberalised further.

Harmonisation of Enforcement

The level of enforcement by Member States, and the consistency with which it is carried out has been increasing at least since 2007 due to a number of developments being adopted and coming into force. Starting in 2009 the Commission has taken further actions to ensure effective and harmonised enforcement of the rules. These include:

- A Commission Implementing Decision in 2011⁶ establishing a common approach to calculating driving times
- A package of measures to prevent manipulation of tachographs⁷
- Each Member State has designated a body for intercommunity liaison on these matters as required by Article 7 of Directive 2006/22/EC
- The "TRACE" project has produced a comprehensive guide to how this enforcement activity should be carried out

⁵ Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 - on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC, *OJ L 226, 10.9.2003, p. 4-17*

⁶ Commission Implementing Decision C(2011) 3759

⁷ Commission Directive 2009/4/EC of 23rd January 2009 on counter measures to prevent and detect manipulation of records of tachographs, Commission Directive 2009/5/EC amending Annex III to Directive 2006/22/EC and Commission Recommendation C(2009) 108 providing guidelines for best enforcement practice

These measures had a significant effect. The number of checks has increased as has the threshold of minimum days to be checked. However, consultation with the road haulage industry and other feedback from industry figures demonstrates a widely held perception in the industry that the enforcement of certain rules on the road haulage industry is not yet effectively harmonised across all Member State.

The industry believes that two types of distortion are widespread:

- Relatively lax enforcement in some Member States giving cost advantage to hauliers from that Member States
- Discrimination in enforcement in some Member States, with enforcement authorities targeting hauliers from outside the Member State in question. This creates a restriction on cross-border trade in these services

The evidence available suggests that this perception may come from the reliance on some Member States on road side checks rather than a mix on roadside and on-premises checks.

Other differences in enforcement that could arise are:

- Differences in the categorisation of, and penalties for, various infringements between Member States
- Significant variances in the resources devoted to enforcement in different Member States
- Significant differences in the level of driver checking, and the balance between on premises and roadside checks in different Member States
- Continuing confusion and uncertainty on the cabotage rules and their correct enforcement

Since 2009 the Commission and Member State authorities have been undertaking a series of measures to eliminate these anomalies and distortions. These include:

- Proposal to harmonise enforcement policies across Member States
- Standardising the approach to training of enforcement officers
- Improving the exchange and distribution of information between enforcement agencies
- Guidance notes established by the Committee on Road Transport
- Clarification notes issued by the Commission
- Regular meeting with experts from Member States and stakeholders (including enforcers) to discuss the application and enforcement issues

In this chapter we have also examined the control requirements driven by the current cabotage regime and the issues that this has presented in the relatively short time the rules have been properly in place. We have seen that a range of stakeholders have commented that whilst the new cabotage rules may or may not be useful to them, there is a level of concern that their control is not effective, and in some cases that it is defective.

In summary significant progress has been made towards the goal of effective and consistent enforcement of the rules on driver time and cabotage throughout the EU, and this progress is ongoing.

Harmonisation of Taxation and Infrastructure Charging

Directive 2003/96/EC⁸ sets down the EU minimum rate of fuel duty at €330 per 1000 litres. However the degree of variability in duties across Member States is significant. While the vast majority of countries levy duties in excess of this rate, some countries

⁸ Directive 2003/96/EC of the European Parliament and of the Council of 27 October 2003 - restructuring the Community framework for the taxation of energy products and electricity, *OJ L 283, 31.10.2003, p. 51–70*

are still availing of rates below this level due to exemptions for accession states set down in Directives 2004/74/EC⁹ and 2004/75/EC¹⁰.

The 'Eurovignette Directive' 1999/62/EC¹¹ as amended by Directive 2006/38/EC¹² and Directive 2011/76/EC¹³ sets down the basis for road user charges across Member States. 21 States have some form of road charging but significant variations exist across Member States. In relation to the charges nine States levy charges by vignettes, five countries have nationwide electronic tolls and seven have conventional tolls. Six Member States, the UK, Cyprus, Estonia, Finland, Malta and Latvia have no road user charges. An analysis of the average road user charge per kilometre for a Euro V, 40 Tonne, 5 Axle Articulated HGV reveals significant differences in charges across Member States.

Vehicle taxes in the EU incorporate both taxes on acquisition also known as registration tax and taxes on ownership, generally referred to as vehicle excise duty. Registration taxes are a one-off charge on vehicles and so do not represent a substantial element of the operating costs of the freight sector.

Directive 1999/62/EC¹⁴ sets down the minimum levels of vehicle excise duty required across the EU. However, Member States have discretion in terms of the procedures for levying and collecting the taxes as well as the structure of the taxes.

The basis for calculating annual vehicle excise duty (VED) across Member States varies significantly, and can include a combination of factors including weight, axles, emissions, suspension, noise and payload. In 2011, three Member States, Cyprus, Malta and Slovenia did not apply any VED to commercial vehicles. The variability in VED structures across Member States can result in significant cost differentials for hauliers. An analysis undertaken based on a Euro V, 40 tonne, 5 axle articulated HGV shows how the cost of VED can vary up to 80 per cent.

In summary, although harmonisation is taking place differences remain in the costs related to taxation and infrastructure charges, as faced by road hauliers in different Member States. Fuel excise rates vary. The level and basis of road user charges (tolls and vignettes) also vary between Member States, although these apply to all hauliers operating in these Member States irrespective of nationality. The analysis of costs carried out and summarised above indicates that the remaining differences between excise rates and road user charges will not be a significant factor in the response of hauliers to any further market liberalisation.

⁹ Directive 2004/74/EC of the European Parliament and of the Council of 29 April 2004 - amending Directive 2003/96/EC as regards the possibility for certain Member States to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation, *OJ L 157, 30.4.2004, p. 87-99*

¹⁰ Directive 2004/75/EC of the European Parliament and of the Council of 29 April 2004 - amending Directive 2003/96/EC as regards the possibility for Cyprus to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation, *OJ L 157, 30.4.2004, p. 100-105*

¹¹ Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 - on the charging of heavy goods vehicles for the use of certain infrastructures, *OJ L 187, 20.7.1999, p. 42-50*

¹² Directive 2006/38/EC of the European Parliament and of the Council of 17 May 2006 - amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures, *OJ L 157, 9.6.2006, p. 8-23*

¹³ Directive 2011/76/EC of the European Parliament and of the Council of 27 September 2011 - amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures, *OJ L 269, 14.10.2011, p. 1-16*

¹⁴ Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 - on the charging of heavy goods vehicles for the use of certain infrastructures, *OJ L 187, 20.7.1999, p. 42-50*

Social Harmonisation

The main pieces of legislation aimed at achieving improvements in social conditions in the road haulage sector are:

- Working Time Directive (Directive 2002/15/EC¹⁵)
- Drivers' Hours Regulation (Regulation (EC) No 561/2006¹⁶)
- Posting Directive (Directive 1996/71/EC¹⁷)
- Tachograph Regulation (Regulation (EC) No 561/2006¹⁸)

However the implementation, checks, enforcement and sanctions for breaking them are not harmonised.

The implementation of the rules can differ from one Member State to the next both in the time taken to implement the rules and to what degree that they are implemented. Some Member States will supplement the new rules with additional national rules in order to mitigate or manage their impact. Of particular note in this respect is the Posting Directive, whereby its interpretation, implementation and enforcement in the road haulage sector appears to be variable. This situation is likely to change with expected adoption of the Enforcement Directive on Posting of Workers which aims to reconcile the exercise of the freedom to provide cross-border services with appropriate protection of the rights of workers temporarily posted abroad for that purpose. In order to do so, it sets out mandatory rules at EU level that must be applied to posted workers in the host country.

Checks are simply one stage in a procedure that starts with the detection of an infringement and ends with a sanction, and there is no evidence that the level of tolerance shown by control services is the same in all countries. It should be noted that there are improvements on certain aspects of checks (for instance minimum provision for checks of social provisions in road transport) which are harmonised and levels of enforcement appear to be converging.

Several operators interviewed by the study team reported that many of the rules are complicated with different interpretations, and that there is a wish to see some simplifications in the future.

Developments in Road Safety and Security

This chapter has provided an assessment of the current extent of harmonisation in the EU with regard to safety legislation and identified inconsistencies, issues and strengths. The number of fatalities on the roads is improving but there are still major differences across Europe. Given the current situation, where some safety legislation is harmonised and other safety legislation is not, thoughts must be made on future action. Safety legislation could be considered to be the antithesis of the harmonisation versus liberalisation argument whereby harmonising safety legislation is unlikely to lead to the liberalisation of hauliers from such legislation. This is because it is highly unlikely, from political and moral standpoints that Member States would agree to liberalising laws on alcohol control, vehicle maintenance and operation and so forth, where these laws are designed to save lives and prevent incidents from occurring. So harmonisation leading to the adoption of stronger safety legislation seems a likely outcome.

Conclusions

Road transport market conditions (as defined by the conditions affecting road haulage operations, such as the conditions for accessing the occupation and profession, social and safety legislation, enforcement of these rules, as well as other factors affecting cost structures such as taxation and road user charging) are gradually becoming more similar throughout the EU.

¹⁵ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities, *OJ L 80, 23.3.2002, p. 35–39*

¹⁶ Regulation (EC) No 561/2006 – of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, *OJ L 102, 11.4.2006, p. 1–14*

¹⁷ Directive 1996/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, *OJ L 18, 21.1.1997, p. 1–6*

¹⁸ Regulation (EC) No 561/2006 – of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, *OJ L 102, 11.4.2006, p. 1–14*

However differences in legal and regulatory regimes for hauliers continue to exist. These affect the cost of hauliers based in different Member States in different ways. If the market for road freight is to be liberalised, for example through the extension of cabotage rights, hauliers based in different Member States will compete with each other to carry out domestic freight in a given Member State. A non-resident haulier could enjoy cost advantages over a 'domestic' haulier in competing for domestic freight business in a given Member State. The cost advantage could arise from a difference in the tax system between the States in question or from differences in the enforcement of social rules.

However future market opening will be possible, and beneficial, as the potential for non-distorsive competition is reduced by improved enforcement of regulation, further harmonisation of employment conditions and costs and future reforms in road charging.