



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.05.1995
COM(95) 163 final /2

ADDENDUM: ANNEXE

WHITE PAPER

PREPARATION OF THE ASSOCIATED COUNTRIES OF CENTRAL AND EASTERN EUROPE FOR INTEGRATION INTO THE INTERNAL MARKET OF THE UNION

(presented by the Commission)

·Transport

Audiovisual

Pages 169 - 213

TRANSPORT

TABLE OF CONTENTS

- I. ROAD TRANSPORT
 - 1. Access to the Market
 - 2. Technology and Safety
 - 3. Fiscal Harmonisation
 - 4. Social Harmonisation
- II. RAILWAYS
- III. INLAND WATERWAYS
- IV. MARITIME TRANSPORT - ACCESS TO THE MARKET
- V. MARITIME SAFETY AND ENVIRONMENT PROTECTION
- VI. AIR TRANSPORT

GENERAL INTRODUCTION

Transport is one of the keys to the success of the single market, contributing as it does to the physical achievement of two of the latter's fundamental objectives, namely free movement of persons and free movement of goods. It is a major industry in its own right accounting for about 7 % of GNP and dovetails, both upstream and downstream, with other key policies such as economic, energy, environmental, social and regional policies.

A Common Transport Policy was slow in taking shape, with the first tangible achievements of any importance coming only after 1985. This was due to a number of factors, e.g. widely differing industrial structures between the Member States and between the different modes of transport; the existence of state monopolies; traditional market structures; disparate tax, administrative and corporate rules; wide reliance on modal-oriented national policies; multitude of different, often incompatible technical rules; strong interest groups which preferred the status quo to increased challenges and opportunities.

The creation of the Internal Market of transport services relied on liberalisation and harmonisation measures:

- the Common Transport Policy progressively eliminated the artificial barriers in each mode of transport (modal policy) erected between Member States by doing away with technical, tax and social distortions of competition and by enabling Community operators to provide, free of discrimination, services in a Member State other than the one in which they are located.

- in liberalizing the Community market, the Common Transport Policy has safeguarded the requirements for its smooth functioning by laying down the rules to be observed by Community carriers in terms of professional competence, safety, social provision and public service obligations.

The complexities of the transport industry and the greatly differing national structures and policies made it necessary to rely, in the most sensitive areas, on transitional periods and temporary exemptions. However, the legal framework of the internal transport market is in place, and Community rules are being satisfactorily incorporated into national legislation.

The effectiveness of the Community system thus created will only become apparent gradually. Initial problem areas can be detected as well as smooth progress. But it is clear that the creation of rules has to go hand in hand with an effective implementation by the authorities called upon to exercise a satisfactory level of control.

The present exercise should also be put in the general context of work underway under the Association Agreements with the Central European Countries as regards approximation of legislation.

Work in the Joint Sub-Committees on Transport has focused on the approximation of legislation in all transport modes with the aim of restructuring the transport sector so as to establish an integrated and balanced multimodal transport system. Approximation of legislation is also a central element in the current negotiations on market access in inland waterways and it will play a major role in the future road and air transport negotiations. Indeed the Central European Countries undertook, under the Association Agreements, to adapt their legislation with the Community *acquis* in so far as it serves to assure a co-ordinated development and progressive liberalisation of transport between the Parties.

The European Commission has presented in December 1992 a Recommendation for a Council Decision on the Opening of negotiations between the Community and third countries concerning the carriage of goods and passengers by road. The matter is still pending in the Council.

I. ROAD TRANSPORT

INTRODUCTION

The market of road transport in the different States was characterised before the completion of the internal market by a plurality of rules concerning both national and international road transport in fields like access to the profession, access to the market, technical standards and control, social conditions, fiscal matters, environmental protection, road safety etc.

As far as road transport is concerned two main subdivisions could be made: the carriage of goods and the carriage of passengers. The existing legislation takes into account this classification in the large majority of cases.

One of the most important principles to make effective the internal market in road transport is to ensure the freedom to provide services without discrimination on the grounds of nationality or place of establishment.

In order to achieve this objective it is necessary to develop a certain degree of harmonisation of competition conditions. That is the reason why for the last 20 years the Community has been adopting measures to establish standards in the fields mentioned before. At the same time the restrictions to provide international transport services based on quota systems have been eliminated. Since 1976 Community quotas have been increased regularly every year until 1993 when quotas were definitively abolished.

The outcome of this process is that national barriers that prevented the provision international road transport services have dropped. The situation of the international market between the Member States is entitled to provide road transport services all over the Community if he complies with the conditions of access to the directives regulating the profession.

Measures concerning the opening of national markets to non residents have as well been adopted as an important part of the completion of the internal market. However, the complete liberalisation of cabotage will only be achieved in the Community on 1 July 1998, after nearly ten years transitional period, when the existing quotas will be eliminated.

Some measures adopted at international level have also been of great importance like the agreement on the international carriage of passengers by road by means of occasional coach and bus services (ASOR)¹ and the European agreement concerning the work of crews of vehicles engaged in international road transport (AETR) negotiated in the framework of the United Nations Economic Commission for Europe.

¹ OJ N° L 260, 5.8.1982, p.38

DESCRIPTION OF THE LEGISLATION

i) **Situation**

From 1 January 1993 with the creation of the internal market and the opening up of the road transport market, the access to the intra-Community road transport market is now open to any road transport operator who satisfies the "qualitative" requirements which govern admission to the occupation of road transport operator. In this liberalized environment competition has increased, therefore it is crucial to the sector to improve the selection procedure and better training measures for those persons wishing to take up the occupation of road transport operator.

ii) **Approach**

The Community has defined the rules for the admission of national and international road transport operators. There are three requirements which persons wishing to exercise as a road transport operator must satisfy : good repute, appropriate financial standing and professional competence. In view of the creation of the internal market, the last Directive adopted in this field in 1989, defines very closely how the three requirements must be fulfilled.

iii) **Experience**

Despite compliance by the Member States with the four directives, there are still considerable differences concerning the admission to the occupation of road transport operator between the legislations applied by certain Member States. This is, because Community directives only lay down minimum conditions for implementation and therefore Member States are free to apply more stringent measures at national level. The Commission considers that more stringent requirements may be necessary at Community level and intends to propose new measures to further strengthen this legislation before the end of 1995.

CONDITIONS NECESSARY TO OPERATE THE LEGISLATION

Legislative approximation in the road transport field presupposes the existence of national regulatory systems like the organisation of access to the national market. In some cases harmonisation measures should be adopted without previous national rules in that field.

Certain harmonisation directives require the existence of specialised administrative units to execute from a practical point of view the obligations set out in the directives; for instance Directives on access to the profession foresee the condition of professional competence which consist in the possession of skills in certain subjects and recognized by the authority or body designated for that purpose by Member States.

Courses, examinations have to be organised by the competent authorities as well as the recognition of diplomas by other states.

Control agents are particularly important in most of the fields of harmonisation in road transport but specially as far as social conditions, technical controls and road safety are concerned. Control on the use of authorizations and licenses to execute national and international transport is essential to avoid illegal transport operation executed by non-authorised operators.

KEY MEASURES

This legislation creates the conditions for the access to the occupation of road transport operator which in turn was established as a precondition for access to the market.

- ***CHOICE OF STAGE I MEASURES***

DESCRIPTION & JUSTIFICATION :

Over 20 years, the Community has refined the rules for the admission to the occupation of national and international road transport operated. The Council adopted the following four directives :

- i) Directive 74/561/EEC on admission to the occupation of road haulage operator and Directive 74/562/EEC on admission to the occupation of road passenger transport operator in national and international transport operations.

These two Directives established for the first time the three requirements to be satisfied by persons wishing to exercise the occupation of transport operator. These requirements are good repute, appropriate financial standing and professional competence. These Directives have laid down a list of subjects of which knowledge is required to obtain the professional competence.

- ii) Directive 77/796/EEC aiming at the mutual recognition of diplomas, certificates and other evidence of formal qualifications for transport operators, including measures intended to encourage them effectively to exercise their right of freedom of establishment within the Community.

- iii) Directive 89/438/EEC amending the above Directives, defines more closely the three requirements which those persons wishing to exercise the occupation of transport operator must satisfy, to ensure a certain common degree of professionalism. In a liberalized environment, it is necessary above all to harmonize these criteria in order to avoid distortions of the competition to the detriment of those States applying more stringent conditions.

STAGE I MEASURES

Council Directive 74/561/EEC (O.J. L 308 of 19.11.74)	Council Directive 74/561/EEC of 12 November 1974 on admission to the occupation of road haulage operator in national and international transport operations.
Council Directive 74/562/EEC (O.J. L 308 of 19.11.74)	Council Directive 74/562/EEC of 12 November 1974 on admission to the occupation of road passenger transport operator in national and international transport operations.
Council Directive 77/796/EEC (O.J. L 334 of 24.12.77).	Council Directive 77/796/EEC of 12 December 1977 aiming at the mutual recognition of diplomas, certificates and other evidence of formal qualifications for goods haulage operators and road passenger transport operators, including measures intended to encourage these operators effectively to exercise their right to freedom of establishment.
Council Directive 89/438/EEC (O.J. L 212 of 22.7.89)	Council Directive 89/438/EEC of 21 June 1989 amending Directives 74/561/EEC, 74/562/EEC and 77/796/EEC.

• CHOICE OF STAGE II MEASURES

DESCRIPTION & JUSTIFICATION :

Parallel to the implementation of the legislation on admission to the occupation of road transport operator in national and international operations - necessary to prepare the liberalization to market access - side measures in the field of state aids and financial compensations to public transport undertakings, had to be laid down in order to avoid competition distortion amongst Member States. The Community legislation determines very closely those cases where State aid and financial compensation are allowed in the road transport sector. The first measures were adopted in the seventies, but a long transitional period was necessary to create a market where fair competition reigns, which is the condition sine qua non for further liberalisation.

STAGE II MEASURES

Council Regulation (EEC) n° 1107/70 (O.J. L 130 of 15.6.70)	Regulation (EEC) n° 1107/70 of the Council of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway.
Council Regulation (EEC) n° 1191/69 (O.J. L 156 of 28.6.69) as amended by Council Regulation (EEC) n° 1893/91 (O.J. L 169 of 29.6.91)	Regulation (EEC) n° 1191/69 of the Council of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway.

CHOICE OF STAGE III MEASURES

DESCRIPTION & JUSTIFICATION :

At this stage the rules on access to the market of international and national transport operations for goods and passengers should be completely applicable. These measures constitute an important part of the internal market and presuppose full integration in the European Union. The regulations concerned are the following:

Regulation 881/92 on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States. Directly related to this Regulation is Regulation 3916/90 on measures to be taken in the event of a crisis in the market in the carriage of goods by road. Regulation 3118/93 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State and Regulation 792/94 on cabotage own account.

As far as passenger transport is concerned, Regulation 684/92 on common rules for the international carriage of passengers by coach and bus and Regulation 2454/92 laying down the conditions under which non-resident carriers may operate national road passengers transport services within a Member State.

STAGE III MEASURES

<p>Council Regulation (EEC) n° 881/92 (OJ L 95 of 9.04.92)</p>	<p>Council Regulation (EEC) n° 881/92 of 26 March 1992 on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States.</p>
<p>Council Regulation (EEC) n° 3916/90 (OJ L 375 of 31.12.90)</p>	<p>Council Regulation (EEC) n° 3916/90 of 21 December 1990 on measures to be taken in the event of a crisis in the market in the carriage of goods by road.</p>
<p>Council Regulation (EEC) n° 3118/93 (O.J. L 279 of 12.11.93)</p>	<p>Council Regulation (EEC) n° 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.</p>
<p>Commission Regulation (EC) n° 792/94 (O.J. L 92 of 9.4.94)</p>	<p>Commission Regulation (EC) n° 792/94 of 8 April 1994 laying down detailed rules for the application of Council Regulation (EEC) n° 3118/93 to road haulage operators on own account.</p>
<p>Council Regulation (EC) n° 684/94 (O.J. L 74 of 20.3.92)</p>	<p>Council Regulation (EEC) n° 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus.</p>
<p>Council Regulation (EEC) n° 2454/92 (O.J. L 251 of 29.8.92)</p>	<p>Council Regulation (EEC) n° 2454/92 of 23 July 1992 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State.</p>

2. *Technology and Safety*

DESCRIPTION OF THE LEGISLATION

The Common Transport Policy could not fail to include among its objectives that of making an effective contribution to improving the conditions on which means of transport in general, and road vehicles in particular, circulate.

Among the measures taken to this end, those concerning safety and those concerning the drive against pollution and other nuisances are of particular importance.

Road traffic safety not only requires that producers fit their motor vehicles with the necessary safety features, but also that great care is taken to ensure that vehicles in circulation are kept in good operating condition and are equipped to regulation standards.

In the fields of technical harmonisation and road safety, it is of prime importance to ensure the free movement of vehicles or people and to avoid any distortion of competition or discrimination on grounds of nationality in the single market.

Hitherto, the Commission's approach has not been geared to total harmonisation; instead, the aim has been to approximate Member States' legislations with a view to laying down minimum or maximum standards to be observed for the purposes of untrammelled movement across the territory of the European Union.

CONDITIONS NECESSARY TO OPERATE THE LEGISLATION

Roadworthiness tests

To guarantee effective testing, it was indispensable to establish the principle of the Member States' responsibility for roadworthiness testing. However, in response to practical organisational demands and in the interests of making the administrative procedures faster and more flexible, provision had to be made for delegating the task of carrying the test out to approved bodies or experts. These are under the supervision of the public authorities and answerable at all times for the tasks entrusted to them.

The operation of the directives therefore depends on choosing a form of testing among:

- a neutral organisation carrying out the tests on its own premises,
- a neutral organisation carrying out the tests in garages,
- testing by and in approved garages,

and setting up the approval procedures.

The choice of the form of testing will have a clear bearing on the amount of direct and indirect costs (investment costs for land, buildings, facilities, equipment, staff and training, etc.).

Driving licences

This directive, which contributes to achieving the free movement of people, was originally essentially aimed at correcting the existing disparities between the various national regulations on vehicle categories, statutory minimum ages, general mental and physical fitness conditions, the tests to be undergone, etc.

There is a need to:

- specify the authority responsible for actually conducting the examinations (theory, practical and, possibly, medical examinations for professionals) required for obtaining a driving licence;
- establish a procedure for producing and issuing driving licences;
- specify which authorities supervise the suspension, withdrawal, cancellation and reinstatement of driving licences;
- establish a procedure for the recognition or exchange of foreign driving licences when holders take up residence in the territory covered.

It is of the greatest importance that the CEECs issue driving licences on standard conditions guaranteeing satisfactory levels of ability, training and learning for road safety purposes.

Weights and dimensions (including vehicle compliance testing)

It should be noted that international road transport is also governed by other authorities (cf. the Vienna Convention of 1968; the Agreement on the adoption of uniform conditions of type approval and the reciprocal recognition of the type approval of motor vehicle equipment and parts, Geneva, 20.3.1958; the Agreement on the international carriage of perishable foodstuffs and on the special equipment to be used for such carriage (ATP), Geneva, 1.9.1970; the Convention on containers, etc.).

Tachograph

One necessary precondition, of course, is the adoption of the common standards on driving and rest periods in force in the Union cf. social legislation relating to road transport, as laid down by Council Regulation (EEC) No 3820/85, and the ratification of the "European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR)", Geneva, 1.9.1970.

Dangerous goods by road (including the vocational training of drivers)

A necessary prerequisite for the operation of Community standards is for the CEECs to become "contracting parties to the ADR" of the UNECE in Geneva which governs the international carriage of dangerous goods by road.

It is important for the CEECs to inform the Commission correctly of all bilateral agreements governed by the ADR which they have concluded with the Union Member States so that the Commission can look into the commercial consequences of any changes to or cancellation thereof.

Speed limitation devices

A necessary prerequisite is the granting of approval to fitters of speed limitation devices in accordance with the requirements of Directive 92/24/EEC.

Safety belts

A necessary prerequisite is to check whether all seats are fitted with anchor points and to copy the type-approval standards for restraint systems from those of the UNECE in Geneva.

KEY MEASURES

These provisions are intended to facilitate free competition and the free movement of people, goods and services, the basic principles of the Treaty on European Union, or to enhance road safety (the Maastricht Treaty).

- ***CHOICE OF STAGE I MEASURES***

DESCRIPTION & JUSTIFICATION :

With regard to the objectives pursued in terms of technology and safety, the measures set out below constitute primary instruments in the correct operation of the single market.

1. Roadworthiness tests

Hitherto, rather than aiming at total harmonisation, Community rules (Directive 77/143/EEC & amendments) have adopted the approach that standardisation should be restricted to the essential items (obligatory nature and frequency of inspection, list of the equipment or vehicle parts generally subject to inspection, minimum standards for braking systems and exhaust emissions, mutual recognition of compliance testing) to achieve the goals mentioned above.

These measures are laid down with a view to guaranteeing an equal level of safety and ecological quality on the roads of the Union.

Given the infrastructure they imply, however, it is recommended (stage I) that commercial vehicles, coaches and buses (frequency and list of items to be inspected) are targeted first (Directive 77/143/EEC).

The extension of these measures to the other categories (light vehicles (Directive 88/449/EEC) and private cars (Directive 91/328/EEC)) can be deferred to stage II. The same may hold for the minimum standards for braking (Directives 92/54/EEC et 94/28/EEC) and emissions (Directive 92/55/EEC), which apply, however, to all vehicle categories. ("small steps" (step-by-step) policy).

2. Weight and dimensions (including vehicle compliance testing)

Hitherto, Community legislation (Directive No 85/3/EEC + amendments) defined the maximum weight and maximum authorised dimensions for certain commercial road vehicles in order to permit better use of these vehicles in international traffic.

It was introduced with a view to remedying the existing differences between the national regulations, which were liable to hamper Community road traffic, bring about distortions in conditions of competition between different countries' carriers and, lastly, to limit the scope for trade in automobiles.

The main difficulty lay in finding a balance which was acceptable to all the Member States between the wish to reduce operating costs and the need to protect the infrastructures.

In order not to hamper free movement, it is recommended that the following are defined as priorities (stage I) :

- the maximum dimensions for all categories of vehicles and combinations
- but only the maximum weights:
 - * for goods vehicles with a GVW in excess of 3.5 tonnes,
 - * for combinations with 5 axles or more and the corresponding trailers,
 - * for the drive axles of road trains and articulated vehicles with 5-6 axles,

given that these vehicles usually carry out international transport. The adoption of the other standards and vehicle compliance test can be postponed to stage II ("small steps" policy).

A proposal aimed at extending Directive No 85/3/EEC to national transport is before the Council.

3. Tachograph

Community rules provide that all vehicles within the scope of Regulation (EEC) No 3820/85 must be fitted with a monitoring unit (tachograph) as laid down by Regulation (EEC) No 3821/85.

The use of this tachograph enables the driving and resting periods concerned in the social legislation to be shown.

This regulation is of prime importance for correct application of the social provisions; it makes a significant contribution to improving road safety, to levelling conditions of competition and to maintaining satisfactory social standards.

4. Tyre tread depth

Directive No 89/459/EEC aims to increase road safety by making compulsory a minimum tread depth of 1.6 mm in the main grooves of the tyres of passenger vehicles with a maximum of nine seats and of goods vehicles with a maximum weight of no more than 3.5 tonnes.

These measures are intended to facilitate the free movement of vehicles and people between the States of the Union and to contribute to the removal of obstacles to trade and distortions of competition.

STAGE I MEASURES

<p>Directive 85/3/EEC OJ N° L2, 3.1.1985, p.14, as last amended by Directive No 92/7/EEC (OJ No L57 of 2.3.1992, p.29)</p>	<p>Council Directive 85/3/EEC of 19.12.1984 adopting the Community standards on the maximum authorised dimensions (length, width, height), the maximum drive-axle weight and the maximum authorised weight for 5- or 6-axle combinations.</p>
<p>Directive 77/143/EEC OJ No L 47, 18.2.1977, p. 47. as last amended by Commission Directive No 94/23/EEC O L 147 of 14.6.1994, p. 6</p>	<p>Council Directive 77/143/EEC of 29.12.1976 adopting the Community standards for heavy goods vehicles and coaches/buses (frequency and list of items to be inspected; possibly defer braking and emission standards to stage II)</p>
<p>Directive 89/459/EEC OJ L226, 3.8.1989, p. 4.</p>	<p>Council Directive 89/459/EEC on the approximation of the laws of the Member States relating to the tread depth of tyres of certain categories of motor vehicles and their trailers</p>
<p>Regulation (EEC) No 3821/85 OJ L370, 31.12.1985, p. 8 as last amended by Regulation (EEC) No 3688/92 OJ No L374, 22.12.1992, p. 12</p>	<p>Council Regulation (EEC) 3821/85 of 20.12.1985 on recording equipment in road transport</p>

