

The European Voice of Freight Logistics and Customs Representatives

Brussels, 17th January 2008

RE: Package of proposals for the modernisation of EU legislation on admission to the occupation of road transport operator and access to the road haulage market

CLECAT represents freight forwarders, logistic service providers and Customs agents in Europe. It is by far the largest and most representative organisation of its kind in Europe. Its focus is therefore on freight transport only. This is the reading key of our comments below.

Our companies have a completely neutral attitude and do not privilege any mode of transport or transport infrastructure as such, although some may own equipment and infrastructure. CLECAT is taking this official position on the proposed package as representative of the users. Clecat Members are in fact among the most important users of freight transport services by road.

CLECAT actively participated in the consultation that led to the adoption of the above mentioned package¹. Based on the replies and opinions provided thereon, we would like to comment on a number of elements of the proposed package.

First, we would like to express our general support to the purpose and spirit of the proposed package, with one exception.

Road was the first transport mode to be fully liberalised at EU level. If one looks at the current market share of the road in terms of the total of freight transportation in Europe, the benefits of competition are undeniable, considering road freight has grown more than any other means of transport. Liberalisation and growth are often linked and, whilst they may not benefit from a one-to-one relationship, it is legitimate to observe that liberalisation allows for more dynamism and more flexibility in addressing market demand. These are among the ingredients of success.

This said, an optimised functioning of the internal market in road transport requires the presence of two important elements, at least:

- A high level of harmonisation in operational road transport conditions and procedures, and
- A framework that ensures full and fair competition between operators.

We believe that, from a general point of view, this package seeks to achieve these objectives.

¹ See <http://www.clecat.org/dmdocuments/PP011OETro060809RdTransAcquis.pdf>
CLECAT, aisbl (n° 0408301209)

I- Proposal for a regulation establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator

Scope

CLECAT supports the proposal to apply this regulation to vehicles with carrying capacity higher than 3.5 tonnes insofar as this limit is coherent with other road transport regulations (e.g. Eurovignette).

Transport manager

CLECAT welcomes the fact that the proposal still leaves the freedom for a transport manager and an undertaking to choose the most adapted contractual relationship, which can take the form of either an employment contract or a service contract.

Infringements

CLECAT welcomes the effort to harmonise 'degrees of seriousness of infringements' together with the principle that good repute may be lost even if the offence is committed in another Member State. Indeed, if fair competition is to be safeguarded, it is important that the same offence has the same effect regardless of the country in which such offence is committed. CLECAT advocates that the Commission Services should hear representatives of the transport industry before drafting its harmonisation proposals, and, within the *comitology procedure*, the Committee should also hear such representatives before deciding on its views on the proposal.

Financial standing of the company

CLECAT has made clear that, in principle, a company able to pay its debts, meet its commitments and accepted by the banking system as a client should be considered reputable. The proposed indicators for measuring a company's financial standing seem in line with these principles².

Authorisation and monitoring

Rules set in the regulation will only be effective and efficient if their level of application is properly controlled and – as and if the latter is insufficient – sanctioned. With this in mind, the proposal for regular checks every 5 years together with casual targeted checks seems to meet this requirement.

Administrative simplification and cooperation

CLECAT welcomes the proposal to set up an electronic register of companies and to interconnect it throughout the EU. Indeed, we believe that this is an indispensable tool to limit distortions of competition by ensuring that a company disqualified in one Member State cannot obtain a licence in another Member State. This element alone would probably encourage operators to be vigilant that their behaviour is virtuous all the time.

II- Proposal for a regulation on common rules for access to the international road haulage market

Community licence and driver's attestation

CLECAT welcomes the Commission's effort to further harmonise the format of the community licence and driver's attestation, since current disparities lead to delays and difficulties. The possibility to adapt the models to technical progress through *comitology procedure* is also welcome. CLECAT advocates that the Commission Services hear representatives of the transport industry before drafting its proposals, and that the Committee should consult such

² CLECAT German member organisation DSLV holds different views on this item and would prefer to maintain the equity capital for the certificate of financial standing

representatives before deciding on its views on the proposal, in order to address and resolve any technical difficulties.

Cabotage

CLECAT welcomes the fact that the proposal tackles this predicament. Indeed, the lack of an EU definition combined with the differences in national regulatory regimes on cabotage is a source of difficulties and legal uncertainties in the performance of cabotage operations. The EU enlargement has further expanded these problems.

This said, CLECAT deeply regrets that the proposal does not provide for free and unrestricted cabotage within the EU³. This is for us an unquestionable missed opportunity.

Indeed, we believe this would be the right solution for several reasons:

- Simplification in current and planned limitations on cabotage preventing the full completion of the internal market in road transport;
- Optimal (or perceptibly more efficient) use of trucks:
 - Free cabotage allowing for an optimised use of trucks, thus reducing empty runs and making road transport more efficient;
- Cutting red tape and bureaucracy in business:
 - Free cabotage would substantially reduce the administrative burden faced by road transport undertakings: the current proposal provides for a number of evidences to be given by non-resident hauliers to prove that they operate within the regulatory framework. These obligations may well be coherent with the proposed framework, one cannot however ignore that they represent a substantial administrative burden for companies simply willing to optimise their efficiency.
- Increased efficiency in road transport's resource allocation:
 - free cabotage would have a positive impact on the shortage of drivers currently experienced in almost all EU Member States;
- Coherence with inclusion policy and addressing peripheral problem:
 - Opening cabotage would actually compel Member States to tackle the remaining issues in transport markets, as well as in other sectors, at decent speed; in other words it could contribute to the approximation of existing differences.

Some may argue that free cabotage may indeed highlight some social and fiscal disparities in the EU. On the one hand, in view of the share of cabotage in total domestic transport⁴ (less than 3% in the most '*caboted*' countries, despite a growing trend), the effects of these disparities should not be overestimated. On the other hand, as we have already pointed out that the other coin of the medal shows that letting these elements surface would create the conditions for enhanced dialogue and cooperation between MS's to approximate their differences. There is no advantage in hushing the crying baby, if you wish to understand where the problem is.

In light of the above, CLECAT welcomes the European Commission's efforts to provide a harmonised definition of cabotage and in particular of its 'temporary nature' insofar as it will decrease the current uncertainty and disparities. CLECAT assumes that no national implementation rules regarding the interpretation of "temporary" will then be needed and that the Commission will monitor the repeal of existing rules of that kind

³ CLECAT German member organisation DSLV holds different views and support the Commission proposal on this matter

⁴ See [Trends in road freight transport 1999-2005](#), Statistics in Focus, Eurostat, March 2007

CLECAT however maintains that the proposal is still too restrictive and prevents optimised efficiency in international road transport operations.

- The final point is to draw stakeholders' and Commission's attention to the lack of a serious impact assessment⁵ on the important economic consequences of such a missed opportunity. The question is: what prices (both in money and missed savings) are we going to pay in the (possibly vain) attempt to preserve residual privileges, by not embracing full and unrestricted cabotage?

CLECAT urges the Commission, the Parliament and the Council to take a clear stand in favour of full and unrestricted cabotage all over the EU.

In consideration of the fact that this is however a rather contentious issue, it would be helpful to allow full and unrestricted cabotage at least to vehicle Euro IV or higher.

Mutual assistance and sanctions

CLECAT welcomes the proposed system for enhanced cooperation between Member States, as proper controls play an important role in safeguarding fair competition. It is also coherent with the scheme set up by the proposal on access to the profession.

⁵ The [impact assessment](#) mentions the option of “unlimited consecutive cabotage”, which “*would reduce transport costs in a first step, then increase the volume of cabotage and make further road transport attractive compared with more sustainable transport modes. It would shift a number of jobs to Member States with lower labour costs. By contrast with Options 3, it might create legal complexities. Some Member States might decide to apply national rules on VAT and labour rules to hauliers performing cabotage operations. All in all, this option could have substantial impacts which would need a deeper analysis and therefore goes beyond the scope of this simplification exercise*”. One however wonders why further investigations were not undertaken.