

EUROPEAN PARLIAMENT

# Working Documents

1983-1984

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28 September 1983

DOCUMENT 1-759/83

REPORT

drawn up on behalf of the Committee on Transport

on the proposal from the Commission of the European Communities  
to the Council (Doc. 1-1168/82 - COM(82) 816 final)

for a directive on the conditions under which non-resident  
carriers may operate certain national transport services within  
a Member State

Rapporteur: Mr Robert J. MORELAND



On 17 January 1983 the Council requested the European Parliament to deliver an opinion on the Commission proposal for a directive concerning the conditions under which non-resident carriers may operate certain national transport services within a Member State (Doc. 1-1168/82).

On 7 February 1983 the Parliament referred this proposal to the Committee on Transport as the Committee responsible and to the Committee on Economic and Monetary Affairs for its opinion.

On 17 February 1983 the committee appointed Mr MORELAND rapporteur.

The Committee on Transport considered the Commission's proposal and the report at its meetings of 26 May, 22 June, 12 July and 21 September 1983.

At the latter meeting the committee decided to recommend to Parliament that it approve the Commission's proposal with the following amendments.

The committee then adopted the Motion for a Resolution unanimously with 3 abstentions.

The following took part in the vote:

Mr Seefeld, chairman; Dame Shelagh Roberts, vice-chairman; Mr Carossino, vice-chairman; Mr Albers, Mr Baudis, Mr Buttafuoco, Mr Klinkenborg, Mr Morehouse, Mr Moreland (deputizing for Mr Marshall), Mrs Scamaroni, Mr Veronesi (deputizing for Mr Cardia).

The report was tabled on 26 September 1983

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The Committee on Transport hereby submits to the European Parliament the following amendments and motion for a resolution together with explanatory statement:

Proposal for a Council directive  
on the conditions under which non-resident carriers may operate certain  
national transport services within a Member State  
(Doc. 1-1168/82)

Amendments tabled by the  
Committee on Transport

Amendment No. 1

Delete this indent.

Text proposed by the Commission  
of the European Communities

Preamble

Whereas unladen journeys  
mainly occur on the return trip  
of vehicles to their country of  
registration or to the country  
where the international transport  
began.

Article 1 unchanged

Amendment No. 2

The conditions for national carriage shall  
be as follows:

- it shall follow the carriage of goods  
between two Member States which is  
performed by virtue of an authorization  
or without an authorization where the  
transport is liberalized; it should  
also apply to own-account transport;

Amendment No. 3

- it shall be carried out in the course of  
an outward or return journey to the  
Member State in which the vehicle is  
registered or where the original carriage  
began;

Article 2

The conditions for national carriage  
shall be as follows:

- it shall follow the carriage of  
goods between two Member States  
which is performed by virtue of  
an authorization or without an  
authorization where the transport  
is liberalized;

- it shall be carried out in the  
course of a return journey to the  
Member State in which the vehicle  
is registered or where the original  
carriage began;

Amendment No. 4

- not more than one national carriage operation may be performed in the course of the outward or return journey;

(Unchanged)

- not more than two national carriage operations may be performed in the course of the return journey;

- the carrier shall comply with the relevant provisions in force in the Member State concerned, in particular any provisions relating to the formation of transport rates;

Amendment No. 5

New Article 2 a to read as follows:

- the number of national carriage operations shall be extended to four following agreement on Council directive on vehicle weights and dimensions and on vehicle taxations;
- the number of national carriage operations shall be extended by two on an increase of the Community quota by at least 50% on current levels;

Article 3 - 5 unchanged

Amendment No. 6

New Article 5 a to read as follows:

Three years from the date of the directive the Commission should submit a report on its operation to the Council and the European Parliament and may make proposals for amendment of the directive;

Article 6 unchanged

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the conditions under which non-resident carriers may operate certain national transport services within a Member State

The European Parliament,

- (a) having regard to the proposal from the Commission to the Council (COM(82)816 final);<sup>1</sup>
  - (b) having been consulted by the Council (Doc. 1-1168/82);
  - (c) having regard to the report of the Committee on Transport on ways and means of effecting energy savings in the transport sector (Doc. 1-249/81);
  - (d) having regard to the report of the Committee on Transport (Doc. 1-759/83);
  - (e) having regard to the result of the vote on the Commission's proposal;
1. Welcomes the Commission's proposal in the context of the long overdue need to give effect to Article 75(1)(b) of the Treaty;
  2. Believes that the development of a policy founding conditions under which non-resident carriers may operate transport services within a Member State can make a useful contribution to, inter alia:-
    - reducing wasteful empty running of vehicles which the Commission notes is about 40% on international journeys;
    - reducing the consumption of fuel per ton of goods carried;
    - improving competitiveness in the haulage industry;
    - benefiting the road haulage users;

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<sup>1</sup> OJ No. C 18, 22.1.83, p.3

3. Nevertheless is concerned that a divorce between liberalisation on the rules of 'cabotage' and the development of Community transport law may result in conditions of 'unfair' competition between domestic haulage and international haulage operating in a domestic proposal;
4. Consequently proposes that the Commission's proposal be limited to one national carriage operation, but with automatic extension on the agreement on Community law on vehicle taxation, weights and measures and on an extension of the Community quota;
5. Asks the Commission to examine areas such as VAT collection on loads, and CMR conditions to ensure that conditions of carriage are not as significantly different as between the domestic and international operators in the context of this proposal;
6. Believes that the Directive could be extended to own-account transport;
7. Believes that the Directive should cover outward journeys as an alternative to return journeys;
8. Proposes that the Directive should be reviewed after a period of three years of operation to ensure that any particular difficulties, such as in paragraph 3 of this resolution, are overcome;
9. Instructs its President to forward this resolution to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

EXPLANATORY STATEMENT1. Treaty obligation

1. Article 75(1) of the Treaty of Rome states:-

"For the purpose of implementing Article 74, and taking into account the distinctive features of transport, the Council shall, acting unanimously until the end of the second stage and by a qualified majority thereafter, lay down, on a proposal from the Commission and after consulting the Economic and Social Committee and the Assembly;

- (a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;
- (b) the conditions under which non-resident carriers may operate transport services within a Member State;
- (c) any other appropriate provisions."

Yet, despite attempts by the Commission in 1967, the Council has so far not fulfilled its obligation as no agreement was reached on 'cabotage' in national levels during the second stage of the transitional period.

2. The Parliament has constantly emphasised the importance of adherence to both the spirit and letter of the Treaty, it places the emphasis, not simply for strict constitutional reasons, but because it believes the Treaty obligations provide the basis of a more dynamic, efficient and competitive transport policy for the Community with consequent benefits to transport operators, employees and, above all, users in all Member States.

3. Consequently the Parliament welcomes proposals from the Commission to implement the Treaty and for that reason emphasises that, although the Commission's proposals should be amended, they should not be rejected and stresses the importance of agreement by the Council on legislation on cabotage.

## 2. Advantages of a cabotage proposal

4. Criticism is constantly made of the lack of competitiveness both within and between modes of transport in the Community. The legal barriers that create a demarcation between domestic road haulage and international or intra-community road haulage industry represents an obstacle to competitiveness and the establishment of a true Community road haulage. No doubt certain Member States would find the breaking of this demarcation a useful spur to competition to their own domestic road haulage industry with consequent benefits to the industry in general.

5. Criticism is also levelled at the road haulage industry in the context of negative effect on the environment. Indeed much of the legislation in Member States to encourage railways and waterways and to penalise the road haulage industry comes - sometimes mistakenly - from this motivation. The Parliament has emphasised - particularly in the light of its opinion on the draft directive on vehicle weights that - one useful step to reduce the growth of heavy goods vehicles on the road is to encourage vehicles to be more fully loaded. In this respect the number of vehicles returning empty or half empty from carrying a load represents not only a waste of space but also more vehicles on the road than necessary. The Commission has estimated that on 40% of international journal vehicles are running empty. Consequently opportunities to reduce wasted space are to be welcomed.

6. Less-than-full vehicles represent not only wasted space, they also represent a waste of energy sources. Parliament has emphasised in the Albers report (Doc. 1-249/81) the importance of energy saving and, in particular, the need to take up all the opportunities for saving oil. The development of a cabotage policy can make a useful reduction of fuel consumed per tonne of freight carried.

### 3. Fair competition

7. While the establishment of 'cabotage' on national road haulage must be welcomed as a step forward in the development of the Community, transport policy, the Commission proposal has aroused criticism from hauliers operating in domestic markets.

8. Opposition to the introduction of new competition is hardly surprising. Nevertheless in this case such opposition cannot be totally dismissed. The introduction of further competition must be accompanied by assurances that competition can be 'fair'. In this context criticism can be directed at the absence of a uniform Community law on weights and dimensions and, more importantly on vehicle taxation. Obviously to allow a vehicle which has a low tax to compete against a vehicle which has to pay a high tax is hardly 'fair' competition.

9. Equally, the continuing existence of quantitative restrictions on international road haulage in the form of the need to obtain a permit for the carriage of goods also leads to an 'unfair' situation. A road haulier who cannot obtain a permit to carry goods to another Member State is unlikely to welcome competition from a road haulier from another Member State who has obtained a permit.

### 4. A phased introduction

10. The introduction of cabotage is clearly important. Nevertheless, it has to be phased in the context of the development of Community Transport Law. As illustrated in the previous section the introduction to cabotage in isolation as proposed by the Commission would create its own problem.

11. We propose that the right to one national carriage journey be given to intra-Community carriers and further journeys be related to the development of Community transport law. There remain certain minor points of concern which relate to the position of the use of international haulage services. While the international haulier operates under CMR conditions, a domestic haulier would not do so and, therefore, there is a need to incorporate some provision for conditions of carriage, in order to protect both haulier and user. Furthermore, domestic transport services attract VAT and it is hard to see how this would be collected from a vehicle operator dominated in a foreign Member State. Nevertheless, while these are problems to be investigated by the Commission, they should not be allowed to stand in the way of Council agreement.

12. In conclusion, given the possible problems of this proposal, the Commission should review its operation after Council agreement and should produce a report for both Parliament and Council. Nevertheless, Parliament cannot stress too strongly the desirability of introducing 'cabotage' on national markets and fulfilling the objectives of the Treaty. A phased introduction of such a proposal should meet many of the legitimate objections and Parliament believes that Council would be wise to follow a phased introduction.