



COMMISSION OF THE EUROPEAN COMMUNITIES

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98/0096 (SYN)

**Proposal for a
COUNCIL DIRECTIVE**

**on a transparent system of harmonized rules for driving restrictions
on heavy goods vehicles involved in international transport
on designated roads**

(presented by the Commission)

EXPLANATORY MEMORANDUM

A. GENERAL

1. Introduction

Currently there is no European legislation concerning driving restrictions for heavy goods vehicles. Thus, at present all legislation laying down driving restrictions and any exemptions to them is drawn up by the Member States. At present seven of the fifteen Member States choose to have such legislation, which mainly relates to weekend restrictions. Since these rules are produced without consultation between Member States they often differ considerably from one Member State to another. These differences can affect the starting and finishing times of the restrictions, the definitions of trucks exempt from restrictions, special dates when restrictions apply (regional and national public holidays) and even the definition of heavy goods vehicles covered by the legislation. The differences in start and finish times of current driving restrictions can clearly be seen in Table I. This table also indicates that restrictions mainly apply at the weekend. The major arguments put forward for having driving restrictions are: road safety; congestion; environmental reasons; and social reasons. In addition, some countries, or regions, have driving restrictions as a direct consequence of those in neighbouring countries. Finally, some countries justify restrictions on tradition rather than objective grounds.

Road traffic management is the competence of national and, in some cases, the regional governments of each Member State. At present European Community Member States are free to introduce legislation restricting the movement of traffic within their own borders, provided that the rules adopted are not discriminatory.

Nevertheless, the international dimension of such restrictions was highlighted after a recently-introduced restriction in one Member State triggered off a chain reaction in neighbouring Member States.

TABLE I

WEEKEND RESTRICTIONS CURRENTLY APPLYING TO HEAVY LORRIES IN EUROPE							
time	EU Countries with truck bans						
	A	D	E	F	I	L	P
Saturday 0h-1h							
1h-2h							
2h-3h							
3h-4h							
4h-5h							
5h-6h							
6h-7h							
7h-8h	■	■					
8h-9h	■	■					
9h-10h	■	■					
10h-11h	■	■					
11h-12h	■	■					
12h-13h	■	■					
13h-14h	■	■					
14h-15h	■	■					
15h-16h	■	■					
16h-17h	■	■					
17h-18h	■	■					
18h-19h	■	■					
19h-20h	■	■					
20h-21h	■	■					
21h-22h	■	■					
22h-23h	■	■		■		■	■
23h-24h	■	■		■		■	■
Sunday 0h-1h	■	■		■		■	■
1h-2h	■	■		■		■	■
2h-3h	■	■		■		■	■
3h-4h	■	■		■		■	■
4h-5h	■	■		■		■	■
5h-6h	■	■		■		■	■
6h-7h	■	■		■		■	■
7h-8h	■	■		■		■	■
8h-9h	■	■		■		■	■
9h-10h	■	■		■		■	■
10h-11h	■	■		■		■	■
11h-12h	■	■		■		■	■
12h-13h	■	■		■		■	■
13h-14h	■	■		■		■	■
14h-15h	■	■		■		■	■
15h-16h	■	■		■		■	■
16h-17h	■	■		■		■	■
17h-18h	■	■		■		■	■
18h-19h	■	■		■		■	■
19h-20h	■	■		■		■	■
20h-21h	■	■		■		■	■
21h-22h	■	■		■		■	■
22h-23h	■	■		■		■	■
23h-24h	■	■		■		■	■
Monday 0h-1h							
1h-2h							
2h-3h							
3h-4h							
4h-5h							
5h-6h							
6h-7h							
Total bans							
normal	32	22	7	24	14	24	23
Summer	■						

▲
PROPOSAL FOR PERMITTED RESTRICTION PERIOD FOR HEAVY VEHICLES MAKING INTERNATIONAL TRIPS ON ROUTES LISTED IN THE DIRECTIVE
▼
(extra 2 hours in Summer)
▼

■ - Normal restrictions ■ - additional Summer restrictions

Note: Additional night time driving bans exist between 22hrs and 5hrs in Austria for heavy goods vehicles exceeding noise limits.

Source of information: National legislation (for E.U. Member States), IRU, TLN.

Given the proliferation of restrictions, with the possibility that Member States may introduce additional restrictions at any time, several Member States have requested the Commission to come forward with a proposal to limit the negative effects of driving restrictions for international transport as far as possible whilst still respecting Member States' competence to best deal with national and local transport.

2. Key issues

2.1 Reasons advanced for imposing driving restrictions

2.1.1 Modal Shift and total road freight traffic

It is sometimes claimed that weekend driving restrictions favour rail transport in the weekend and, therefore, constitute a means of alleviating pressures on the road network. In addition, it is also suggested that these bans directly lead to a reduction in total heavy goods vehicle movements.

However, it should be noted that none of the Member States currently applying driving restrictions on heavy goods vehicles justify their actions on the grounds of encouraging freight to be transported by rail (or other modes of transport) or to directly reduce road freight traffic volumes. This is not surprising since one of the aims of the Common Transport Policy is to remove administrative and other "artificial" burdens in all modes of transport.

It does not appear that accurate statistics are kept concerning the quantity of freight moved by rail on weekends, in comparison with weekdays. However, it is generally accepted that, even in Member States with weekend restrictions on road freight, there is less rail freight at weekends than on weekdays. This is probably due to several factors. In the weekend, labour costs are significantly higher in most railway companies, particularly on Sundays, thus increasing rail transport costs. Moreover, Sunday is also traditionally the day when railway track maintenance is undertaken and this reduces the effective capacity of the network on Sundays.

In summary, there is no evidence that existing weekend driving restrictions have led to a shift from road to rail transport over the weekend. Therefore, the effect of reducing existing driving restrictions with regard to modal shift is also difficult to accurately quantify.

This leaves the question whether weekend driving restrictions directly reduce road transport movements. Clearly, driving restrictions imply an additional burden which raises the costs of road transport. As indicated in paragraph 2.3.1, the costs of existing driving restrictions are estimated to be in the order of ECU 3 billion. It is estimated that driving restrictions affect a road haulage market worth about ECU 100 billion, implying that their full abolition could reduce costs by about 3%.

The impact of such a measure would depend on the price sensitivity of transport demand (i.e. tonnes shipped) which is generally held to be low. However, even if it were as high as 0.5 (implying that a 1% reduction in costs would lead to an increase of demand by 0.5%), the effect on the volume of goods shipped by road would not exceed 1.5%.

The impact on heavy goods vehicle movements (in terms of mileage), however, is likely to be significantly lower and could even be negative. It should be noted – as set out in paragraph 2.3.1. – that some of the extra costs of driving bans are related to additional-mileage to avoid restrictions, the lowering of loading ratios and the creation of additional fleet capacity (which affects prices and, therefore, transport volumes during weekdays). The removal of driving restrictions would, in the short term, lead to a direct reduction in the associated vehicle movements. In the longer term, these effects may be (partly) offset as a result of reduced road-haulage costs.

On balance, the available evidence suggests that the (partial) removal of weekend driving restrictions would have a negligible impact on total heavy goods vehicle movements. The main effects of such a measure would be an increase in transport efficiency and a more even distribution of traffic over the week.

2.1.2 Road safety

Road safety is often given as a reason for driving restrictions by Member States which apply them. The presumption is that limiting heavy goods vehicle movements during weekends will reduce accident levels at a time when they are relatively high.

The European Commission's CARE database is the only source that permits detailed statistical comparisons of road accident statistics between Member States. Using this source it can be seen that there does not seem to be a correlation between weekend driving restrictions and the number of road accidents and fatalities on weekends.

Moreover, in evaluating the road safety impact, it should be borne in mind that weekend driving restrictions concentrate traffic during weekdays.

Table 2 shows that the Member States with the lowest percentage of road accidents and fatalities on weekends are not those with weekend restrictions on the circulation of trucks.

In Table 3, one can see that in those Member States where no driving bans exist, the number of fatal accidents occurring on Saturdays or Sundays is not significantly higher than on weekdays - in fact it can be seen to be lower.

There is, therefore, no *prima facie* evidence that general weekend driving restrictions on trucks reduce road accident levels at weekends. Clearly, however, it is possible that on specific routes with exceptionally high traffic densities, restrictions can reduce accident levels.

TABLE 2

Percentages of persons killed per Day of the Week (1991-1995)

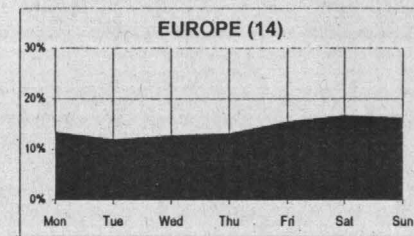
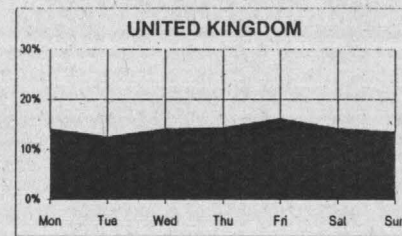
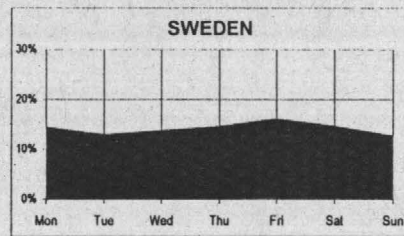
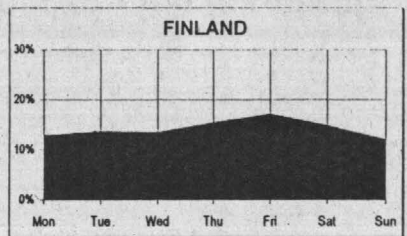
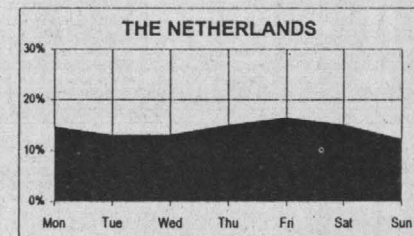
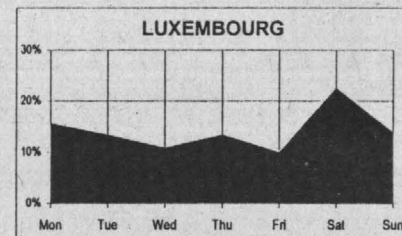
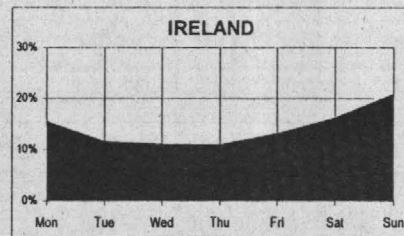
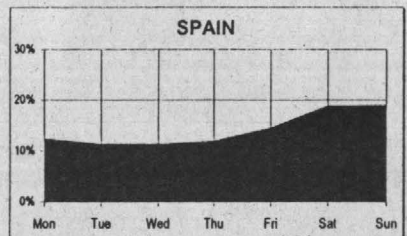
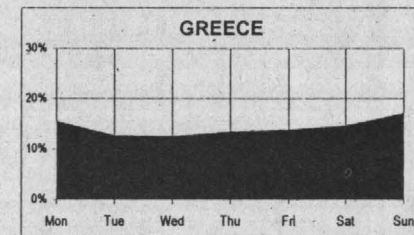
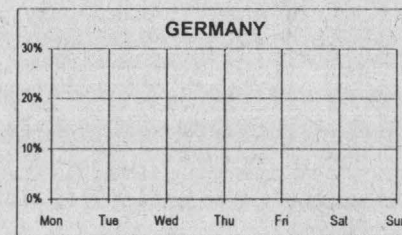
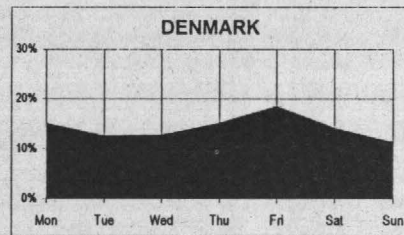
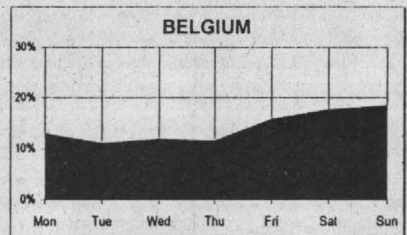
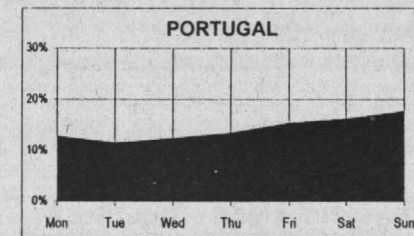
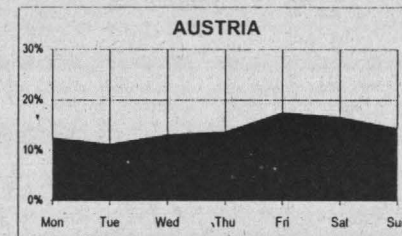
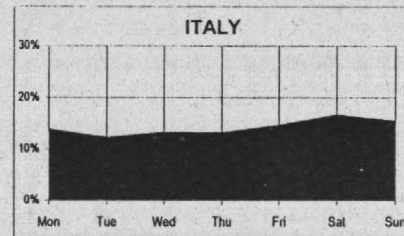
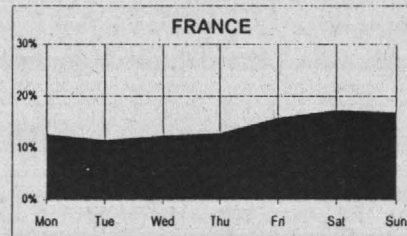


TABLE 3**Number of fatal accidents where lorries were involved by day of the week - 1995**

DAY OF WEEK	B	DK	GR	E	F	IRL	I	L	NL	A	P	FIN	S	UK	EUR (14)
Saturday	14	15	54	120	62	10	55	0	28	7	15	2	1	51	434
Sunday	17	12	29	82	33	6	21	0	1	1	12	5	1	46	266
Monday	36	19	43	149	109	17	104	1	28	16	21	5	20	94	662
Tuesday	22	23	40	128	111	5	118	2	37	26	16	5	16	102	651
Wednesday	30	12	48	122	105	9	114	0	34	20	16	6	18	114	648
Thursday	24	17	51	152	97	10	102	1	28	24	23	5	11	103	648
Friday	31	28	50	179	114	17	96	1	34	34	20	7	15	105	731
Total per week	174	126	315	932	631	74	610	5	190	128	123	35	82	615	4040
Average Weekend	15,5	13,5	41,5	101	47,5	8	38	0	14,5	4	13,5	3,5	1	48,5	350
Average Week days	28,6	19,8	46,4	146	107,2	11,6	106,8	1	32,2	24	19,2	5,6	16	103,6	668

Source: EC DGVII - CARE Database

2.1.3 Congestion

Another justification for driving restrictions for heavy goods vehicles which is often advanced is that it reduces congestion on the roads.

However, on normal weekends (especially on Sundays and during the night) the traffic density on roads is considerably lower than on weekdays. This is true even in Member States where there are no weekend driving restrictions (see Table 4).

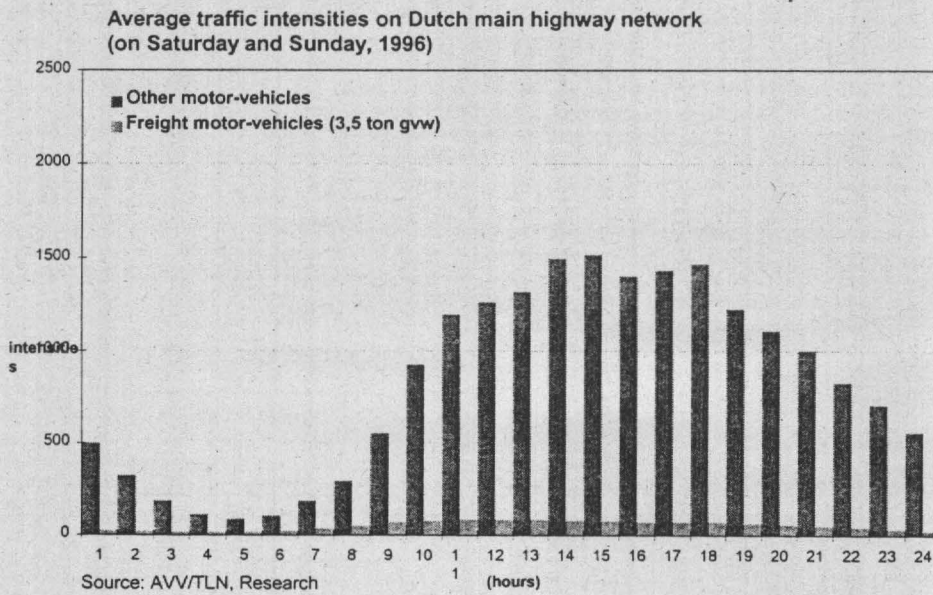
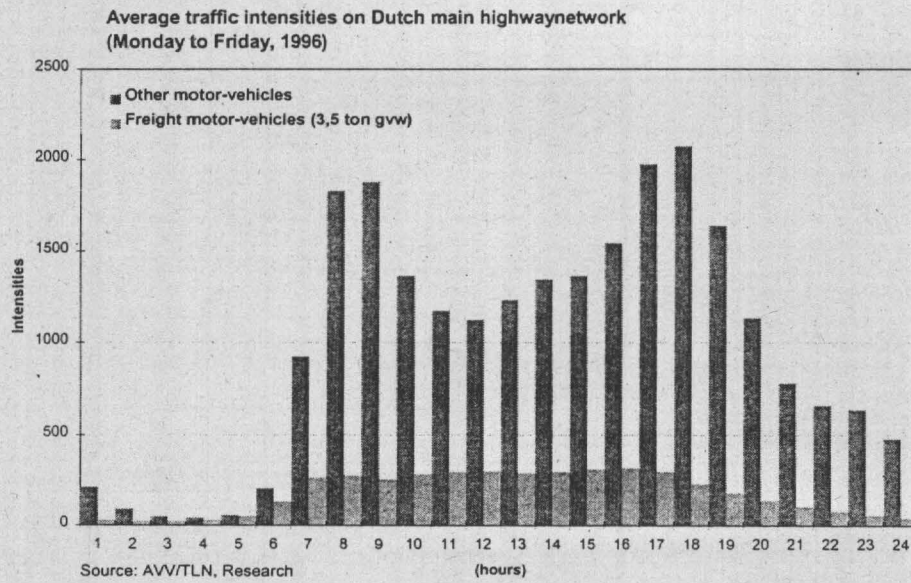
Since congestion increases exponentially with traffic densities, it is, therefore, reasonable to conclude that measures which concentrate traffic on weekdays (i.e. when driving restrictions do not apply) will as a general rule increase congestion. Possible gains in reduced congestion on the weekend as a result of driving restrictions are likely to be outweighed by higher congestion on the other five days of the week. It is clearly better to spread the same number of heavy goods vehicles over six or seven days rather than just on five days.

As a general rule, international heavy goods road transport only represents a very small proportion of total road traffic, even in centrally located countries of the Community. For example, estimates suggest that, on average, only 2.7% of all vehicle movements on German roads are related to international HGV traffic. This means that, even when correcting for the relatively large impact of trucks on traffic flows, it would be mistaken to suggest that international HGV traffic is the main cause of road congestion.

However, it is recognized that there are days, such as at the start of national holidays, when traffic density can be predicted to be considerably higher. In these cases driving restrictions may be justified and should be allowed.

TABLE 4

Distribution of traffic on Dutch main highway network



Similarly, greater traffic densities can generally be expected on European roads during the summer months due to additional holiday traffic. Therefore, longer driving restrictions for these months can be justified.

2.1.4 Environmental issues

Environmental concerns are another justification given for driving restrictions. These can be divided into the environmental effects of exhaust gases and noise pollution.

Air pollution

It is clear that weekend restrictions on their own cannot reduce exhaust emissions: a heavy goods vehicle will pollute identically whether it is running on a Saturday or a Tuesday, say.

As highlighted in 2.1.3 above, concentrating the same number of transport operations in a shorter period of time will generally result in higher levels of congestion. Since the optimum efficiency of a vehicle's engine is achieved when it is running at a constant speed, congestion has a negative effect both on the overall quantity of exhaust gases produced and also on fuel consumption. Significant congestion can increase fuel consumption by as much as a factor of 2 to 3.

As a general rule weekend driving restrictions are thus unlikely to decrease air pollution from transport.

Clearly, there may be specific environmental circumstances (e.g. smog alerts) when there is a justification for total driving bans. This could occur both during the week and at the weekend and would call for a geographically targeted and time limited driving ban, not a generalized weekend restriction. Clearly such bans should also apply to heavy goods vehicles.

Noise pollution

There is, indeed, a valid argument for restricting noisy vehicles during certain periods of the week, especially at night. The Commission recognizes that topographic conditions, such as mountainous areas, can affect traffic noise by reflecting and therefore magnifying it. In such areas restrictions to limit noise pollution can be particularly justified. At present, there is, however, only one driving ban in force that restricts the circulation of noisy vehicles during the night (in Austria).

Clearly noise considerations should result in targeted driving restrictions on those roads where noise pollution is a real problem, rather than general bans applying throughout a Member State's territory. Moreover, in order to be fully effective, such driving restrictions should also take into account the noise of other noisy road vehicles. In this context, it should be noted that modern lorries¹ meet the same EU noise standards (80 dB(A)) as buses and motorcycles².

¹ Council Directive 96/20/EC, published in OJ L 92, 13.4.1996, p. 23.

² Council Directive 87/56/EC, published in OJ L 24, 27.1.1987, p. 42.

Furthermore, research has proven that the noise made by lorries is dependent on the speed of the vehicle and the texture of the road surface. Therefore measures in these fields should also be considered.

2.2 Specific problems of current driving restrictions

2.2.1 Availability of information

A problem raised by uncoordinated driving restrictions is the difficulty for lorry drivers and operators engaged in intra-community transport to know, and understand, legislation that is subject to frequent national changes concerning the hours, the days and the roads closed to traffic. As a consequence efficient transport organization and planning is rendered more difficult.

In this context it should be noted that whilst today seven Member States (Germany, France, Spain, Italy, Luxembourg, Portugal and Austria) currently apply various, differing driving restrictions no less than four potential EU Member States (Czech Republic, Hungary, Poland and Slovenia) also apply driving restrictions. In the absence of EU legislation on this topic their accession into the EU will thus further exacerbate the situation concerning information (and also differences in the interpretation of rules).

2.2.2 Differences the in interpretation of rules

No Member State applies a total ban on heavy goods vehicles at any time. All allow heavy goods vehicles transporting particular products to circulate even when bans are in force – e.g. when transporting live animals, or petrol or perishable foodstuffs. Unfortunately such exemptions cause problems. Since there is no harmonized list of exempt products this results in differences in exemptions allowed by different Member States. This causes considerable confusion for drivers, operators and even the authorities of a Member State. Furthermore, in the absence of customs officials in the border-free EU decisions on whether a product is exempted from bans is often taken unilaterally by local police officials. Consequently, this leads to discretionary interpretations of what types of vehicle or loads are exempt from national restrictions and such interpretations may differ from place to place.

The exemption system can, therefore, lead to the arbitrary selection of lorries allowed to circulate, since the rules are not clear and, in certain cases, might even unfairly benefit national transporters.

2.3 Effects of driving restrictions

2.3.1 Economic effects

The effect of driving restrictions can vary. For a short journey a lorry may have to park for a few hours or delay its departure to await the end of the restriction. However, for longer journeys, for example from Sweden to Portugal, the cumulative effects of restrictions may add significantly to the time and may even make it impossible to carry out a round trip in the period between restrictions. Hauliers making "just in time" deliveries, for example to supply a car factory, may even have to operate extra vehicles to cover for those vehicles blocked by these restrictions.

In all these cases driving restrictions result in economic costs. It is very difficult to make a precise estimate of the total costs involved since it is impossible to assess the effect of restrictions on the different transport logistics systems that apply in Europe. These effects vary considerably as a result of distances covered, frequency of service provided, time-dependence of delivery, nature of the load, availability of alternative transport modes, duration of the restriction, exemptions; social conditions, seasonal weather conditions and other factors. However, the following cost factors can be clearly identified:

- higher fixed costs for all industries because of the loss of transport capacity;
- costs from lost time for vehicles stopped en route because of restrictions;
- costs of additional mileage driven to avoid restrictions;
- costs of environmental damage because of the pollution caused by additional congestion and also additional mileage driven.

A number of organizations have been consulted on the issue of the economic costs of driving restrictions and the consensus is that it is impossible to make a precise economic evaluation of the total real costs of restrictions during the weekend in the EU. This is because not only each Member State but even each transport operator is affected differently by such restrictions, since the time-critical nature of loads varies considerably. Furthermore, it is difficult to estimate the indirect costs since it is hard to forecast how markets would react if long-standing restrictions were lifted or reduced in duration. Rather, it is easier to calculate these costs for cases where new restrictions have recently been imposed.

The Dutch transport association TLN has estimated on the basis of an extrapolation model using the figures presented in case study 1 that the total economic cost of current driving restrictions throughout the EU is of the order of ECU 3 billion per year. Recognizing the limited amount of information on this subject a review of this study indicates that the cost estimate is of the correct order of magnitude.

ECONOMIC EFFECTS OF DRIVING RESTRICTIONS - Case Study No 1

The Dutch transport association TLN has examined the economic effects of the recent change of rules governing traffic restrictions in France. There, prior to March 1997 lorries were permitted to drive during the national 24-hour weekend ban period provided they were making a return journey to their home base. However, this exemption from the driving restriction rules was stopped in March 1997. TLN has estimated that this change will result in an additional annual cost of NLG 120 million (around ECU 55 million) per year for Dutch operators alone.

ECONOMIC EFFECTS OF DRIVING RESTRICTIONS - Case Study No 2

A shoe manufacturer has production plants in both the UK and Portugal. Raw materials, partly finished goods and finished goods are all sent in both directions by road via France and Spain.

The company estimates that every hour of lost production costs them GBP 5 000 (around ECU 7 000). However, because of driving restrictions to ensure that deliveries from the UK reach their Portuguese factories (and vice versa) by Monday morning vehicles are obliged to leave on Friday and park *en route* when the national driving restrictions come into effect.

Not only does this increase journey times by 20% - a cost of some ECU 500 per round trip - but the restrictions also have the effect of making French hauliers more attractive than other drivers by arranging for shift changes in France rather than having the expense of a driver sleeping in a stationary vehicle or double-manning the truck.

2.3.2 Geographical effects

Driving restrictions affect all hauliers in all regions of the Union. However, the peripheral regions of the European Union are, relatively, more affected as the most important trade flows are to and from the geographical centre of the European Union. Given the longer distances that heavy goods vehicles have to travel from peripheral regions, the *cumulative* effect of different uncoordinated restrictions in other Member States affect transport connections with these regions relatively strongly. Moreover, longer journeys have a greater degree of uncertainty of timing (because of road congestion, weather conditions, late ferries, etc.) which also make it difficult to plan a long distance journey to avoid restrictions.

For example, a lorry leaving London for France can more accurately schedule its journey to minimize waiting time at Dover harbour than can a lorry from Ireland travelling to the same destination in France, since the Irish lorry has to allow for possible delays to the ferry from Ireland to the UK plus possible congestion or bad weather on the journey to Dover.

Finally, long journeys may be more affected by restrictions as it will often be impossible to make a return trip within the period between two driving restriction periods.

2.3.3 Social effects of restrictions

Some Member States defend their current use of restrictions as a means of enforcing social legislation on drivers' hours by using restrictions as an obligatory rest period for all lorries on their territory. However, the current situation of uncoordinated restrictions does not make it easy for lorry drivers engaged in intra-community transport to plan routes in order to take their rest periods at optimal times and places. It may also hinder drivers from making return journeys home. As such, driving restrictions may even act counter to the intentions of the social aspects of Council Regulation (EEC) No 3820/85³, on the harmonization of certain social legislation relating to road transport, since these restrictions are imposing rest periods on drivers which may not coincide with - and are of different duration from - the daily rest periods and the weekly rests required by Articles 8 and 9 of the Regulation.

³ OJ L 370, 31.12.1985, p. 1.

3. The need for legislative action

Given the different sets of rules on driving restrictions in the Member States due to different social, economic, environmental and technical considerations, the freedom to provide transport services across the Community is affected and a transparent system of harmonized rules at the European Community level is desirable in order to enable hauliers to make a proper logistical planning of international transport operations, thus facilitating their freedom to provide transport services and ensuring the proper functioning of the Single Market.

At the same time the Commission recognizes that there are valid arguments for some driving restrictions and that traffic conditions and traditions vary across Member States. Moreover, any Community action in this field should, as much as possible, respect Member States' competence to decide on traffic management issues and leave untouched restrictions that do not affect international traffic.

For this reason, the scope of the Commission's proposal is limited to international transport by heavy goods vehicles on the TENs road network. Clearly, the TENs network constitutes the backbone of the international transport system that is needed to make the internal market work. It is for this reason that coordination as well as – limited – funding takes place at EU level. It would be contradictory with the Community's TENs policy if the effective use of this network were undermined as a result of uncoordinated traffic bans. The proposal basically consists of four parts.

The first part deals with generalized weekend and public holiday restrictions.

The second part covers night bans to limit noise pollution.

The third part allows for the possibility for Member States to have prolonged, generalized restrictions for heavy goods vehicles on the TENs when they can be justified.

The fourth part sets out special driving bans which may apply (also on weekdays). These bans would be targeted to deal with specific time-limited circumstances, e.g. smog alarms, heavy traffic densities during holiday periods, etc.

In addition, a notification procedure is foreseen for restrictions for heavy goods vehicles on the TENs road network for all bans that reasonably can be predicted on the grounds of transparency. The Commission will annually publish a report of such notified bans that will apply the following year.

It is, therefore, proposed that:

- Member States shall continue to have the right to choose whether or not they wish to have driving restrictions for heavy goods vehicles on their territory;
- in those Member States wishing to have driving restrictions for heavy goods vehicles on their territory restrictions on international transport shall be limited to 07h00 to 22h00 (24h00 in summer) on Sundays and public holidays on the TransEuropean Road Network (TENs road network);

- driving restrictions during the night (22h00 to 05h00) shall be permitted on the TENs network for heavy goods vehicles which exceed EU noise standards;
- Member States may extend the general restrictions on (specific parts of) the TENs road network, provided they can justify this on environmental, social or road safety grounds and after prior agreement from the European Commission. A detailed justification is required on the basis of statistics and/or estimates of the effects in terms of road safety, social and environmental consequences. Moreover, the proposed measures should be proportional to the objectives in comparison with alternative traffic management policies. The Commission proposes a Committee procedure for examining and authorizing additional driving restrictions which Member States may wish to impose on international transport on the TENs road network. Member States that submit a request to extend the period of their driving restrictions will have their request considered by the Commission according to this procedure within two months;
- special driving restrictions during holiday periods shall always be permitted subject to notification to the Commission before 30 November of the previous year;
- special driving restrictions of short duration shall always be permitted on environmental technical or safety grounds (e.g. smog alarms, special weather conditions etc) without any requirement of prior notification;
- the particular types of vehicles and transport operations that are exempt from driving restrictions are harmonized;
- on all roads other than the TENs road network and for all national transport operations Member States may continue to set whatever driving restrictions they wish. Restrictions imposed on international traffic should, however, not be stricter than on national traffic.

The Commission's proposal thus simply ensures that, as a general rule, a strategic route network of roads is open for heavy goods vehicles making international journeys for 6 1/3 days of the week without affecting the right of Member States to apply driving restrictions to any other part of their road network or on heavy goods vehicles making national journeys. An exception to this rule is formed by public holidays which are "treated as Sundays".

The proposal is illustrated in Figure 1.

Figure 1

EFFECT OF PROPOSAL

	International traffic on TENs network	National traffic on TENs + all traffic on all other roads	
	Type of permitted driving restrictions	<u>Notification procedure</u>	
Normal Sundays	Optional ban from 07.00 - 22.00* Permitted under Article 3(2)	<u>Commission to be notified of restrictions</u>	Optional unlimited ban
Summer Sundays	Optional ban from 07.00 - 24.00* Permitted under Article 3(2)	<u>Commission to be notified of restrictions</u>	Optional unlimited ban
Public holidays	Optional ban as for Sundays*. Permitted under Article 3(2)	<u>Commission to be notified of restrictions</u>	Optional unlimited ban
Night times (all days)	Optional ban 22.00 - 05.00 for noisy trucks. Permitted under Article 3(3)	<u>Commission to be notified of restrictions</u>	Optional unlimited ban
Special bans in conjunction with public holidays	Possible. Permitted under Article 3(7)(a)	<u>Commission to be notified of restrictions</u>	Optional unlimited ban
Special ad hoc bans/environmental, weather or road repairs (time limited)	Possible. Permitted under Article 3(7)(b)-(d)	<u>No notification necessary</u>	Optional unlimited ban

* with the possibility (under Article 3(6)) to introduce additional restrictions to extend the period if justified and after approval by the Commission, in accordance with the Committee procedure laid down in Article 8.

As regards the generalized weekend driving restrictions which will include heavy goods vehicles making international transport operations on the TENs road network, the Commission has chosen the period 7h00 until 22h00 (24h00 in summer) on Sundays as the "normal time window". This choice is motivated by the following facts:

- First, the proposal respects (an approximation of) the largest common denominator of existing driving restrictions in Member States with bans. These driving restrictions are felt to be particularly sensitive when currently applied during the daytime on Sundays because of the longstanding tradition or the general feeling of the public in some Member States that the roads should be reserved for cars on Sundays.
- Secondly, analysis suggests that harmonizing restrictions on the TENs network of roads to this core period would roughly halve the costs caused by current bans. The savings would, therefore, be significant whilst the overall effect on current bans would be marginal. Finally, this limitation would allow international traffic to flow freely on Saturday and Sunday nights – periods at which traffic densities on the TENs road network are relatively very low. This means that the negative effects of the limitation on bans should not be felt by other road users or the general public, whilst the reduction of heavy goods vehicle traffic on the peak hours of Friday and Monday would be both more obvious and entail a positive effect.

A general extension of the "normal time window" for weekend and public holiday bans would significantly reduce the cost savings since a much larger proportion of international road haulage traffic would be affected through the cumulative effect of bans applying in different Member States. However, the Commission, recognizes that in certain circumstances an extension (on certain routes) may be justified on the basis of environmental, social or road safety grounds.

B. JUSTIFICATION FOR ACTION AT THE COMMUNITY LEVEL

1. Subsidiarity

(a) What are the aims of the action contemplated as compared with the Community's obligations?

Harmonization of driving restrictions on the main road axes for international traffic (TENs) is intended to make the transport of goods by road easier within the Community, to make more transparent rules defining the exemptions and to improve the functioning of the internal market and to improve working conditions of drivers engaged in international traffic by reducing the imposition of driving restrictions which may not coincide with - and are of different duration from - the rest periods required under Council Regulation (EEC) No 3820/85 without significantly affecting the social-, environmental- and road safety justifications for such restrictions.

- (b) *Does the intended action fall exclusively within the powers of the Community or of powers shared with the Member States?*

The action falls under a shared competence (Article 75(1)(a), (c) and (d) of the Treaty of Rome).

- (c) *What is the Community extent of the problem (for example how many States are involved and what solution has been supplied so far)?*

Seven Member States have restrictions and, given their geographical position, these restrictions have negative consequences for much intra-community trade to and from the other Member States. The introduction of the proposed legislation will, therefore, have a beneficial effect for road hauliers in all the Member States.

It should also be noted that a further four potential EU Member States also have driving restrictions for heavy goods vehicles.

- (d) *What is the most effective option as compared with the Commission's resources and those of the Member States?*

The effects on international transport of national or local driving bans is very significant. Therefore, there is a need for a harmonization of bans at the European level at least on a strategic network of international highways (the TENs network).

- (e) *What would be the added value of the intended Community action and what would be the cost of inaction?*

For the Community this proposal will improve the conditions for providing transport services throughout the European Union. In addition, it will reduce transport costs, as well as reducing the time during which lorry drivers are away from home, thus improving their working conditions. The proposal would make it easier for truck drivers engaged in intra-community transport to return to their base, as well as having clear legislation concerning driving restrictions for intra-Community traffic. The proposal will also define a transparent, and harmonized, set of rules concerning exemptions for lorries from driving restrictions, enabling its clear application by all Member States' authorities.

The effect of inaction would be exacerbated by a further proliferation of uncoordinated national and regional traffic restrictions. In the absence of a legal framework at the Community level these will create an impediment to the working of the Single Market by restricting the freedom to provide transport services. Moreover, this has a disproportionate effect on the peripheral Member States.

- (f) *What forms of action are open to the Community (recommendation, financial support, regulation, mutual recognition, ect.)?*

A Directive is considered to be the best instrument to ensure that rules applying to driving restrictions are further harmonized by the Member States.

(g) *Are uniform regulations necessary or is it sufficient for a Directive to set general aims and transfer their implementation to the Member States?*

A detailed Directive is necessary since it is the absence of uniform rules that has created the need for legislation.

C. SCOPE OF THE PROPOSAL

The proposal for a Directive harmonizes the different driving restrictions affecting all heavy goods vehicles making intra-Community traffic in Europe on designated routes. The aim of the harmonization is:

- to facilitate the freedom of transport services executed by heavy goods vehicles engaged in the transport of goods between two, or more Member States (intra-Community transport);
- to improve the working conditions for drivers by eliminating enforced stops at borders due to driving restrictions, whilst still safeguarding their rest entitlements through Council Regulation (EEC) No 3820/85;
- to permit freight traffic to be better spread throughout the week (on major routes at least), rather than concentrating high traffic densities at certain days and times as a result of uncoordinated driving restrictions;
- to ensure that driving restrictions shall not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States;
- to ensure that, if a driving restriction is deemed necessary on the designated routes, transparent rules apply across the European Union.

The proposal will continue to allow national or local authorities to set driving bans of greater length than the limit laid down in the Directive, both on routes other than those defined in Trans-European transport Network, and also for non-international truck transport on these defined routes.

D. CONTENTS OF THE PROPOSAL

Article 1 lays down the scope of this proposal.

Article 2 defines the following terms:

- heavy goods vehicle
- trunk roads
- other roads
- international transport
- public holiday
- driving restriction
- car
- load

Article 3 lays down the conditions by which driving restrictions may apply.

Article 4 defines the vehicles exempted from driving restrictions on trunk roads.

Article 5 lays down a notification procedure for driving restrictions on trunk roads.

Article 6 lays down the requirements for the Commission to produce an annual report listing forthcoming driving restrictions.

Article 7 lays down a procedure for amending the Annex to the Directive.

Article 8 creates a committee for making such amendments and for authorizing extensions of driving restrictions according to Article 3(6).

Article 9 lays down national sanctions.

Article 10 contains provisions concerning the transposition of this Directive into the national laws.

Annex I contains the provisions concerning the vehicles exempted from driving restrictions.

**Proposal for a
COUNCIL DIRECTIVE**

**on a transparent system of harmonized rules for driving restrictions
on heavy goods vehicles involved in international transport
on designated roads**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular points (a), (c) and (d) of Article 75(1) thereof,

Having regard to the proposal from the Commission⁴;

Having regard to the opinion of the Economic and Social Committee⁵;

Acting in accordance with the procedure laid down in Article 189c of the Treaty, in cooperation with the European Parliament⁶;

- (1) Whereas there are currently no harmonized rules across the Community on driving restrictions for heavy goods vehicles on Sundays and public holidays;
- (2) Whereas this lack of harmonized rules results in differences as regards the duration of driving restrictions and definitions of vehicles exempt from those restrictions;
- (3) Whereas this situation has significant negative consequences for the freedom to provide transport services in the Community;
- (4) Whereas the existence of driving bans which differ from Member State to Member State makes it impossible to make round trips over long distances without excessive interruptions; whereas peripheral regions of the Community are, in particular, highly and disproportionately affected by such driving restrictions because of their geographical situation;
- (5) Whereas, in accordance with the subsidiarity and proportionality principles as set out in Article 3b of the Treaty, the objectives of the proposed action, namely to establish a transparent system of harmonized rules for driving restrictions, thereby ensuring that the negative consequences for the freedom to provide transport services are reduced as far as possible, cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale of the action be better achieved by the Community; whereas this Directive confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose;

⁴ OJ C

⁵ OJ C

⁶ OJ C

- (6) Whereas it is desirable that, in particular for international transport, the negative impact of driving restrictions be minimized; whereas it would be desirable that certain roads, indicated in Annex I, Section 2 of Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network⁷, be kept open for international transport; whereas therefore such roads should only be subject to driving bans during certain hours on Sundays and public holidays; whereas the Commission should be notified of such driving restrictions;
- (7) Whereas this maximum permitted duration should be extendible when such extension can be justified on environmental, road-safety or social grounds; whereas a request for such an extension should be examined without delay by the Commission with the assistance of a committee;
- (8) Whereas Member States should be able to restrict the circulation during the night of heavy goods vehicles whose noise exceeds Community standards; whereas Member States should also be able to restrict heavy goods vehicles when exceptionally high traffic density is expected, for example during holiday periods; whereas the Commission should be notified of such driving restrictions;
- (9) Whereas under special environmental or weather conditions Member States should be able to restrict the circulation of heavy goods vehicles on grounds of environmental protection or road safety; whereas for practical reasons, it should be possible to adopt such restrictions without notifying the Commission;
- (10) Whereas the types of heavy goods vehicles or transport operations which are exempted from bans in all Member States should be harmonized;
- (11) Whereas the introduction of driving restrictions at national, regional and local level is currently done in an uncoordinated manner and, therefore, a system of notification on the timing and extent of these restrictions should be established; whereas on the basis of these notifications the Commission should produce an annual report to the Member States;
- (12) Whereas to amend the Annex and to consider certain restrictions to be introduced by Member States, the Commission should be assisted by a committee of an advisory nature;
- (13) Whereas each Member State should determine the penalties to be imposed in the event of an infringement of the provisions adopted for the implementation of this Directive,

⁷ OJ L 228, 9.9.1996, p. 1; Corrigendum published in OJ L 15, 17.1.1997, p. 1.

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive establishes a transparent system of harmonized rules concerning driving restrictions applied for certain periods to heavy goods vehicles undertaking international transport on certain roads of the Community.

Article 2

For the purposes of this Directive:

- (a) "heavy goods vehicle" shall mean all motor vehicles with a gross weight of 7.5 t. and above, used for the transport of goods;
- (b) "driving restrictions" shall mean a ban on the circulation of heavy goods vehicles for certain periods;
- (c) "trunk roads" shall mean the network of roads as indicated in Annex I, Section 2 of Decision No 1692/96/EC;
- (d) "other roads" shall mean all roads other than trunk roads;
- (e) "international transport" shall mean transport operations with a place of departure and place of arrival in two different Member States;
- (f) "public holiday" shall mean any day defined as a public holiday by a Member State;
- (g) "cars" shall mean motor vehicles in category M1 as defined in Annex II to Council Directive 70/156/EEC⁸;
- (h) "load" shall mean at least 1 tonne of cargo, including packaging.

Article 3

1. Member States shall not impose driving restrictions on heavy goods vehicles involved in international transport which are stricter than those applied to heavy goods vehicles involved in national transport.
2. Member States may impose driving restrictions for all heavy goods vehicles on Sundays and public holidays between the hours of 07h00 - 22h00 from 1 October to 31 March and between 07h00 - 24h00 from 1 April to 30 September.

⁸ OJ L 42, 23.2.1970, p. 1.

3. Member States may impose driving restrictions during the night, from 22h00 to 05h00, which apply to all heavy goods vehicles which do not comply with noise emission standards provided by Commission Directive 96/20/EC⁹.
4. On trunk roads Member States may only impose driving restrictions additional to those laid down in paragraphs 2 and 3 on condition that heavy goods vehicles involved in international transport are exempted from those additional driving restrictions.
5. On other roads Member States may impose driving restrictions additional to those laid down in paragraphs 2 and 3.
6. Notwithstanding paragraph 4 on trunk roads Member States may impose driving restrictions extending the time-limits laid down in paragraphs 2 and 3 on heavy goods vehicles, including undertaking international transport, provided that they submit evidence that such additional restrictions can be justified on environmental, road safety or social grounds, and after having received the prior consent of the Commission in accordance with the procedure laid down in Article 8.

The evidence shall include an analysis which justifies the restrictions as a proportional measure by comparison with alternative traffic management measures.

The evidence shall quantify the effects of the additional restrictions on the basis of one or more of the following criteria:

- (a) relevant statistics and/or estimates, both including and excluding the circulation of heavy goods vehicles, concerning traffic density on weekends during different periods of the year (summer, winter, during holiday periods) and possible effects on congestion;
 - (b) relevant statistics and/or estimates, both including and excluding the circulation of heavy goods vehicles, concerning rates of accidents both during periods where the additional restrictions would apply and at times when no restrictions are in force;
 - (c) relevant data and/or estimates concerning the exhaust emissions saved by additional restrictions, including the negative effect that bans may have on the emissions of diversionary traffic and on traffic concentrated on periods of the week where no restrictions apply;
 - (d) social analysis on the impact of additional restrictions on the average working conditions of drivers of heavy goods vehicles registered both in Member States where these restrictions apply and in the other Member States, taking into account existing Community legislation in this field.
7. Notwithstanding paragraph 4, Member States may, as regards trunk roads, impose special driving restrictions on heavy goods vehicles, including those undertaking international transport, on those days and roads where:

⁹ OJ L 92, 13.4.1996, p. 23.

- (a) exceptionally high traffic density is expected, for example during holiday periods;
- (b) circulation bans for a limited period of time applying to cars, notably for environmental reasons;
- (c) restrictions for maintenance of infrastructure are deemed necessary;
- (d) restrictions under special weather conditions are required.

Article 4

Heavy goods vehicles and/or particular transport operations as defined in the Annex shall be exempted from the driving restrictions which are laid down in accordance with Articles 3(2), 3(5), 3(6) and point (a) of Article 3(7).

Article 5

1. Member States wishing to impose extended driving restrictions in accordance with Article 3(6) shall present a request to the Commission.

The Commission shall decide on such request in accordance with the procedure set out in Article 8, within two months of its receipt.

2. Member States wishing to impose driving restrictions in accordance with Article 3(2), 3(3) or point (a) of Article 3(7) shall notify the Commission, giving details of the extent of those restrictions, including the public holidays on which such driving restrictions shall apply.

Article 6

On the basis of the information provided in Article 5, the Commission will prepare annually by 30 November a report on driving restrictions permitted under Articles 3(2), 3(3), 3(6) and point (a) of Article 3(7) for heavy goods vehicles performing international operations on the trans-European road network for the forthcoming year.

Article 7

The Commission shall adopt any amendments necessary to adapt the Annex in accordance with the procedure laid down in Article 8.

Article 8

The Commission shall be assisted by a Committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition each Member State shall have the right to ask to have its position noted in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 9

Member States shall determine the penalties applicable to infringements of this Directive and shall take all necessary measures to ensure that they are enforced. The penalties they provide for shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those measures no later than the date specified in the first subparagraph of Article 10(1) and shall notify it of amendments to them without delay.

Article 10

1. Member States shall adopt and publish, by 31 December 1998, the laws, regulations and administrative provisions necessary in order to comply with this Directive. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

Member States shall apply the provisions from 1 July 1999.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 11

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 12

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

Transport operations/types of vehicles exempt from driving restrictions

Vehicles performing combined transport operations as defined in Council Directive 92/106/EEC¹⁰;

Certified ATP vehicles¹¹ transporting a load of ATP-defined perishable foodstuffs;

Certified ATP tankers for the transportation of liquid milk at controlled temperatures;

Vehicles transporting a load of perishable fruits or vegetables;

Vehicles transporting exceptional loads as defined by Article 4(3) of Council Directive 96/53/EC¹².

¹⁰ OJ L 368, 17.12.1992, p. 38.

¹¹ As defined in the UN-ECE Agreement on the international carriage of perishable foodstuffs and the special equipment to be used for such carriage (ATP).

¹² OJ L 235, 17.9.1996, p. 59.

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