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DG Transport

GUIDE TO THE TRANSPORT ACQUIS

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FOREWORD

1. About the 'DG Transport Guide to the transport *acquis*'

The 'DG Transport Guide to the Transport Acquis' is intended to facilitate, for the candidate countries and other interested parties, the understanding of Community transport legislation. After a short introduction into each transport sector, it provides detailed information on the objectives, scope and contents of the main legal acts, following more or less the structure of the analytical examination of the *acquis*. Two annexes are attached, a list of legislative acts appearing in this guide and some informative transport statistics. This informal paper supplements the official written documentation (legal texts) and the oral presentations used in the screening sessions¹.

This document has been elaborated by DG Transport/A.1 in close cooperation with and substantial assistance from the other DG Transport Directorates. Further information can be obtained from Mr D. Boeing (tel. 2968366, detlev.boeing@cec.eu.int) or Mr. J. Ferreira (2969570, joao.ferreira@cec.eu.int). Any comments which may contribute to the improvement of the present text are very welcome. Copies can be requested from Mr M. Vermyle (tel. 2994883, marc.vermyle@cec.eu.int).

2. Approximation of transport legislation

In order to become a Member State of the European Union, acceding countries must align their national laws, rules and procedures to the entire body of Community legislation (*'acquis communautaire'*) in such a way that the relevant EU law is fully incorporated in their national legal system. This obligation continues after accession.

The transport *acquis* includes all the Directives, Regulations and Decisions adopted on the basis of the relevant provisions in the Treaty. It furthermore includes all the principles of law and interpretations of the European Court of Justice, all international transport agreements to which the European Community is a party, as well as the relevant declarations and Resolutions of the Council of Ministers.

The approximation process consists of three major stages:

- the transposition of the *acquis communautaire* in the transport sector into the national legal system by using the appropriate national procedures and mechanisms (often laws passed by the Parliament, sometimes Presidential, Governmental or Ministerial Decrees);
- its implementation, by providing the institutions and budgets necessary to carry out the laws and regulations;
- its enforcement, by providing the necessary controls and penalties to ensure that the law is being complied with fully and properly.

¹ Note to readers: The descriptions and interpretations in the present informal Guide are in no way legally binding. They are meant purely for information purposes. The presentations do not prejudice the positions of the Commission. The document will be regularly updated.

GENERAL INTRODUCTION : EU TRANSPORT POLICY

1. The Common Transport Policy

1.1 Economic importance of transport

Commercial transport services account for approximately 4% of the Community's gross domestic product (GDP). If own-account operations and private transport are included, this figure rises to 7% of GDP - which is more than the agriculture or steel sectors. 6 million workers are employed in the transport services sector, more than 4% of all persons employed. In addition, more than 2 million are employed in the transport equipment industry, and another 6 million in transport related industries. Investments in transport infrastructure in 1996 amounted to around 70 billion ECU, or more than 1% of total GDP.

Demand for freight transport, particularly in intra-Community traffic, has grown more or less constantly over the last 25 years, by 2% a year (over 75% cumulatively). Strong growth in freight transport is expected for 1998 as a result of the increased industrial production and of exports. For the first time in decades, rail transport is currently experiencing rapid growth - 10% (tonne-km), whereas the rate of growth of road transport has slowed to 5%. In passenger transport growth has gradually decreased, from almost 4% in the '70s to 2% in the '90s (but in total 110% since 1970). Air traffic growth, which slowed from about 8% to 6% in the first half of the '90s, accelerated to over 10% in 1997.

These and other figures² demonstrate the important contribution of transport to economic growth, competitiveness and employment in the European Union.

1.2 Legal Framework for the Common Transport Policy

According to Article 3 of the EC Treaty³ as modified by the EU Treaty of Maastricht, the Common Transport Policy is one of the fundamental elements of the European Community and its Single Market. A separate chapter on transport (Articles 74 to 84⁴) defines the framework for its implementation. With the Maastricht Treaty, additional provisions entered into force on Trans-European Transport Infrastructure (Articles 129b to 129 d⁵). The Amsterdam Treaty, which may be ratified in late 1998, strengthened the role of the European Parliament in the decision making process by introducing for the whole transport sector the Co-Decision procedure⁶.

1.3 Brief overview of the development of the Common Transport Policy

² See Annex 2 for a collection of transport statistics

³ EU Treaty of Maastricht, November 1993

⁴ Articles 70 to 80 under the future consolidated version of the Amsterdam Treaty

⁵ Articles 154 to 156 Amsterdam Treaty

⁶ see Article 189b of the Treaty (Article 251 Amsterdam Treaty)

Despite the prominence given to transport in the Treaty from the outset, no very significant progress was achieved as regards the development of the Common Transport Policy in the period up to 1985. This was due to the substantial differences between the Member States in regulating transport markets. Finally, the slow process prompted their approach to the European Parliament to bring an action against the Council in the European Court of Justice for failure to act⁷. The 1985 ruling by the Court was a turning point in the development of the Common Transport Policy⁸. The Court obliged the Council to take action to ensure freedom to provide international transport services and to lay down conditions under which non-resident carriers may operate national transport services in another Member State ('cabotage').

Since then significant progress has been made. The 1985 Commission White Paper on the completion of the Single Market gave fresh impetus to the Common Transport Policy and led in the following years to the establishment of major elements of the existing transport legislation, such as, in 1986, on maritime transport, in 1987, 1990 and 1992 on air transport, and in 1991 on road, rail and inland waterways transport.

The 1992 Commission White Paper on the future development of the Common Transport Policy⁹ linked these different activities within a consistent, global approach taking into account the various economic, social and environmental aspects. In addition, in line with the 1993 Commission White Paper on growth, competitiveness and employment, an ambitious programme to develop the Trans-European Transport Network was launched.

The positive echo and support by the Council for these concepts stimulated the Commission to submit in 1995 a five-year rolling action programme 1995/2000 on the Common Transport Policy. This programme sets out the Commission's intentions in three key areas:

- Improving quality by developing integrated transport systems based on advanced technologies which also contribute to environmental and safety objectives;
- Improving the functioning of the Single Market in order to promote efficiency, choice and a user-friendly provision of transport services while safeguarding social standards;
- Broadening the external dimension, by improving the quality of transport links between the EC and Third Countries, and fostering the access of Community undertakings to transport markets in other parts of the world.

These strategic objectives remain valid, in particular against the background of the trend towards accelerating globalisation of trade and economy. They also serve citizens' demands for an easily available, affordable, safe and sustainable transport system. Its implementation is reflected in a growing number of Commission initiatives, Green and White Papers, Communications and proposals on various aspects of the Common

⁷ see Article 175 of the Treaty

⁸ European Court Reports 1985, p.1513ff.

⁹ COM (92) 494 final

Transport Policy. At present particular attention is being paid to developing appropriate concepts for fair and efficient pricing in the transport sector, to improving maritime safety and to promoting a more commercial approach in rail transport.

CHAPTER 1 : HORIZONTAL ISSUES

1.1 TRANSPORT INFRASTRUCTURE

1.2 TRANSPORT EXTERNAL RELATIONS

1.3 TRANSPORT STATISTICS

1.4 GLOBAL SATELLITE NAVIGATION SYSTEMS (GNSS)

CHAPTER 1 : HORIZONTAL ISSUES OF THE COMMON TRANSPORT POLICY

1. Trans-European Networks and Infrastructure

Europe-wide transport infrastructure networks are essential to move goods and persons effectively and efficiently. Transport infrastructure also plays an important role in economic growth and makes a key contribution to economic and social cohesion in the Community.

A number of shortcomings, as follows, place transport infrastructure at the forefront of the Common Transport Policy. Road, rail, inland waterway, port and airport infrastructure was long developed from a purely national perspective. The share of GDP allocated to investment in transport infrastructure by the Member States has fallen significantly in the last two decades. Missing links, bottlenecks, incompatibilities and insufficient modernisation in the networks cause serious inefficiency. Heavy investment is therefore needed: it is estimated that at least ECU 400 billion will have to be invested over the next 15 years to complete the trans-European transport network. Some ECU 220 billion will have to be raised for the most urgent measures, which must be completed by 2000.

Despite the Commission's efforts to set up a comprehensive EC policy on Trans-European Transport Networks, the Council could only agree, as from 1990, on the adoption and implementation of action programmes providing for financial support for projects of Community interest in a number of priority modes of transport and routes.

The action taken by the Community on Trans-European networks has finally been put on a firmer legal basis, with the addition of the new Title XII on TEN to the Treaty on European Union. Under Article 129b of the Treaty, the Community contributes to the establishment and development of Trans-European infrastructure networks, not only for transport but also for telecommunications and energy.

Title XII clearly states that action by the Community in this field will take the form of guidelines covering the objectives, priorities and broad lines of measures envisaged, and that these guidelines will assist in the identification of projects of common interest. It also indicates that the Commission will take any measures that prove necessary to ensure the interoperability of the networks. Moreover, the Community may support the financial efforts made by the Member States for projects of common interest identified in the guidelines, particularly through feasibility studies, loan guarantees or interest-rate subsidies. It may also contribute to financing specific projects from the Cohesion Fund.

In this context, the European Parliament and the Council adopted, on 23 July 1996, a Decision on Community guidelines for the development of the trans-European transport network. The Decision comprises the guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks and identifies projects of common interest. The Decision brings together, in a single framework, the outline plans for the road, rail, inland waterway, combined transport, port and airport networks. It also covers traffic management and traffic control systems which have a direct impact on the efficiency and safety of the transport system as a whole. The guidelines form the basis for the identification of projects of common interest permitting gradual integration of the networks at European level. The Decision also includes the projects of common interest to which the Essen European Council attributed particular importance. The Member States will determine the precise details of projects, their routes, financing and the speed of implementation in accordance with national planning rules, in respect of the subsidiarity principle.

The projects eligible for Community financial support for transport infrastructure, through the budget heading for Trans-European networks or the Cohesion Fund, will be those of common interest identified with the assistance of the guidelines. The conditions and procedures for the granting of EC financial support have been laid down in specific implementing measures adopted by the Council, i.e. Regulation 1164/94 of 16 May 1994 establishing the Cohesion Fund; and Regulation 2236/95 of 18 September 1995 laying down the general rules for the granting of Community financial support in the field of trans-European transport, telecommunications and energy networks.

2. The External Relations Dimension of the Transport Policy

Given the international character of many transport activities, it is commonly recognized that the Common Transport Policy must have an international dimension. A number of factors make clear the need for a Community approach to transport relations with third countries – e.g. the completion of the single market, the establishment of the European Economic Area (EEA), followed by the 1995 enlargement of the European Union, the ever increasing international mobility of goods and persons, and developments in Central and Eastern Europe.

Problems of exercise of competence arise in the field of external transport relations. Member States have often concluded transport agreements with third countries, on issues like market access, based on reciprocity. This of course implies continuing discrimination on grounds of nationality that could give rise to considerable distortions. Bilateral agreements may also prejudice the legislation on the transport internal market and its economic benefits. In addition, the absence of a common European position vis-à-vis its trading partners reduces Europe's ability to promote its economic interests effectively. The opinions of the Court of Justice regarding the EC powers in the external field, in as far as they can be applied to transport, have often not been recognized by the Member States. There is nevertheless a tendency for transport relations with third countries to be conducted only within a Community framework in full accordance with the Treaty and subsequent jurisprudence.

On the basis of the EC Treaty provisions (Article 75), the EC has concluded special transport agreements with third countries aiming to establish conditions for mutual access to the respective markets, particularly in the fields of road and combined transport. They concern Switzerland, Slovenia and the former Yugoslav Republic of Macedonia.

The ten 'Europe Agreements' concluded with the CEEC candidates for accession establish that facilitation, progressive liberalisation and conditions of inland and air transport between the Parties shall be dealt with by special agreements on the basis of Community legislation. In this framework, negotiations are ongoing which relate to:

- inland waterways multilateral agreement with the Czech Republic, Poland and Slovakia (in the process of being concluded);
- air transport multilateral agreement with the ten CEEC candidate countries, Iceland and Norway;
- international occasional carriage of passengers by bus (INTERBUS) with the member countries of the ECMT, and
- conditions for the carriage of goods by road with Bulgaria, Hungary and Rumania.

As a complement to its transport infrastructure policy, the EC has set up a framework to extend the TEN to the applicant countries and beyond, as a follow-up to the provisions of the Maastricht Treaty. Title XII of the Treaty provides a legal basis for cooperation with third countries in the field

of transport infrastructures: “The Community may decide to cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks” (Article 129c(3)).

In this context, the third Pan-European Transport Conference held in Helsinki in June 1997 underlined the need to connect the Union’s transport infrastructure network to the adjoining countries and considered the concept of a European Transport Infrastructure Networks Partnership. This partnership results, in particular, in technical work and financing of projects relating to transport infrastructure, interoperability and use of intelligent transport systems along ten Pan-European Transport Corridors and 4 Pan-European Transport Areas. Taking account of the EC budget’s limitations as regards financing possibilities, the Commission’s efforts aim essentially at bringing together all European countries, the International Financing Institutions and the private sector with a view to improving transport links in these corridors and areas.

In addition, the Europe Agreements with the CEECs contain provisions on transport infrastructure, particularly with regard to the management and modernization of road, rail, port, airport and inland waterway infrastructures on the main routes of mutual interest and the Pan-European Corridors. The connection of the networks of these countries with the Community network is therefore a Community priority in the context of the pre-accession strategy.

In more general terms, the European Community, in the framework of its technical assistance programs PHARE and TACIS, and the international financial institutions, are increasingly participating in the financing of transport infrastructures in Central and Eastern Europe as well as in the countries of the former Soviet Union.

3. Transport statistics

The collection and thoughtful use of comprehensive and reliable statistics is an important part of the EC’s transport policy.

A number of legislative instruments are currently available which provide for the collection of traffic data concerning maritime, inland waterways, rail and road transport. In general, the relevant statistical information is collected by the Member States’ administrations and provided to Eurostat, which is responsible for the gathering and publishing of the overall statistical data as regards the 15 Member States.

Please note that Documents nos. 1.3.2 to 1.3.5 are included for information purposes only, as in the context of the screening process they are covered under Chapter 12 (Statistics) of the EU Acquis and not under Chapter 9 (Transport).

4. Global Satellite Navigation Systems (GNSS)

It is commonly recognised that there should be a European dimension to GNSS. The Commission’s communication of January 1998 proposes a GNSS strategy for the EU which should contribute to the development of a trans-European positioning and navigation network, supported, as necessary, by terrestrial systems. The strategy builds on the approach of the Council’s resolution of December 1994.

Underpinning this strategy is a specific Action Plan for developing GNSS taking into account the work of a high level group of national governments, users, operators, industry and the relevant international organisations.

In the same context, an Agreement was reached in 1998 between the European Community, the European Space Agency and the European Organisation for the Safety of Air Navigation concerning

a European Contribution to the development of a global navigation satellite system (GNSS). In the terms of the Council decision of June 1998 on this subject, the Commission was appointed to represent the EU in monitoring the implementation of the agreement and co-ordinating common approaches towards its realisation.

CHAPTER 1.1 : TRANSPORT INFRASTRUCTURE

1. 1 TRANSPORT INFRASTRUCTURE: TENs Guidelines

Document no. 1.1.1

Council (and European Parliament) Decision 1692/96/EC of 23 July 1996 on Community guidelines for the development of the trans-European transport network.

Objectives

- To establish the trans-European transport network gradually by 2010 by integrating land, sea and air transport *infrastructure* networks *throughout the Community* in accordance with the outline plans indicated in Annex I and/or the specifications in Annex II of the decision.

Scope

- The decision is addressed to the Member States. It shall constitute a general reference framework intended to encourage the Member States and, where appropriate, the Community in carrying out projects of common interest of which the implementation depends on their degree of maturity and the availability of financial resources (Art. 1 paragraph 2).
- The guidelines refer to transport infrastructure and traffic management, positioning and navigation systems. The transport infrastructure comprises road, rail and inland waterway networks, the seaports, inland waterway ports, airports and other interconnection points. The traffic management, positioning and navigation systems include the necessary technical installations and information and telecommunication systems. (Art. 3)

Contents

- The Decision is based on Article 129b-d of the EC-Treaty, and in particular on Article 129 c paragraph 1 first indent. It comprises the guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks and identifies projects of common interest. The Decision is adopted by the Council in Co-Decision with the European Parliament. The guidelines and projects of common interest require the approval of the Member State concerned.
- Articles 9 to 17 define the main characteristics and specific goals for each of these network elements.
- The projects of common interest are generally defined in Article 7. They refer to a network element described in Articles 9 to 17 and relate to the routes identified on the outline plans in Annex I and/or correspond to the specifications or criteria in Annex II of the decision. Among other things, the projects of common interest shall be potentially economically viable. Annex III of the decision includes the projects of common interest to which the Essen European Council attributed particular importance.
- The guidelines shall be adapted every five years in order to take account of economic and technological developments in the transport field (Art. 21).

- In monitoring the development and implementation of the guidelines, the Commission is assisted by the Committee on the Trans-European Transport Network composed by representatives of the Member States.

Reference

Official Journal L 228 of 9.9.1996.

1. 1 TRANSPORT INFRASTRUCTURE: INTER-OPERABILITY

Document no. 1.1.2

Council Directive 96/48/EC of 23 July 1996 on the inter-operability of the Trans-European High-Speed Rail System

Objectives

European railways have many varied technical systems and operating practices. This leads to problems in moving across frontiers (“inter-operability”) and also to higher construction and operating costs. One of the objectives for the TEN, set out in Art. 129§1 of the Treaty, is to support the creation of interoperability for networks. The first and most obvious network to start with is that for the High Speed Trains (HST). This network is new and hence offers the scope to be built to ensure inter-operability from the outset.

Scope

Applies to the high speed TEN defined in the guidelines¹⁰; specifically to the lines newly built but also to those which are adapted for operation by high speed trains and the trains themselves.

Contents

The Directive does not seek to be prescriptive but limits itself to those elements of the HST network that need to be made compatible to ensure inter-operability. It is basically concerned with the interfaces between HST equipment rather than the specific design of the equipment: in this way it is hoped to stimulate rather than handicap innovation. The sub-systems identified for the preparation of Technical Specifications for Inter-operability (TSI) are as follows:

Structural areas: Infrastructure, energy, control and command and signalling and rolling stock.

Operational areas: Maintenance, environment, operation, and users.

The Directive (Annex II) sets out a list of basic parameters that should be used to achieve inter-operability.

Organisation:

The Directive follows the Commission’s so called “ new approach” to technical standardisation and harmonisation. This relies on the creation of a joint representative body (Art. 2h) made up of the railways and the industry which is charged to prepare drafts of the TSI’s. The body is called the European Association for Inter-operability (AEIF). These drafts are prepared for the Commission which, if they are accepted, submits them to a expert Committee of the Member

¹⁰ Decision No 1692/96 of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network. Annex 1 section 3- railways.

States for opinion. The TSI's refer to existing or specially prepared CEN, CENELEC or ETSI standards. In the light of the opinion of the Committee the Commission adopts the TSIs which are then mandatory in the EU.

Rail equipment covered by TSIs has to be given a declaration of conformity (Art. 13§1). The responsibility for the issuing of the declarations falls to established "notified bodies". Any notified body may issue a declaration which is accepted through the EU.

To note:

In the absence of a comparable high speed network in the potential accession states the provisions of the Directive cannot be directly applied. However, the competent authorities for the railways in the accession states would be well advised to follow the progress on TSIs and to consider their application to those main routes that might figure in a future expanded TEN for HST. Manufactures might also establish contacts with the EU bodies in the rail manufacturing sector (e.g.UNIFE) to ensure that their equipment is compatible with the developing TSI's.

Reference

Official Journal L 235 of 17.09.1996

Corrigendum:

Official Journal L 262 of 16.10.1996

1. 1 TRANSPORT INFRASTRUCTURE: TEN FINANCIAL REGULATION

Document no. 1.1.3

Council Regulation (EC) 2236/95 of 18 September 1995, laying down general rules for the granting of Community financial aid in the field of trans-European networks.

Objectives

The principal objective of Regulation 2236/95 is the allocation of Community financial assistance to transport infrastructure projects of common interest in the field of Trans-European Networks. The same Regulation applies also to trans-European Networks for energy and telecommunications.

Scope

Regarding transport, Regulation 2236/95 applies only to projects of common interest identified in the Community guidelines (Decision 1692/96 of 23.07.1996). It covers all modes of transport including traffic management and interoperability actions in the 15 Member States.

Contents

1. Projects shall be assisted according to their degree of contribution to the objectives set out in Article 129b of the Treaty - interconnection and interoperability of national networks, access to these networks, need to link island, landlocked and peripheral regions - and to the other objectives and priorities defined in the guidelines. Community assistance shall be assigned to projects that are potentially economically viable and for which the financial profitability is deemed insufficient.

2. The decision to grant Community assistance should also take account of:

- the maturity of the project;
- the stimulative effect on public and private finance;
- the soundness of the financial package;
- direct or indirect socio-economic effects, in particular on employment;
- the environmental consequences.

In the case of cross border projects, synchronization of the construction of different parts of the project should also be taken into account.

3. Applications for financial assistance may be submitted not only by the Member States but also by other bodies, including the private sector, provided that the agreement of the Member State(s) concerned has been obtained.

4. Financial assistance may take one or several of the following forms (art. 4 of the Regulation):

- (a) co-financing of studies (up to 50% of the total cost)
- (b) subsidies of the interest of loans
- (c) contributions towards fees for guarantees for loans
- (d) direct grants for investments in duly justified cases.

According to Art. 5 of Regulation 2236/95, regardless of the form of intervention chosen, the total amount of Community assistance to projects (investments) shall not exceed 10% of the total investment cost.

5. The aim of the financial assistance granted under the Regulation is not the actual construction of the networks, which is the responsibility of the Member States and the private investors, but rather the launching or the acceleration of projects of common interest as well as contributing towards the completion of the financial package of a project.

6. For large infrastructure projects, initial expenditure refers to comprehensive feasibility and technical studies and other preparatory measures which are needed before the start of the construction phase; these include environmental impact, financial engineering and evaluation studies. Commitments from the TEN-T budget for these studies maximise the effects of Community support and stimulate the launching of projects. As a consequence a major part of the Community financial assistance is dedicated to feasibility studies and other technical and preparatory measures.

7. The financial reference amount for the implementation of this Regulation for the period 1995-99 is ECU 2345 million (approx. 1,800 for transport).

8. In implementing this Regulation, the Commission is assisted by a Committee that meets with the appropriate composition according to the sector treated (transport, telecommunications or energy). The Committee is composed of representatives of the Member States and chaired by a representative of the Commission.

Reference

Official Journal L 228 of 23 September 1995, p.1.

CHAPTER 1.2 EXTERNAL RELATIONS

1.2 TRANSPORT AGREEMENT : SWITZERLAND

Document no. 1.2.1

Council Decision 92/578/EEC of 30 November 1992 concerning the conclusion of the Agreement between the European Economic Community and the Swiss Confederation on the carriage of goods by road and rail

As modified by:

Commission Decision 93/117/EEC of 22 December approving the Administrative Agreements on transit traffic between the European Community and Austria, on the one hand, and between the European Community and Switzerland on the other.

Objectives

- to strengthen co-operation between the Contracting Parties in certain sectors of transport, and that of the trans-Alpine traffic in particular

Contents

1. Provisions for the development and the promotion of rail and combined transport:
 - Agreement on certain infrastructure works, especially the construction of the Gotthard and Lötschberg trans-Alpine routes in Switzerland (known as “NEAT”) and on other measures to increase the capacity on the main routes for rail transport through Austria and Switzerland, like increasing the frequency of services
 - Intention to improve the competitiveness of the railways and combined transport
(by standardisation of equipment, facilitation of the access to the terminals etc.)
2. Intention to facilitate border crossings and to simplify formalities
3. Understanding to improve the environmental safety of road transport by introducing emission standards providing a high level of protection
4. Exemptions from the 28t limit for road vehicles in Switzerland in the border zone, for the pre- and post routing stages of combined transport and for perishable goods on the Basle-Chiasso route under the conditions laid down in the Administrative Agreement mentioned above (overflow-system).
5. Non-discrimination clause

References

Official Journal L 373 of 21.12.1992, p26.

Official Journal L 47 of 25.2.1993, p27.

1.2 TRANSPORT AGREEMENT : SLOVENIA

Document No. 1.2.2

Council Decision No. 93/409/EEC of 19 July 1993 concerning the conclusion of the Agreement between the European Economic Community and the Republic of Slovenia in the field of Transport

Amended by

Council Decision No.97/863/EC of 11 December 1997 concerning the conclusion of the Additional Protocol to the Agreement between the European Economic Community and the Republic of Slovenia in the field of Transport.

Objectives

- promote transport cooperation and, in particular, transit traffic
- grant unrestricted Community transit traffic through Slovenia and Slovenian transit traffic through the Community as a whole, while ensuring non-discriminatory treatment between Community and Slovenian lorries in transit through Austria;
- develop main transport infrastructure of particular interest to the Community and/or Slovenia.

Background

In 1991, the Community concluded a transit agreement with the former Yugoslavia which never entered into force. Following a similar approach and going beyond this, the Community intends to conclude transport agreements with the new countries resulting from the Yugoslavian crisis where appropriate.

Scope

- transport, particularly road, rail and combined and related infrastructure, including Community co-financing
- road market access and supporting measures on taxation, social aspects and simplification of formalities
- talks on maritime and air transport co-operation.

Contents

Concluded for a period of ten years and further renewal for a one year period:

- Road Transport

- free Community transit through Slovenia;
- free Slovenian transit through the Community as a whole in conjunction with an ecopoints system for transiting Austrian territory, applying from 1 January 1997. This ecopoints system is equivalent to that applying to Community lorries;
- crisis clause in case of serious problems of traffic fluidity and/or damages to the infrastructure;
- non-discrimination principle for taxation, tolls and other charges, envisaging negotiations on an agreement and prior consultation on any change to the existing system
Slovenian harmonisation of social legislation and mutual recognition of titles and diplomas;
- free circulation of lorries complying to Community standards on the main routes declared to be of particular interest;
- undertaking to work for a definitive system of access to the market

- Rail and Combined Transport

- measures promoting its development and encouraging its use

- First step of customs cooperation. Introduction of a single document

- Infrastructure

- Definition of the main road and rail axis of common interest to be developed
Community financial contribution (Financial Protocol) to develop these routes for the period 93-97.

- Set up a joint Transport Committee

To be noted: the Europe Agreement between the European Community and its Member States and Slovenia (Art.55) establishes that the Transport Agreement regulates EC/Slovenian relations in this field.

References

Official Journal L 189 of 29.7.93

Official Journal L 351 of 23.12.97.

1.2 TRANSPORT AGREEMENT : FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Document No. 1.2.3

Council Decision No. 97/832/EC of 27 November 1997 concerning the conclusion of the Agreement between the European Community and the former Yugoslav Republic of Macedonia in the field of transport

Objectives

- promote transport cooperation and, in particular, transit traffic;
- grant unrestricted Community transit traffic through the former Yugoslav Republic of Macedonia and the former Yugoslav Republic of Macedonia's transit traffic through the Community as a whole, while ensuring non-discriminatory treatment between Community and Slovenian lorries in transit through Austria;
- develop main transport infrastructure of particular interest to the Community and the former Yugoslav Republic of Macedonia.

Background

In 1991, the Community concluded a transit agreement with the former Yugoslavia which never entered into force. Following a similar approach and going beyond, the Community intends to conclude transport agreements with the new countries resulting from the Yugoslavian crisis where appropriate.

Scope

- transport, particularly road, rail and combined and related infrastructure, including Community co-financing
- road market access and supporting measures on taxation, social aspects and simplification of formalities
- talks on air transport cooperation.

Contents

Concluded for a period ending on 31 December 2003 and further renewal for a one year period:

- Road Transport

- free Community transit traffic through the former Yugoslav Republic of Macedonia;

- free transit for the former Yugoslav Republic of Macedonia through the Community as a whole in conjunction with an ecopoints system for transiting Austrian territory, applying from 1 January 1999. This ecopoints system is equivalent to that applying to Community lorries.;
- crisis clause in case of serious problems of traffic fluidity and/or damages to the infrastructure
- non-discrimination principle for taxation, tolls and other charges, envisaging negotiations on an agreement and prior consultation on any change to the existing system
- harmonisation of the former Yugoslav Republic of Macedonia's social legislation and mutual recognition of titles and diplomas
- free circulation of lorries complying to Community standards on the main routes declared to be of particular interest
- undertaking to work for a definitive system of access to the market

- Rail and Combined Transport

- measures promoting its development and encouraging its use

- First step of customs co-operation. Introduction of a single document

- Infrastructure

- Definition of the main road and rail routes and projects of common interest to be developed
- Community financial contribution to develop these routes and projects (Financial Protocol) for the period up to 31 December 2000.

- Set up a joint Transport Committee

Reference

Official Journal L 348 of 18.12.97.

CHAPTER 1.3 : TRANSPORT STATISTICS

1. 3 ROAD TRANSPORT STATISTICS: freight transport: market observation system

Document no. 1.3.1

Council Resolution N° 92/C 86/04 of 26 March 1992 on the extension of the system for observing the markets for the carriage of goods by rail, road and inland waterway

Objectives

- Setting up a market observation system in the field of freight transport
- Extension of the market observation system in co-operation with experts from Member States

Scope

- Carriage of goods by rail, road, inland waterway
- Other modes are optional.

Contents

The Resolution does not specify the final market observation system to be adopted. Transport supply, transport demand and cost and price aspects are key elements of market observation systems. Transport demand information is provided by legal acts on carriage of goods by road, rail and inland waterways. At various times the market observation system has covered haulier opinion surveys, cost and price surveys and an analysis of the information provided by the legal acts on freight transport statistics. Until a permanent system is implemented continuity should be maintained. In addition to the freight transport modes mentioned in the resolution there is an option for including other fields of transport.

Reference

Official Journal C 86 of 7.04.1992

1.3 ROAD TRANSPORT STATISTICS

Document no. 1.3.2

Council Regulation (EEC) n° 1172/98 of 25 May 1998 on statistical returns in respect of the carriage of goods by road, amending Council Directives 89/462/EEC and 78/546/EEC.

Objectives

- Collection of statistical data on freight transport by road.

Scope

- Carriage of goods by road by means of vehicles registered in a Member State.
- Vehicle-related, journey-related and goods-related data.

Contents

The Regulation provides a legal basis for the collection of data on the carriage of goods by road. The statistical information is collected and provided to Eurostat by Competent National Administrations of Member States. Eurostat, the Statistical Office of the Commission, publishes the information.

The Regulation covers the transport by vehicles registered in the reporting Member State of goods classified into 24 groups or of dangerous goods. The Member State of registration of the vehicle is that of the tractor vehicle.

Data on the type of journey, weight of goods, the weight and age of the vehicle, the type of transport (hire or reward/own account), the place of loading and unloading, the distance travelled and the countries crossed in transit must be provided.

In order to compile comprehensive regional statistics with regard to both the carriage of goods and vehicle journeys level 3 of the Nomenclature of Territorial Units for Statistics shall be used to code the places of loading and unloading in the EC, lists of administrative regions shall be used for Iceland, Liechtenstein and Norway and countries for other third countries.

Optionally, data on axle configuration and type of freight may be provided.

Reference

Official Journal L 163 of 6.06.1998

1.3 RAIL TRANSPORT STATISTICS

Document no. 1.3.3

Council Directive 80/1177/EEC of 4 December 1980 on statistical returns in respect of carriage of goods by rail, as part of regional statistics.

Objective

- Collection of statistical data on freight transport by rail.

Scope

- Carriage of goods by rail.
- National transport, international transport, transit.

Contents

This Directive provides a legal basis for the collection of data on the carriage of goods by rail. The statistical information is collected and provided to Eurostat by Competent National Administrations of Member States. Eurostat, the Statistical Office of the Commission, publishes the information.

The Directive covers the transport of goods by rail by national, international and transit traffic, by 24 groups of goods and transport relation (country to country on an international level – including international transit - and region to region on the national level. National traffic is also covered by distance classes).

Large containers and road goods vehicles are distinguished separately.

Reference

Official Journal L 350 of 23.12.1980

1. 3 INLAND WATERWAY TRANSPORT STATISTICS

Document no. 1.3.4

Council Directive 80/1119/EEC of 17 November 1980 on statistical returns in respect of carriage of goods by inland waterways.

Objective

- Collection of statistical data on freight transport by inland waterways

Scope

- Carriage of goods by inland waterway.
- National transport, international transport, transit.

Contents

The Directive provides a legal basis for the collection of data on the carriage of goods by inland waterway. The statistical information is collected and provided to Eurostat by Competent National Administrations of Member States. Eurostat, the Statistical Office of the Commission, publishes the information.

The Directive covers the transport of goods by inland waterways by national, international and transit traffic, by 24 groups of goods and transport relation (country to country on an international level and region to region on the national level).

Reference

Official Journal L 339 of 15.12.1980

1. 3 MARITIME TRANSPORT STATISTICS

Document no. 1.3.5

Council Directive 95/64/EC of 8 December 1995 on statistical returns in respect of carriage of goods and passengers by sea.

Objective

- Collection of statistical data on freight and passenger transport by sea.

Scope

- Carriage of goods and passengers by sea by port, type of cargo, goods and relation.
- Only ports handling more than 1 million tonnes of goods or recording more than 200 000 passenger movements annually should provide data.

Contents

The Directive provides a legal basis for the collection of data on the carriage of goods and passengers by sea. The statistical information is collected and provided to Eurostat by Competent National Administrations of Member States. Eurostat, the Statistical Office of the Commission, publishes the information.

The Directive covers the transport of goods and passengers using seagoing vessels on voyages which are undertaken wholly or partly at sea.

The data collected concerns cargo and passenger information together with information on the vessel (only vessels of 100 gross tonnage or more). The cargo is divided into 29 classifications, the goods are grouped into 24 classes, the ships are classified into 11 large types which are subdivided into categories and size classes (in deadweight or in gross tonnage).

Reference

Official Journal L 320 of 30.12.1995

1. 4 GLOBAL SATELLITE NAVIGATIONS SYSTEMS (GNSS)

Document no. 1.4.1

Council Decision 98/434/EC of 18 June 1998 concerning the Agreement between the European Community, the European Space Agency and the European Organisation for the Safety of Air Navigation on a European contribution to the development of a global navigation satellite system (GNSS).

Objective

To establish an agreement between European Community, the European Space Agency and the European Organisation for the Safety of Air Navigation ('Eurocontrol') with a view to providing a European contribution to the implementation of GNSS.

Contents

1. The agreement appoints the Commission to represent the Community in monitoring the implementation of the agreement and coordinating common approaches towards its realisation.
2. The agreement covers:
 - co-ordination of the parties' actions to attain full operational capability of GNSS-1, including the development and validation of an operational capability of a European contribution to GNSS-1;
 - preparatory work for the definition and design of GNSS-2
3. The Community is to contribute to the consolidation of the requirements of all users and validation of the resulting system in the light of the requirements; in particular, it is charged with providing for the establishment of EGNOS¹¹ by taking all appropriate measures, including the leasing of geostationary transponders.

Reference

Official Journal L 194 of 10 July 1998.

¹¹ European Geostationary Navigation Overlay Service, which is a wide area augmentation of existing satellite-based radio-navigation and positioning systems, providing additional satellite ranging capability, integrity and wide-area differential information to users.

CHAPTER 2 : LAND TRANSPORT

Chapter 2 : Land transport

Introduction

1. Economic importance of land transport

In 1996, land transport in the Union accounted for nearly 4 million jobs, or some 2,7% of total employment.

Some 87% of total passenger transport (measured in passenger-kilometres) was carried out on land, although the bulk of this was in private cars. 75% of freight transport within the Union was carried by land, with road transport taking 58% of the total. The share of rail transport has declined consistently since 1970, although it now appears to be bottoming out. The very low share of rail is in part explained by the fact that only 25% of total freight transport, measured in tonne-kilometres, was on journeys of over 500 km, where rail can be competitive. In terms of numbers of journeys, the difference is even greater, with only 3% of national journeys exceeding 500 km.

2. Development of the Common Transport Policy

Articles 75 to 83 of the EC Treaty, as modified by the EU Treaty, are the basis for implementing the Community's Transport Policy concerning road, rail and inland waterway transport. Based on those provisions, the Community has adopted measures to:

- achieve the Single Market by establishing rules for liberalising market access and for the mutual recognition of diplomas, certificates and other qualifications;
- eliminate disparities causing distortions of competition by harmonising standards;
- establish particular conditions concerning state aids and public service obligations;
- improve transport safety; and
- deal with the environmental impact of transport.

The Common Transport Policy in land transport was developed initially according to a modal approach, taking into account the distinctive features of each mode of transport and their different economic and legal starting point in each Member State. Priority was given to achieving equal competitive conditions within each mode, rather than to achieving an integrated approach to transport. Given the problems which occurred in making progress in the early days of the Common Transport Policy, this emphasis was understandable. It was indeed an absolute necessity in order to achieve the objective of the Single Market in 1992.

It had however the disadvantage that the Single Market liberalisation process had little effect on the relative competitiveness of the different transport modes. In fact, it tended to reinforce the relative competitiveness of those modes which adapted the quickest to a liberalising approach, thereby accelerating the tendency in favour of road transport. The 1992 Transport Policy White Paper set out to address the objective of establishing an integrated approach to transport in general, and to land transport in particular. Increasing attention is being given to achieving the objective of greater equality of competitive conditions between the different transport modes. This is reflected in recent initiatives on the coverage of costs in the different modes, as well as a focus on strengthening the role of market forces in rail transport.

All these initiatives continue however to be based on the approach followed consistently throughout the development of the Common Transport Policy, of liberalisation in parallel with the introduction of common regulatory standards. This ensures that the introduction of market forces does not undermine a commitment to the goals of transport safety, minimising of environmental damage, and public service.

2.1. ROAD TRANSPORT (GOODS) : MARKET ACCESS

Document no. 2.1.1

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.

Repeals:

Article 4 of Council Directive 75/130/EEC, Council Directive 65/269/EEC, Council Decision 80/48/EEC.

Amends:

first Council Directive of 23 July 1962.

Objectives

- Common rules for access to the Community international road freight transport markets, where principles of freedom, non-discrimination and equality of conditions in service provisions are valid.
- International carriage of goods by road is based on a quota-free Community transport authorisation.

Scope

- International carriage of goods by road for hire or reward for journeys on EU territory, operated by hauliers established in a Member State.
- Own account transports.

Excludes from scope:

- Provisions included in bilateral agreements between a Member State and a third country.

Contents

1. Hire and Reward Transports:

International transport for hire and reward (where the vehicle is loaded and unloaded in different Member States) performed by Community hauliers is subject to Community rules. Community hauliers with “access to the profession for international transport” have the right to have a “Community authorization” which gives them unlimited access to the international market between Member States. This covers both (a) “bilateral journeys” where the vehicle is loaded in the Member State where the vehicle is registered and unloaded in another Member State (or vice versa) and (b) “cross-trade” journeys where the vehicle is loaded in a Member State and unloaded in another Member State, neither of which is the Member State where the vehicle is registered.

Drivers must carry a certified copy of the Community authorization when performing international journeys between Member States.

Under the European Economic Area (EEA) Agreement, these rights were extended to the EEA Area which currently comprises the 15 Member States plus Iceland, Liechtenstein and Norway.

2. Own Account Transports:

Regulation (EEC) no. 881/92 confirms the liberalization of certain types of carriage. Points 3 and 4 of Annex II to the Regulation exempt Own Account Transports from the Community authorization and from any carriage authorization (where such carriage is performed to or from or in transit throughout Member States' territory). Definition and liberalisation of own account correspond to the relevant provisions adopted at ECMT level.

It has also to be noted that Article 9 of Directive 92/106/EEC on the establishment of common rules for certain types of combined transport, allows for derogation of point 4 c of Annex II to Regulation 881/92 and specifies that upon departure and arrival of own account combined transport shipment trailers can be driven by others than own drivers.

Cross reference to other international obligations:

- bilateral agreements
- ECMT multilateral quota system
- the ecopoint system as introduced in Austria.

Reference

Official Journal L 95 of 9.04.1992.

2.1. ROAD TRANSPORT (GOODS) : MARKET ACCESS

Document no. 2.1.2

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

Amended by:

Commission Regulation (EEC) no. 792/94 of 8 April 1994 laying down detailed rules for the application of Council Regulation (EEC) no. 3118/93 to road haulage operators on own account.

and by:

Council Regulation (EEC) no. 3315/94 of 22 December 1994 amending Regulation (EEC) no. 3118/93 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State.

Objectives

- to give access progressively to the national road freight markets;
- increased non-discrimination against other nationalities or foreign residents in road freight market;
- to remove all restrictions on the basis of nationality or place of establishment.

Scope

- road freight cabotage (for hire or reward, and for own account).

Excludes from scope:

- third country operators.

Contents

1. Hire and Reward Transports:

National transport (where the vehicle is loaded and unloaded in the same Member State) performed by hauliers with vehicles registered in that Member State is subject to the rules of the Member State in question. National transport performed by hauliers with vehicles registered in a different Member State (generally referred to as “cabotage”) is, however, subject to Community rules. These rights have existed since 1 July 1990 under Council Regulation (EEC) no. 4059/89 of 21 December 1989, and more recently under Council Regulation (EEC) no. 3118/93 of 25 October 1993.

Since 1 July 1990, hauliers wishing to carry out cabotage need to be in possession of a Community Cabotage Authorization (valid for 1 or 2 months) which gives the holder the right to carry out cabotage journeys in any other Member State during the given period; these authorizations have been subject to an increasing quota. However, as from 1 July 1998, Community Cabotage Authorizations will be abolished, and it will then only be necessary for the driver to be carrying a certified copy of the Community authorization (issued for international transport under Regulation 881/92) in order to be able to carry out cabotage operations.

Under the EEC Agreement these rights were also extended to the EEA Area.

2. Own Account Transports:

Commission Regulation (EC) no. 792/94 of 8 April 1994 laying down detailed rules for the application of Council Regulation (EEC) no. 3118/93 to road haulage operators on own account entitles undertakings in the Member State of establishment, in accordance with that Member State's legislation, to carry out road haulage operations on own account, to receive the cabotage authorizations under the same conditions as undertakings performing road haulage operations for hire or reward. Authorities of the host Member State shall consider the cabotage authorizations as sufficient evidence that the undertaking is entitled to carry out road haulage operations on own account, as defined in point 4 of Annex II to Regulation 881/92.

Cross reference to other international obligations:

- bilateral road transport agreements, which normally prohibit cabotage transport or restrict by authorisation issued on a case-by-case basis.

References

Official Journal L 279 of 12.11.1993.

Official Journal L 92 of 9.4.1994.

Official Journal L 350 of 31.12.1994.

2.1. ROAD TRANSPORT (GOODS) : MARKET ACCESS

Document no. 2.1.3

Council Regulation (EEC) no. 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.

Amends:

Council Regulation 3164/76, last amended by Council Regulation 1841/88.

Objectives

- to create protection against crisis and measures for crisis management.
- to establish a decision-making process and the collection of the necessary data.

Scope

- Road freight transport between Member States of the Community as from 1 January 1991.
- Cabotage as from 1 January 1994 (Article 7 of Council Regulation (EEC) No. 3118/93).

Contents

- there is a crisis if
 - ⇒ there is over-capacity in supply for a long period and it is unequivocal.
 - ⇒ significant number of undertakings suffer from financial imbalances and their survival is endangered.
 - ⇒ it is evident that in the short or medium term no market improvement can be expected.
- the Commission will collect - Member States send in - information to be able to recognise the crisis.
- in case of a crisis, restrictive measures concerning the increase in the activities of existing undertakings and market access can be introduced.
- crisis measures can be kept valid for not more than 6 months, a period which can only be extended once by another 6 months.
- an Advisory Committee shall be set up to monitor the market, to give advice on crisis management.
- decisions are taken by the Commission at the request of a Member State.

Cross reference to other international obligations:

The EU-Slovenia and the EU-FYROM Transport Agreements contain some crisis mechanism. The reason and justification here is, however, different from the Council Regulation. While in the EU it is a question raised mainly in case of over-capacity, i.e. imbalance in supply and demand, or in certain cases because of environment protection or for solving congestion problems, according to the two agreements, crisis measures can be taken in case of problems in traffic flow or “damages to the infrastructure”.

Reference

Official Journal L 375 of 31.12.1990.

2.1 ROAD TRANSPORT (GOODS) : MARKET ACCESS

Document no. 2.1.4

Council Directive 84/647/EEC of 19 December 1984 on the use of vehicles hired without drivers for the carriage of goods by road.

Amending:

first Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States.

Amended by:

Council Directive 90/398/EEC.

Objective

- to bring an element of flexibility to the organisation of transport.

Scope

- hiring of vehicles without a driver for freight transport (the contract relates solely to the hiring of vehicle and is not accompanied by a service contract covering driving or accompanying personnel)

Contents

- Member States shall allow the use within their territory, for the purposes of transport between Member States, of hired vehicles, if
 - ⇒ the vehicle is registered or put into circulation in the country where the hirer is established, in compliance with their respective laws;
 - ⇒ the contract solely concerns the hiring of a vehicle without a driver;
 - ⇒ the hired vehicle is used solely by the hirer and is driven by its own personnel;
 - ⇒ proof of compliance to be kept on board (the contract of hire or its certified extract, the driver's employment contract or its certified extract).
- Possibility for exemption from the conditions: for own-account transport with vehicles over 6 tons maximum authorised weight.
- National regulations cannot require a minimum hire period.

Cross reference to other international obligations:

There is an ECMT provision on this for journeys carried out under ECMT authorisation.

References

Official Journal L 335 of 22.12.1984.

Official Journal L 70 of 6.8.1962.

Official Journal L 202 of 31.7.1990.

2.1 ROAD TRANSPORT (GOODS) : MARKET ACCESS

Document no. 2.1.5

Council Regulation (EEC) n° 4058/89 of 21 December 1989 on the fixing of rates for the carriage of goods by road between Member States

Replaces:

Council Regulation (EEC) no. 3568/83, last amended by Council Regulation (EEC) no. 1991/88.

Objectives

- Common rules for fixing of rates in the Community international road freight transport markets
- Rates shall be set by free agreement between the parties to the haulage contract.

Scope

- International carriage of goods by road between Member States for hire or reward.

Excludes from scope:

- Provisions included in bilateral agreements between a Member State and a third country.

Contents

- Applies even if part of the journey is performed
 - in transit through a third country, or
 - by a road vehicle which is carried by another means of transport, without intermediate reloading of the goods.
- With a view to monitoring the markets, haulage undertakings forwarding agents, freight brokers and other transport agents shall be required to communicate, to the competent authorities of their Member State upon the latter's request, any information concerning the rates charged for the international carriage of goods by road. Any such information shall be covered by the obligation of professional secrecy. Member States shall send the Commission, at its request, any information at their disposal.

Reference

Official Journal L 390 of 30.12.1989.

2.2 ROAD TRANSPORT (PASSENGERS) : MARKET ACCESS

Document no. 2.2.1

Council Regulation (EEC) n° 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus.

Amended by:

Council Regulation (EC) n° 11/98 of 11 December 1997

See also:

Commission Regulation (EC) n° 2121/98 of 2 October 1998

Objectives

- ? To provide common rules for international carriage of passengers by road;
- ? Flexible arrangements for
 - special regular services;
 - certain occasional services;Authorisation arrangements for
 - regular services;
- ? Principles of freedom to provide services, of non-discrimination and competition rules are to be applied.

Scope

- ? International carriage of passengers by coach and bus within the Community by carriers for hire and reward or own-account established in a Member State and using vehicles for carrying more than nine persons, including the driver;
- ? And the countries of the European Economic Area (following the entry into force of the EEA Agreement).

? Definitions:

regular services = at specific intervals, along specified routes, at predetermined stopping points open to all passengers;

special regular services = provide for the carriage of specified categories of passengers to the exclusion of other passengers ; including : carriage of workers between home and work ; of pupils and students from/to school, of soldiers and their families between their state of origin and the barracks;

occasional services = are services, which do not meet the definition of regular services, including special regular services, and which are characterised by the fact that they carry groups of passengers assembled on the initiative of the customer or the carrier himself;

own account transport operations = are those carried out for non-commercial and non-profit-making purposes by a natural or legal person, provided that the transport activity is only an ancillary activity, and the vehicles used are the property of that natural or legal person or have been obtained on deferred terms by them or have been the subject of a long-term leasing contract and are driven by a member of the staff;

? **Community licence:** is needed for international passenger transport operations (while Member States may decide that the Community licence shall also be valid for national transport operations) ; any carrier meeting the conditions on admission to the occupation and legal requirements on road safety is entitled to get the Community licence; the competent authorities of the Member State of establishment shall verify at least every five years whether the carrier meets these conditions ; Member States shall inform the Commission not later than 31 January of every year of the number of carriers holding a Community licence, it shall be issued in the name of the carrier and shall be non-transferable ; it shall be valid for 5 years ;

? **occasional services** (and their empty journeys) shall not require authorisation;

? **special regular services (and their empty journeys)** shall not require authorisation if they are covered by a contract between the organiser and the carrier;

? **own account road transport operations** – as they are defined – are free from authorisation ;

? **regular services** are subject to authorisation; the period of authorisation shall not exceed 5 years, the authorisation shall entitle the holder to operate regular services in the territories of all Member States over which the routes of the service pass;

? **authorisation procedure** is explained in details, some main points: authorisation shall be issued in agreement with the authorities of all the Member States in whose territories passengers are picked up or set down, the notification of the decision shall be sent to the authorising authority within 2 months; Member States, whose territories are crossed without passengers being picked up or set down get a copy of application and have the possibility of giving comments; the decision on the application shall take place within 4 months;

- ? occasional services (and their empty journeys) shall be carried out under cover of a **journey form**, which shall at least contain information on the type of service, the main itinerary and the carriers involved.

Cross reference to other international obligations:

- ? ECMT Resolutions, the most relevant CM 95/3
- ? Bilateral road transport agreements
- ? Agreement on the International Carriage of Passengers by Road by means of Occasional Coach and Bus Services (ASOR), which now applies between the Community, Turkey and Switzerland, since the remaining parties have become members of the Community or parties to the EEA Agreement.
- ? EC Interbus draft Agreement
- ? CVR.

References

Official Journal L 74 of 20.3.1992

Official Journal L 4 of 8.1.1998.

2.2. ROAD TRANSPORT (PASSENGER) : MARKET ACCESS

Document no. 2.2.2

Council Regulation (EEC) no. 12/98 of 11 December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State.

Objective

- On 29 October 1992 the European Parliament brought proceedings for annulment of Regulation (EEC) No. 2454/92, and the Court of Justice's ruling of 1 June 1994 annulled the Regulation (Case C-388/92). Its provisions had remained effective until this legislation was adopted (Reg.12/98 will not be applied until 18 months after its entry into force).

Scope

- cabotage services operated by any carrier holding a Community licence for the international carriage of passengers by coach and bus (suitable to carry more than 9 persons –including the driver)

Excludes from scope:

- urban and suburban services.

Contents

- **Definitions** for regular services, special regular services (carriage of workers between home and work, carriage to and from the educational institution for school pupils and students, carriage of soldiers and their families between their homes and the area of their barracks), occasional services)
- cabotage services shall be allowed for
 - ⇒ special regular services (covered by a contract between the organiser and the carrier, the original or a certified true copy of which shall serve as a control document)
 - ⇒ occasional services (under cover of a control document - the journey form)
 - ⇒ regular services in the course of a regular international service
- During the performance of cabotage services the **legislation of the host Member State** shall be observed concerning contract rates and conditions, weights and dimensions, requirements relating to the carriage of certain categories of passengers, driving and rest time, VAT on transport services
- Reporting:

- ⇒ the journey forms used shall be returned to the competent authority in the Member State of establishment
- ⇒ at the end of each quarter and within 3 months the competent authority shall communicate to the Commission the data on cabotage operations
- ⇒ once a year the competent authorities in the host Member State shall send the Commission statistics on the number of authorisations issued for cabotage transport operations
- ⇒ the Commission shall send summary statements drawn up on the basis of the received data
- **An advisory committee** shall be set up to assist the Commission in drawing up a model for the journey forms, the book of journey forms, the table for reporting the data, as well as in advising the Commission on requests from the Member States and on safeguard measures.
- **Safeguard measures** may be taken (for a period of 6 months, renewable once) in the event of serious disturbance of the internal transport market in a given geographical area due to or aggravated by cabotage, whereas
 - ⇒ “serious disturbance of the internal transport market...” means the serious and potentially enduring excess of supply over demand, a threat to the financial stability and survival of a significant number of road passenger transport undertakings.
 - ⇒ “geographical area” - an area comprising part or all of the territory of a Member State or Member States
- Mutual assistance between the Member states: host country can impose penalties (warning, temporary ban on cabotage within its territory) on non-resident carriers, and will inform the member state of the establishment
- lead time: 18 months

Cross reference to other international obligations :

Council Directive 96/71/EC.

Reference

Official Journal L 4 of 8.1.1998.

2.2. ROAD TRANSPORT (PASSENGER) : MARKET ACCESS

Document n° 2.2.3

Commission Regulation (EC) n° 2121/98 of 2 October 1998 laying down detailed rules for the application of Council Regulation (EEC) n° 684/92 and (EC) n° 12/98 as regards documents for the carriage of passengers by coach and bus.

Repeals :

Commission Regulation (EEC) n° 1839/92 of 1 July 1992 laying down detailed rules for the application of Council Regulation n° 684/92 as regards documents for the international carriage of passengers and its amendment (**Commission Regulation (EEC) n° 2944/93**).

Objective

- ? To implement Council Regulation (EEC) n° 684/92, amended by Council Regulation (EC) n° 11/98, and Council Regulation (EC) 12/98;
- ? To give models concerning control documents for liberalised services and application forms for non-liberalised services as well as for authorisations, the certificate to be issued to own-account transport operators and the communication model to report on cabotage operations.

Scope

Carriage of passengers by coach and bus

Contents

- ? Given the need to standardize in one journey form the international occasional services and the occasional services in the form of cabotage, it was necessary to replace Commission Regulation 1838/92 which covers only the international carriage.
- ? Models concerning the journey form for liberalised services and the application form for non-liberalised services and the authorisation, the certificate for own-account transport operators and the communication model on cabotage operations have to be printed by the national authorities and used in all 15 Member States according to the annexes of the new Regulation (EC) 2121/98.

Cross reference to other international obligations:

- ? Bilateral road transport agreements
- ? ASOR
- ? The EC INTERBUS draft Agreement
- ? ECMT Resolutions, the most relevant CM 95/3.

References

Official Journal L 268 of 3.10.1998

Official Journal L 187 of 7.7.1992

Official Journal L 266 of 27.10.1993

2.3. SOCIAL LEGISLATION : Driving times and rest periods

Document no. 2.3.1

Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport

Objectives

- ? To avoid distortion of competition
- ? Improve road safety
- ? Improve working conditions by limiting driving time and providing minimum rest periods

Scope

- ? any driver of a vehicle used for the carriage of passengers or goods by road within the Community, subject to certain general exemptions and derogations which Member States may introduce.
- ? Does not apply to traffic under AETR rules.

Contents

- ? **daily driving period** shall not exceed nine hours, it may be extended twice in any one week to 10 hours ;
- ? a **weekly rest period** is prescribed after six daily driving periods, and in international non-regular carriage of passengers, after twelve daily driving periods;
- ? total driving period in one fortnight max. 90 hours;
- ? **breaks**: after four-and-a-half hours' driving, unless a daily or weekly rest commences, a break of at least 45 minutes is prescribed, which can be split. In some cases in passenger transport Member States can limit the breaks to 30 minutes after four hours driving ;

- ? **daily rest period** in each period of 24 hours at least 11 consecutive hours, which may be reduced to a minimum of nine consecutive hours not more than 3 times in any one week; alternatively, it may be taken in two or three separate periods during the 24-hour period, in which case the minimum rest time is 12 hours, with the minimum period of one segment of the rest period being 8 hours. There are special rules for vehicles transported by train or ferryboat. Reduced rest must be subsequently compensated in rest hours before the end of the following week;
- ? **minimum age:** under max. permissible weight of 7,5 tonnes – 18 years, for other vehicles – 21 years or 18 years, this latter if the driver has a certificate for a special training course, any driver engaged in the carriage of passengers – 21 years + min. one year driver-practice + certificate of special training course ;
- ? **general exemptions:** light-goods vehicles (under max. permissible weight of 3,5 tonnes), passenger-carriers under nine persons, regular passenger services within 50 km, vehicles with max. speed of 30 km/h, armed forces and special services, maintenance of city services, circus and fun-fair carriers, road tests of new or repaired vehicles, non-commercial carriage of goods, milk carriers;
- ? **national derogations:** vehicles used for transporting less than 17 persons, for special services, for short-distances, for live animals, light-weight vehicles, amongst others;
- ? **AETR provisions** apply to transport operations to and from third countries ;
- ? **Enforcement** : undertakings shall organise the drivers' work and ensure compliance with this Regulation and Council Regulation (EEC) 3821/85 ;

Aspects to note:

Standard form: Commission decision of 22 February 1993 (O..J. L 72 of 25.3.93, p.33) drawing up the standard form provided for by Article 16 of Council Regulation (EEC) 3820/85 by which the Member States communicate the information required by the Commission to produce its biennial report on the implementation of Regulation 3820/85.

Working time: the Commission has adopted a package of proposals (COM (98) 662 final) by which it intends to bring the transport sector within the provisions of the general working time directive, Council Directive 93/104/EC. The proposal for road transport allows the provisions of Regulation (EEC) 3820/85 to continue but introduces a supplementary framework of maximum and average weekly working times as well as night time provisions.

Cross reference to other international obligations:

- ? AETR Convention (UN)
- ? 5/3/CM of 1995 (ECMT)

Reference

Official Journal L 370, 31.12 1985

2.3. SOCIAL LEGISLATION : Checking procedures

Document no. 2.3.2

Council Directive 88/599/EEC on standard checking procedures for the implementation of Regulation (EEC) no. 3820/85 on the harmonisation of certain social legislation relating to road transport and Regulation (EEC) no. 3821/85 on recording equipment in road transport.

Objective

- to establish uniform minimum requirements for checking

Scope

- all transport categories falling within the scope of Regulations (EEC) No 3820/85 and No 3821/85

Contents

- each year at least 1% of drivers' working days shall be checked; of these checks at least 15 % to be carried out at the roadside and at least 25 % at the premises of undertakings,
- elements of roadside checks - daily driving and rest periods, breaks, recording equipment,
- elements of checks at the premises of undertakings - weekly and two-weekly periods, record sheets
- Member States exchange information every 12 months

Aspects to note:

Standard Reporting Form: Commission Decision 93/172/EEC (O.J. No. L 72, 25.3.93,p.30) draws up the standard reporting form provided for in Article 6 of Council Directive 88/599/EEC - exchange of information between Member States

Reference

Official Journal L 325, 29.11.1988.

2.3. SOCIAL LEGISLATION : ACCESS TO THE PROFESSION

Document no. 2.3.3

Council Directive 96/26/EC of 29 April 1996 on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations.

Repeals:

Directives 74/561/EEC, 74/562/EEC, 77/796/EEC and their successive amendments: 80/1178/EEC, 80/1179/EEC, 80/1180/EEC, 85/578/EEC, 85/579/EEC, 89/438/EEC, and Articles 1 and 2 of Regulation 3572/90/EEC

Amended by Directive 98/76/EC of 1 October 1998

Objective

- ? to tighten the standards for access to the profession
- ? to harmonise the application of the three qualitative criteria – good repute, financial standing and professional competence
- ? to extend the scope of the Directive.

Scope

- ? road haulage operators using vehicles, the maximum authorised weight of which does not exceed 3.5 tonnes;
- ? passenger transport operators using vehicles suitable for carrying more than 9 persons (including the driver) ;
- ? excludes road haulage undertakings exclusively in national transport operations with minor impact on the transport market (nature of goods, short distance) or undertakings in certain passenger transport for non-commercial purposes or having a main occupation other than road passenger transport and with minor impact on the transport market.

Contents

- ? **requires three qualitative criteria to be fulfilled: good repute; financial standing (for the undertaking); and professional competence (for the undertaking's transport manager) ;**
- ? **good repute requirements** may be determined by the Member States but must include no conviction of serious criminal offences, including offences of a commercial nature; not to be declared unfit to pursue the occupation; and no conviction of serious offences against transport rules, including those concerning protection of the environment and professional liability ;
- ? **appropriate financial standing:** sufficient resources available to ensure proper launching and proper administration of the undertaking; capital and reserves of at least 9000 ECU for the first vehicle and at least 5000 ECU for subsequent vehicles (derogation is possible from this requirement if the undertaking is engaged exclusively in national transport);
- ? **professional competence:** content and the organisation of the examination has been elaborated; passing a written examination is required for all operators; subjects of examination differ for national and international road transport operators; a written test along the lines of the main examination is required if proof of at least 5 years' practical experience at management level is provided; holders of certain advanced diplomas or technical diplomas are exempt ;
- ? **mutual recognition of diplomas or certificates of professional competence:** temporary restriction on 'diploma tourism' - nationals with certificates obtained abroad may be obliged to undergo a test in their home country on national aspects of the occupation;
- ? **mutual assistance** among the Member States;
- ? **enforcement:** regular check at least every 5 years to see if the conditions on good repute, financial standing and professional competence are met.

Cross reference to other international obligations:

- ? CM 95/3/ECMT Council Resolution of 1995 - passenger transport
- ? CM 96/5/ECMT Council Resolution of 1996 - goods transport

Reference

Official Journal L 277 of 1. 10. 1998.

2.3 SOCIAL LEGISLATION : Driver training

Document no. 2.3.4

Council Directive 76/914/EEC on the minimum level of training for some road transport drivers

Objective

- Mutual recognition of training and the appropriate national driving licences

Scope

- Permits 18 year olds with this qualification and an appropriate driving licence to drive heavy goods vehicles over 7.5 tonnes maximum authorised weight.
- A qualifying criterion by which a passenger transport driver is permitted to operate beyond a 50 km radius

Contents

- lists in Annex the minimum number of subjects required for training prescribed in Council Regulation (EEC) no. 543/69 (now superseded by Council Regulation (EEC) no. 3820/85) for the drivers of a vehicle intended for the carriage of passengers and for those of heavy goods vehicles
- vocational training and final examination to be carried out by Member States or under their direct supervision and grant; they may extend this regulation to national transport or prescribe more extensive training;
- the certificate of professional competence to be issued by the State.

Expected future changes:

Commission report on driver training to be presented to the Council.

Cross reference to other international obligations:

Vienna Convention (driving licence).

Reference

Official Journal L 337, 29.12.1976, p.36-39.

2.4 RAILWAY TRANSPORT: MARKET ACCESS AND FINANCING

Document no. 2.4.1

Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways

Objective

- management independence for railway undertakings;
- access and transit rights to the rail infrastructure;
- sound financial basis for undertakings;
- separation of accounts 'infrastructure/operation of services'

Scope

- all railway undertakings (except regional, suburban and urban).

Contents

- Directive 91/440 was the first step of liberalisation of the railway market. It gives access rights for international combined transport operators and transit rights for international groupings of railway undertakings. International groupings can therefore transiting all countries between those where the companies forming the grouping are constituted; those groupings can to all sort of rail transport business, they are not restricted to combined transport. Directive 95/18/EC lays down rules to determine who is a railway undertaking.
- It urges Member States to give railway undertakings a sound financial basis without specifying how.
- Infrastructure management has to be separated from train operations, at least as regards accounting; Member States are free to do more than that by founding different company's etc.
- Management, internal control and administration of railway undertakings have to be independent (from the State); assets, budgets and accounts have to be separate from those of the state.

The Commission has published a Communication on the application of Directive 91/440/EEC (Communication on the implementation and impact of Directive 91/440/EEC on the development of the community's railways and on access rights for rail freight; COM(98) 202 final) in which it states that "Directive 91/440/EEC on the development of the Community's railways is the most important Community measure to improve the competitiveness of rail transport. Its main aims are to create railways independent of the State and managed on commercial lines and to begin the integration of the market for rail transport services."

Expected future changes:

Changes are being discussed regarding further separation of infrastructure and operations and concerning the access rights.

In the above mentioned Communication the Commission stated: “The Commission believes that extending the access rights created by Directive 91/440/EEC would valuably build on the progress already achieved. The Communication suggests that advancing beyond the access rights created by Directive 91/440/EEC, and in particular removing the requirement to form an international grouping, would enormously enhance the rights’ effectiveness. It is vital to continue opening access to railway infrastructure, especially for freight transport, which has been losing market share for decades. Opening access would allow new enterprises to enter the market offering new and better services; although their operations would remain marginal in scale for a long time because of high start-up costs, new entrants would identify fresh business opportunities and stimulate the incumbents to perform better.”

The proposed changes have not yet been formally introduced in the Council and it is therefore difficult to predict the outcome of the political discussion.

Reference

Official Journal L 237 of 24.8.1991.

2.4 RAILWAY TRANSPORT: MARKET ACCESS AND FINANCING

Document no. 2.4.2

Council Directive 95/18/EC of 9 June 1995 on the licensing of railway undertakings

Objectives

- Licensing of railway undertakings offering services in respect of Directive 91/440/EEC;
- Mutual recognition of licenses;
- Undertakings need a safety certificate in addition.

Scope

- all railway undertakings (except regional, suburban and urban and Le Shuttle).

Contents

- Directive 95/18/EC is the first step to create a level playing field for railway undertakings.
- It lays down the principles by leaving the details to Member States.
- Licenses are mutually recognised throughout the Community.
- Railway undertakings have to be properly insured.

A railway undertaking must be able to demonstrate to the licensing authorities of the Member State concerned before the start of its activities that it will at any time be able to meet the requirements relating to good repute, financial fitness, professional competence and cover for its civil liability.

A licence shall be valid as long as the railway undertaking fulfils the obligations laid down in this Directive. A licensing authority may, however, make provision for a regular review at least every five years.

In addition to the requirements of this Directive, a railway undertaking shall also comply with those provisions of national law which are compatible with Community law and are applied in a non-discriminatory manner, in particular:

- specific technical and operational requirements for rail services;
- safety requirements applying to staff, rolling stock and the internal organization of the undertaking;
- provisions on health, safety, social conditions and the rights of workers and consumers.

As regards procedures for granting the licence the Directive lays down the following: The licensing authority shall take a decision on an application as soon as possible, but not more than three months after all relevant information has been submitted, taking into account all the available information. The decision shall be communicated to the applicant railway undertaking. A refusal shall state the grounds therefore. Member States shall take the measures necessary to ensure that the licensing authority's decisions are subject to judicial review.

Reference

Official Journal L 143 of 27.6.1995.

2.4 RAILWAY TRANSPORT: MARKET ACCESS AND FINANCING

Document no. 2.4.3

Council Directive 95/19/EC of 19 June 1995 on the allocation of railway infrastructure capacity and the charging of infrastructure fees.

Objectives

- Principles for capacity allocation
- Principles for charging of infrastructure usage fees

Scope

- all railway undertakings (except regional, suburban and urban and Le Shuttle)

Contents

- This Directive lays down the principle rules for the determination of both the allocation process for railway infrastructure capacity and the charging of fees for its usage.
- Allocation and charging has to be non-discriminatory and transparent.
- Railway undertakings must obtain a safety certificate.
- An independent appeal body has to be installed in each Member State.

The purpose of this Directive is to define the principles and procedures to be applied with regard to the allocation of railway infrastructure capacity and the charging of infrastructure fees for railway undertakings which are or will be established in the Community and the international groupings which they form, where such undertakings and groupings carry out services referred to in Article 10 of Directive 91/440/EEC under the conditions laid down in that Article.

Each Member State shall designate the allocation body in accordance with the requirements of this Directive. In particular, the allocation body, which shall be informed of all train paths available, shall ensure that railway infrastructure capacity is allocated on a fair and non-discriminatory basis and that the allocation procedure allows optimum effective use the infrastructure.

Member States shall provide that in addition a safety certificate in which the railway undertakings' safety requirements are set out be submitted in order to ensure safe service on the routes concerned. In order to obtain the safety certificate, the railway undertaking must comply with the regulations under national law, compatible with Community law and applied in a non-discriminatory manner, laying down the technical and operational requirements specific to rail services and the safety requirements applying to staff, rolling stock and the undertaking's internal organization.

Member States shall take the measures necessary to ensure that decisions on the allocation of infrastructure capacity or the charging of fees shall be open to appeal before an independent body when so requested in writing by a railway undertaking. This body shall take its decision within two months of the submission of all relevant information. Member States shall take the measures necessary to ensure that decisions taken are subject to judicial review.

Expected future changes:

Major changes are being discussed regarding both main elements of the Directive; proposals will be made public later this year.

Reference

Official Journal L 143 of 27.6.1995.

2.4 RAILWAY TRANSPORT: MARKET ACCESS AND FINANCING

Document no. 2.4.4

Council Regulation (EEC) no. 1192/69 of 26 June 1969 on common rules for the normalisation of the accounts of railway undertakings.

Objective

- Normalisation of the accounts of railway undertakings by
 - Determination of the financial burdens borne or benefits enjoyed by undertakings;
 - Payment of compensation in respect of the burdens or benefits

Scope

- national railway undertakings.

Contents

- Laying down clear rules for the normalisation in order to make financial relations between the Member States and its railways more transparent

One of the objectives of the common transport policy is to eliminate disparities which arise by reason of the imposition of financial burdens on, or the grant of benefits to, railway undertakings by public authorities, and which are consequently liable to cause substantial distortion in the conditions of competition.

It is appropriate for that purpose to take such action as will ensure the elimination of the effects of such financial burdens or benefits with a view to achieving equality of treatment for all modes of transport; whereas for certain classes of financial burden or benefit, such action may consist in their early termination; whereas, in respect of other classes, such action must be carried out as part of a process of normalisation of the accounts of railway undertakings, a feature of such normalisation being the payment of compensation in respect of the effects of such financial burdens or benefits.

Expected future changes:

Given that the regulation only applies to the former “National” railway undertakings changes are likely to happen in respect of the developing market; however, a modification to the list of undertakings the regulations applies to is needed in any case.

Reference

Official Journal no. L 156 of 28.6.1969.

2.4 RAILWAY TRANSPORT: MARKET ACCESS AND FINANCING

Document no. 2.4.5

Council Regulation (EEC) no. 2830/77 of 12 December 1977 on the measures necessary to achieve comparability between the accounting systems and annual accounts of railway undertakings.

Objective

- To make railway undertaking's accounts comparable.

Scope

- all (former) national railway undertakings; adaptations needed.

Contents

- In order to assess the development of rail transport and the companies active in that sector, the regulation tries to achieve comparable accounts by laying down common and harmonised rules for both accounting systems and the annual accounts.
- Railway undertakings being named in the regulation have to send their annual accounts and other information to the Commission.

The harmonisation of rules concerning financial relations between states and railway undertakings should be based as far as possible on the financial and accounting principles applicable to industrial and commercial undertakings.

This harmonisation requires the implementation of the necessary measures to achieve comparability between the annual accounts of railway undertakings.

Comparability of the annual accounts of railway undertakings should contribute towards improving the transparency of the financial results of such undertakings and of the financial interventions of the state.

The comparability of these annual accounts may be established by transposing the annual results of railway undertakings to a standard form.

Expected future changes:

The future need for this Regulation is currently being assessed in the context of the amendments to Directive 95/19/EC.

Reference

Official Journal L 334, 24.12.1977, p13.

2.4 RAILWAY TRANSPORT: MARKET ACCESS AND FINANCING

Document no. 2.4.6

Council Regulation (EEC) no. 2183/78 of 19 September 1978 laying down uniform costing principles for railway undertakings.

Objective

- Encouraging co-operation among railway undertakings by harmonising the costing principles

Scope

- “national” railway undertakings.

Contents

- The Regulation harmonises costing principles in order to boost the co-operation of railway undertakings.

The establishment of uniform costing principles for railway undertakings should ensure closer co-operation between them and contribute to the improvement of their financial situation. It is preferable as a first step to limit the scope of this costing to international goods traffic in full train loads.

Expected future changes:

The Regulation has been drafted at a time when co-operation of undertakings seemed to be the only way to achieve a performing rail service; Directive 91/440/EEC has changed this principle by partly liberalising the market and the market itself has developed; furthermore, the regulation applies only to the former national railway undertakings and by that it seems to encourage co-operation of a limited number of undertakings which might raises doubts in respect of possible inconsistencies with the railway policy as it stands now. The necessity of modifications is being assessed in the context of the amendment of Directive 95/19/EC.

Reference

Official Journal L 258 of 21.9.1978.

2.5 INLAND WATERWAY TRANSPORT: MARKET ACCESS

Document no. 2.5.1

Council Regulation (EEC) n° 2919/85 of 17 October 1985 laying down the conditions for access to the arrangements under the Revised Convention for the navigation of the Rhine relating to vessels belonging to the Rhine Navigation.

Objectives

- To set the conditions under which Member States, other than those Contracting States to the Mannheim Convention, have equal access to the navigation of the Rhine.
- To avoid that nationals or companies from Third Countries establish themselves in a Contracting State and profit in that way of the freedom of navigation.

Scope

- Vessels which have a 'genuine link' with a Member State.

Excludes from scope:

- Vessels without a 'genuine link' with a Member State.

Contents

- Only vessels belonging to the Rhine Navigation shall be authorised to transport merchandise and persons between two points situated on the navigable inland waterways referred to in the first paragraph of Article 3 of the Convention (The Rhine and its affluents)
- Vessels are considered to belong to the Rhine Navigation if they carry a document issued by the competent authority.
- The document certifying that a vessel belongs to the Rhine Navigation shall be issued by the competent authority of the State concerned only to vessels which have with that State a genuine link (see below), the constituent factors of which are to be determined on the basis of equal treatment between Contracting States to the Convention (Germany, Belgium, the Netherlands and France) and Switzerland.
- The same equal treatment must be accorded to vessels which have a genuine link with any Member State; to that effect, these other Member States are accorded equal status with the Contracting States to the Convention;
- The Contracting States to the Convention have drawn up, within the Central Commission for the Navigation of the Rhine (CCR), implementing provisions determining the conditions under which the above mentioned document should be issued
- The Council, acting on a proposal from the Commission, defined in the present Regulation the common action under which the four Member States which are Contracting Parties to the Convention adopted these implementing provisions in the form of a resolution of the CCR;

- The implementing provisions aim to define the genuine link which should exist between the vessel and the State concerned.
- Persons or societies responsible for the vessel (owner, joint ownership, undertakings, associates and shareholders) should be nationals and residents of a Contracting State or Member State of the EEC or legal persons established under the laws in one of these States.

Expected future changes:

- The proposed multilateral agreement on the carriage of goods and passengers between the European Community and the applicant countries (CZ, PL and SK in first instance) permits ‘direct traffic’ (between the applicant country and a Member State) and ‘single cabotage’ operations (on the direct return journey following unloading as part of a ‘direct traffic’ operation). The Council decision on this agreement is foreseen for 1998/99, its conclusion and ratification in 1999/2000. (COM(96)634 final).

Cross reference to other international obligations:

- The Revised Convention for the Navigation of the Rhine 1963 (Convention of Mannheim 1868) – The revised Regulation on Inspection of Shipping on the Rhine of 1 January 1995.
- The Danube Convention (Belgrade 1948).
- The UN Economic Commission for Europe (CEC) Recommendations on (uniform) technical requirements for inland waterway vessels (Annex to Resolution No 17, rev., 14 October 1981).

Aspects to be considered:

- Uniform arrangements for market access
- The freedom to provide services
- Eliminating all restrictions imposed on the provider of services because of his nationality or the fact that he is established in a Member State other than in which the service is to be provided
- Common rules to ensure the proper functioning of the internal transport market

Reference

Official Journal L 280 of 22.10.1985.

2.5 INLAND WATERWAY TRANSPORT: MARKET ACCESS

Document no. 2.5.2

Council Regulation (EEC) n° 3921/91 of 16 December 1991, laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State.

Objective

- To lay down the conditions under which non-resident carriers may transport goods or persons by inland waterway within a Member State ('cabotage').

Scope

- Carriers of goods and passengers by inland waterways within Member States.

Excludes from scope:

- Transport goods or persons by inland waterway between Member States and in transit through them. (See Council Regulation (EC) n° 1356/96 of 8 July 1996).

Contents

- The carrier is established in a Member State in accordance with its legislation
- The carrier is entitled to carry out international transport by inland waterway
- For the temporarily 'cabotage' the carrier does not need to set up a registered Office or other establishment in the host country
- The carrier may only use vessels whose owner(s) are:
 - (a) natural persons domiciled in a Member State and who are Member States nationals; Or
 - (b) legal persons: (i) which have their registered place of business in a Member State; and (ii) the majority holding in which or majority of which belongs to Member State nationals. (A Member State may exceptionally provide for derogations for the last condition)
- A certificate issued by the Member State in which the vessel is registered or, if it is not registered, by the Member State in which the owner is established, shall be produced to prove that the carrier complies with the conditions. This certificate must be kept on board the vessel.
- The document certifying that a vessel belongs to Rhine Navigation, provided for in Council Regulation (EEC) N° 2919/85 of 17 October 1985 laying down the conditions for access to the arrangements under the Revised Convention for the navigation of the Rhine relating to vessels belonging to the Rhine Navigation, shall replace the certificate referred mentioned above.

- The carrying out of cabotage operations shall be subject to the laws, regulations and administrative provisions in force in the host Member State in the following fields, subject to the application of Community rules: (a) rates and conditions governing transport contracts, and chartering and operating procedures; (b) technical specifications for vessels (The technical specifications which must be met by vessels used for carrying out cabotage operations shall be those imposed on vessels authorized to carry out international transport operations); (c) navigation and police regulations; (d) navigation time and rest periods; (e) VAT (value added tax) on transport services.
- The provisions referred above must be applied to non-resident carriers under the same conditions as those which that Member State imposes on its own nationals, in order to effectively prevent any discrimination on grounds of nationality or place of establishment.
- This Regulation shall not affect the rights existing under the Revised Convention for the navigation of the Rhine (Convention of Mannheim).

Expected future changes:

- The proposed multilateral agreement on the carriage of goods and passengers between the European Community and the applicant countries (CZ, PL and SK in first instance) permits ‘direct traffic’ (between the applicant country and a Member State) and ‘single cabotage’ operations (on the direct return journey following unloading as part of a ‘direct traffic’ operation). The Council decision on this agreement is foreseen for 1998/99, its conclusion and ratification in 1999/2000. (COM(96)634 final).

Cross reference to other international obligations:

- The Revised Convention for the Navigation of the Rhine 1963 (Convention of Mannheim 1868) – The revised Regulation on Inspection of Shipping on the Rhine of 1 January 1995.
- The Danube Convention (Belgrade 1948).
- The UN Economic Commission for Europe (CEC) Recommendations on (uniform) technical requirements for inland waterway vessels (Annex to Resolution No 17, rev., 14 October 1981).

Aspects to be considered:

- Equality of treatment
- Removal of all restrictions on the grounds of his nationality
- Non-resident carriers should be allowed to carry out national transport operations under the same conditions as those imposed by the Member State concerned on its own carriers.
- For the Rhine navigation, the Rhine licence continues to be required.

Reference

Official Journal L 373 of 31.12.1991.

2.5 INLAND WATERWAY TRANSPORT: MARKET ACCESS

Document no. 2.5.3

Council Regulation (EC) no. 1356/96 of 8 July 1996, on common rules applicable to the transport of goods or passengers by inland waterway between Member States with a view to establishing freedom to provide such transport services.

Objectives

- To lay down the conditions under which a carrier may transport goods or persons by inland waterway between Member States and in transit through them.

Scope

Carriers transporting goods or passengers by inland waterway between Member States and in transit through them.

Excludes from scope:

Cabotage (see Council Regulation (EEC) no. 3921/91 of 16 December 1991.

Contents

- Any operator transporting goods or passengers by inland waterway shall be allowed to carry out the transport operations mentioned above without discrimination on grounds of his nationality or place of establishment, provided that he:
 - is established in a Member State in accordance with the laws of that Member State
 - is entitled in that Member State to carry out the international transport of goods or passengers by inland waterway,
 - uses for such transport operations inland waterways vessels which are registered in a Member State or, in the absence of registration, possess a certificate of membership of a fleet of a Member State, and
 - satisfies the conditions laid down in Article 2 of Council Regulation (EEC) No 3921/91 of 16 December 1991 laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State (OJ L 373, 31. 12. 1991, p. 1.)
- This Regulation shall not affect the rights of third-country operators under the Revised Convention for the Navigation of the Rhine (Mannheim Convention), the Convention on Navigation on the Danube (Belgrade Convention) or the rights arising from the European Community's international obligations.

Expected future changes:

- The proposed multilateral agreement on the carriage of goods and passengers between the European Community and the applicant countries (CZ, PL and SK in first instance) permits “direct traffic” (between the applicant country and a Member State) and ‘single cabotage’ operations (on the direct return journey following unloading as part of a ‘direct traffic’ operation). The Council decision on this agreement is foreseen for 1998/99, its conclusion and ratification in 1999/2000. (COM(96)634 final).

Cross reference to other international obligations:

- The Revised Convention for the Navigation of the Rhine 1963 (Convention of Mannheim 1868) – The revised Regulation on Inspection of Shipping on the Rhine of 1 January 1995.
- The Danube Convention (Belgrade 1948).
- The UN Economic Commission for Europe (CEC) Recommendations on (uniform) technical requirements for inland waterway vessels (Annex to Resolution No 17, rev., 14 October 1981).

Aspects to be considered:

- Uniform arrangements for market access
- The freedom to provide services
- Eliminating all restrictions imposed on the provider of services because of his nationality or the fact that he is established in a Member State other than in which the service is to be provided;

Reference

Official Journal L 175 of 13.7.1996.

2.5 INLAND WATERWAY TRANSPORT: MARKET ACCESS

Document no. 2.5.4

Council Regulation (EEC) no. 1101/89 of 27 April 1989, on structural improvements in inland waterway transport.

Amended by:

Council Regulation (EEC) no. 3572/90 of 4 December 1990, Council Regulation (EC) no. 844/94 of 12 April 1994, Commission Regulation (EC) no. 2812/94 of 18 November 1994, Council Regulation (EC) no. 3314/94 of 22 December 1994, Council Regulation (EC) no. 2819/95 of 5 December 1995, Council Regulation (EC) n° 2254/96 of 19 November 1996, Commission Regulation (EC) n° 2310/96 of 2 December 1996, Commission Regulation (EC) n° 2326/96 of 4 December 1996, Commission Regulation (EC) n° 742/98 of 2 April 1998.

Implemented by:

Commission Regulation (EEC) no. 1102/89 of 27 April 1989 and its subsequent amendments laying down certain measures for implementing Council Regulation (EEC) no. 1101/89.

Objective

- Reducing structural over-capacity of the active fleet with two types of measures:
 - Scrapping schemes (“premiums”);
 - Supporting measures to slow down investments in additional vessels (“old for new”).

Scope

- Member States whose inland waterways are linked to those of other Member States;
- Member States whose fleet has a tonnage above 100,000 tonnes.
- Cargo-carrying vessels and pusher craft providing transport services on own account or for hire or reward and registered in a Member State or, if not registered, operated by an undertaking established in a Member State.

Excludes from scope:

- Member States whose inland waterways are not linked to those of other Member States;
- Member States with a small fleet (less than 100,000 tonnes).
- Vessels operating exclusively on national waterways not linked to other waterways in the Community.

- Vessels which, owing to their dimensions, cannot leave the national waterways on which they operate and cannot enter the other waterways of the Community ('prisoner vessels'), provided that such vessels are not likely to compete with vessels covered by this Regulation.
- Pusher craft with a motive power not exceeding 300 kilowatts, - sea-going inland waterway vessels and ship-borne barges used exclusively for international or national transport operations during voyages which include a sea crossing,
- Ferries
- Vessels providing a non-profit-making public service.
- Each Member State may exclude its vessels with a dead weight of less than 450 tonnes from the scope of this Regulation if the economic and social situation in the sector of those vessels so requires.

Contents

Scrapping schemes (premiums)

- Scrapping funds should be introduced in the Member States particularly concerned by inland waterway transport and those Member States should administer the funds
- Any owner scrapping a vessel referred to in Article 2 (1) shall receive a scrapping premium from the Fund to which his vessel belongs in so far as the financial means are available, subject to certain conditions set out in the Directive.
- There shall be mutual financial support between the Funds and the Commission shall lay down detailed rules for this.
- The Commission shall lay down separately for dry cargo carriers, for tankers and for pusher craft:
 - the rate of the annual contributions to the Fund for each vessel,
 - the rate of the scrapping premiums,
 - the period covered by the scrapping schemes, during which scrapping premiums will be paid, and the conditions under which the premiums may be obtained,
 - the adjustment coefficients for each type and category of inland waterway vessel. These coefficients shall take account of the particular socio-economic situation regarding vessels with a dead weight of less than 450 tonnes.
- The cost of any system introduced must be borne by the inland waterway transport undertakings, however, in order to launch the system on a fully operational basis from the outset, arrangements should be made, for the Member States concerned to pay an advance in the form of repayable loans and these loans should be interest-free.
- The contributions to be paid to the scrapping funds and the scrapping premiums should be set at uniform rates, likewise, the scrapping programme should be started at the same time, be of the same duration and subject to the same conditions in all the Member States concerned.

Old for new

- New vessels (“new” as defined in article 8 of the Regulation) may be brought into service on inland waterways only where the owner of the vessel scraps a tonnage of carrying capacity equivalent to the new vessel without receiving a scrapping premium; or where the owner scraps no vessel, he pays into the Fund a special contribution equal to the scrapping premium fixed for a tonnage equal to that of the new vessel.
- Where the owner scraps a tonnage smaller than that of the new vessel to be brought into service, he pays into the Fund in question a special contribution equivalent to the scrapping premium corresponding at the time to the difference between the tonnage of the new vessel and the tonnage scrapped.
- The conditions laid down above shall also apply to increases in capacity resulting from the lengthening of a vessel or the replacement of pusher-craft engines
- Transitional measures are foreseen
- The Commission may, after consulting the Member States and the organisations representing inland waterway transport at Community level, exempt specialised vessels from the scope of the scheme.

General

- Social measures should be taken to help workers who wish to leave the inland waterway industry or to retrain for jobs in another sector.
- Since the system is a Community, decisions on its operation must be taken at Community level (by the Commission) after consultation with the Member States and the organisations representing the inland waterway transport industry.
- Provisions have been updated and specified through the Regulations listed above.

Expected future changes:

- The Commission in its report to the Council and to the EP (COM(97) 555 final) of 3/11/97, proposes to maintain a regulatory mechanism of the “old for new “ type after the 28 April 1999 for a transitional period of 5 years maximum, after which this mechanism would be replaced by a permanent stand-by mechanism, only to be used in the case of severe disturbances in the market.

Aspects to be considered:

- The scrapping period covering 1996-1998 should be considered as a supporting action to the Directive on the total liberalisation of the market for the 1 January 2000 (Dir. 96/75/EC of 19 November 1996).
- The share of the total transport market taken by inland waterway transport was continuing to decline as a result of progressive changes in the basic industries supplied mainly by inland waterway

- A scrapping scheme co-ordinated at Community level is the only way to bring about a substantial reduction in over-capacity in the near future and thus improve the structures of inland waterway transport.
- These temporary measures have to be taken to curb investment without, however, totally blocking access to the inland waterway market or imposing a quota on the national fleets.

References

Official Journal L 116 of 28.4.1989.

Official Journal L 353 of 17.12.1990.

Official Journal L 98 of 16.4.1994.

Official Journal L 298 of 19.11.1994.

Official Journal L 350 of 31.12.1994.

Official Journal L 292 of 7.12.1995.

Official Journal L 304 of 27.11.1996.

Official Journal L 313 of 3.12.1996.

Official Journal L 316 of 5.12.1996.

Official Journal L 103 of 3.4.1998.

2.5 INLAND WATERWAY TRANSPORT: MARKET ACCESS

Document no. 2.5.5

Council Directive 96/75/EC of 19 November 1996, on the systems of chartering and pricing in national and international inland waterway transport in the Community.

Objective

- To completely liberalise the market as from 1 January 2000 and to abolish the system of 'chartering by rotation' ('tour de rôle'). Member States have a delay of two years, from the date of entry into force of the Directive, or before the 22 November 1998, for the contracts on a time basis and the tonnage contracts to be freely concluded.

Scope

- National and international inland waterway transport in the Community.

Contents

- Contracts shall be freely concluded between the parties concerned and prices freely negotiated.
- Member States may, for a transitional period up to 1 January 2000, maintain a system of minimum compulsory tariffs and systems of chartering by rotation, provided that certain products and loads are excluded, a degree of flexibility is introduced and the rotation and pricing systems imposed are freely accessible under the same conditions to all Member States' carriers.
- In the event of a serious disturbance in the inland waterway transport market, the Commission may, without prejudice to Council Regulation (EEC) No 1101/89 of 27 April 1989 on structural improvements in inland waterway transport (1), at the request of a Member State, take suitable measures, and in particular measures designed to prevent any new increase in the transport capacity on offer on the market in question

Expected future changes:

- No more 'chartering by rotation' ('tour de rôle') after 1 January 2000.

Cross reference to other international obligations:

- The Revised Convention for the Navigation of the Rhine 1963 (Convention of Mannheim 1868) – The revised Regulation on Inspection of Shipping on the Rhine of 1 January 1995.
- The Danube Convention (Belgrade 1948).
- The UN Economic Commission for Europe (CEC) Recommendations on (uniform) technical requirements for inland waterway vessels (Annex to Resolution No 17, rev., 14 October 1981).

Aspects to be considered:

- The smooth functioning of the internal market
- Greater commercial flexibility
- Freedom of chartering and pricing.
- Adapting to the conditions of a free market during a transitional period
- Action may be taken on the transport market in question in the event of a serious disturbance.

Reference

Official Journal L 304 of 27.11.1996.

2.5 INLAND WATERWAY TRANSPORT: ACCESS TO THE PROFESSION

Document no. 2.5.6

Council Directive 87/540/EEC of 9 November 1987, on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation.

Objective

- To introduce common rules governing access to the occupation of carrier aiming at the mutual recognition of diplomas, certificates and other evidence of formal qualifications for carriers and to encourage the effective exercise of the right of establishment for carriers within the Community and at the same time the achievement of freedom to provide services.

Scope

- The occupation of carrier of goods by waterway vessel' meaning: the activities engaged in by any natural person or any undertaking carrying goods by inland waterway for hire or reward, even if this occupation is not exercised on a regular basis,
- 'Undertaking' means companies or firms within the meaning of Article 58 of the Treaty and groups or cooperatives of operators whose purpose is to obtain business from shipping agents for distribution among their members, irrespective of whether such groups or cooperatives possess legal personality.

Excludes from scope:

- Transport activities with a minor economic impact, not exceeding 200 tonnes deadweight capacity (may be reduced by Member State)
- Transport on own account
- Ferries
- Carriers operating exclusively on navigable waterways within their territory not linked to the waterway network of another Member State

Contents

- Natural persons or undertakings wishing to pursue the occupation of carrier of goods by waterway must satisfy the condition of professional competence.
- If the applicant is a natural person who does not satisfy that condition, the competent authorities may nevertheless authorise him to pursue the occupation of carrier of goods by waterway provided that he indicates to them another person satisfying the condition who in actual fact manages the transport operations on a permanent basis.

- If the applicant is an undertaking one of the natural persons who in actual fact manage the undertaking's transport operations on a permanent basis must meet the condition of professional competence.
- The condition of professional competence shall consist in the possession of the standard of competence accepted by the authority or body appointed for this purpose by each Member State in the subjects listed in the Annex to the Directive
- The necessary knowledge shall be acquired either by attending courses or by practical experience in a waterway transport undertaking, or by a combination of the two.
- Member States may exempt the holders of certain diplomas from providing evidence of their knowledge of the subjects listed in the Annex which are covered by the said diplomas.
- After verifying possession of the knowledge concerned, the authority or body referred to in the first subparagraph shall issue a certificate.
- Conditions for provisional and permanent exceptions are foreseen in the Directive
- Reasons must be given for any decision rejecting an application for access to the occupation of carrier of goods by waterway taken by the competent authorities of the Member States pursuant to the measures adopted on the basis of this Directive.
- Member States shall recognise the certificates which have been issued by another Member State as sufficient proof of professional competence.
- Member States which impose on their own nationals certain requirements as to good repute and financial standing must recognise the production of appropriate documents issued by a competent authority in the carrier's State of origin or prior establishment as sufficient evidence in respect of nationals of other Member States
- The Directive must also apply to employed persons covered by Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community (1), if the Member States make access to the occupation covered by this Directive or the exercise thereof by such persons conditional on the possession of professional knowledge and skills (OJ L 257, 19. 10. 1968, p. 2.).

The list of necessary knowledge to satisfy the condition of professional capacity, is recorded in the annex to the Directive (on law, commercial and financial management market access, technical standards, safety and international transport operations).

Cross reference to other international obligations:

- The Revised Convention for the Navigation of the Rhine 1963 (Convention of Mannheim 1868).The revised Regulation on Inspection of Shipping on the Rhine of 1 January 1995. Regulation for the transport of dangerous substances on the Rhine (ADNR).
- The Danube Convention (Belgrade 1948).
- The UN Economic Commission for Europe (CEC) Recommendations on (uniform) technical requirements for inland waterway vessels (Annex to Resolution No 17, rev., 14 October 1981).

Aspects to be considered:

- Freedom to provide services and the effective exercise of the right of establishment
- Improve the level of qualifications of carriers
- Eliminating structural excess capacities and
- Improving the quality of the service provided
- Member States may also maintain or lay down rules governing the good repute and financial standing of the carrier.

Reference

Official Journal L 322 of 12.11.1987.

2.5 INLAND WATERWAY TRANSPORT: BOATMASTERS' CERTIFICATES

Document no. 2.5.7

Council Directive 91/672/EEC of 16 December 1991, on the reciprocal recognition of national boatmaster's certificates for the carriage of goods and passengers by inland waterway.

Objective

- Achieve (as a first step) the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway. For the Rhine navigation, the Rhine licence continues to be required.

Scope

- National boatmasters' certificates for the carriage of goods and passengers by inland waterway, as referred to in Annex I of the directive, subdivided as follows:
- Group A: boatmasters' certificates valid for waterways of a maritime character as indicated in Annex II of the Directive,
- Group B: boatmasters' certificates valid for the other waterways in the Community, with the exception of the Rhine, the Lek and the Waal.

Contents

- The Rhine navigation licence for boatmasters issued in accordance with the revised Convention for the Navigation of the Rhine shall be valid for all waterways in the Community.
- Boatmasters' certificates which are still in force and are listed in Group A in Annex I shall be recognised by all Member States as valid for the purposes of navigation on the waterways of a maritime character listed in Annex II, as if they had issued the certificates in question themselves.
- Member States shall reciprocally recognise the boatmasters' certificates which are still in force and are listed in Group B as valid for the purposes of navigation on their inland waterways, apart from those for which the Rhine navigation licence is required or which are listed in Annex II, as if they had issued the certificates themselves.
- Recognition by a Member State of a boatmasters' certificate may be made subject to the same minimum age conditions as those laid down in the Member State in question for the issue of a boatmasters' certificate in the same group.
- Recognition by a Member State of a boatmasters' certificate may be limited to those categories of vessels for which this certificate is valid in the Member State which issued it.

- Subject to consultation of the Commission and the other Member States, a Member State may require that boatmasters from other Member States satisfy additional conditions concerning knowledge of the local situation equivalent to those required for its national boatmasters.
- This Directive shall not prevent a Member State requiring additional knowledge on the part of boatmasters sailing vessels transporting dangerous substances on its territory. Member States shall recognise the certificate issued in accordance with the number 10 170 of the ADNR as proof of this knowledge.

Expected future changes:

- Council Directive 96/50/EC of 23 July 1996, on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community (O.J. L 235 of 17.9.1996).
- Possibly by 2005 a Europe-wide common certificate, including the Rhine navigation

Cross reference to other international obligations:

- The Revised Convention for the Navigation of the Rhine 1963 (Convention of Mannheim 1868). The revised Regulation on Inspection of Shipping on the Rhine of 1 January 1995. Regulation for the transport of dangerous substances on the Rhine (ADNR).
- The Danube Convention (Belgrade 1948).
- The UN Economic Commission for Europe (CEC) Recommendations on (uniform) technical requirements for inland waterway vessels (Annex to Resolution No 17, rev., 14 October 1981).

Aspects to be considered:

To contribute to the elimination of obstacles that hinder the freedom to provide transport services within the Community.

Reference

Official Journal L 373 of 31.12.1991.

2.5 INLAND WATERWAY TRANSPORT: BOATMASTERS' CERTIFICATES

Document no. 2.5.8

Council Directive 96/50/EC of 23 July 1996, on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community.

Objective

- To lay down the minimum common requirements which the applicant must meet in order to obtain a mutually recognised national boatmasters' certificate for inland navigation. For the Rhine navigation, the Rhine licence continues to be required.

Scope

- All boatmasters of inland-waterway vessels: self-propelled barges, tugs, pusher craft, barges, pushed convoys or side-by-side formations, intended for the transport of goods or passengers.

Excludes from scope:

- Boatmasters of vessels intended for goods transport which are under 20 metres in length.
- Boatmasters of vessels intended for passenger transport, which carry no more than 12 people in addition to the crew.
- A Member State may, after consulting the Commission, exempt from the application of this Directive boatmasters operating exclusively on national waterways not linked to the navigable network of another Member State and issue them with national boatmasters' certificates, the conditions for obtaining which may differ from those defined in this Directive. The validity of those national certificates shall in that case be limited to those waterways.

Contents

- Minimum age, physical and mental fitness, professional experience and knowledge
- In order to be authorised to navigate with the aid of radar, the boatmaster must hold a special attestation
- In order to be allowed to sail a boat transporting passengers on the waterways of the Member States, either the boatmaster or another member of the crew must be in possession of a special certificate
- Member States may impose additional requirements regarding in particular the knowledge of certain local situations

- The Group A or Group B certificate issued by Member States in conformity with this Directive shall be valid for all Group A or Group B waterways in the Community (See Council Directive 91/672/EEC of 16 December 1991).
- The Rhine navigation licence, issued in accordance with the revised Convention for the Navigation of the Rhine, shall be valid for all waterways in the Community.

Expected future changes:

- Possibly by 2005 a Europe-wide common certificate, including the Rhine navigation

Cross reference to other international obligations:

- The Revised Convention for the Navigation of the Rhine 1963 (Convention of Mannheim 1868). The revised Regulation on Inspection of Shipping on the Rhine of 1 January 1995. Regulation for the transport of dangerous substances on the Rhine (ADNR).
- The Danube Convention (Belgrade 1948).
- The UN Economic Commission for Europe (CEC) Recommendations on (uniform) technical requirements for inland waterway vessels (Annex to Resolution No 17, rev., 14 October 1981).

Aspects to be considered:

- Improve the safety of navigation and the protection of human life
- Harmonisation was necessary because of differences in national legislation relating to the conditions for obtaining boatmasters' certificates for inland navigation
- To contribute to the elimination of obstacles that hinder the freedom to provide transport services within the Community.

Reference

Official Journal L 235 of 17.9.1996.

2.5 INLAND WATERWAY TRANSPORT: TECHNICAL HARMONISATION AND SAFETY

Document no. 2.5.9

Council Directive 76/135/EEC of 20 January 1976, on reciprocal recognition of navigability licences for inland waterway vessels.

Amended by:

Council Directive 78/1016/EEC of 23 November 1978, modifying Council Directive 76/135/EEC extending until the 1 January 1980 the adoption of common provisions.

Objectives

- To achieve reciprocal recognition of navigability licences for inland waterway vessels as a first step towards improving the safety of inland navigation in the Community. For the Rhine navigation, the Rhine licence continues to be required.
- To establish under what circumstances and on what conditions Member States may interrupt the passage of a vessel.
- To fix a time limit for the adoption of common technical requirements.

Scope

- Vessels used for goods transport and having a total dead weight of 20 metric tons or more, including tugs and pusher craft
- Vessels used for the transport of more than 12 passengers.

Excludes from scope:

- Vessels which do not leave the inland waterways of a Member State's may be exempted from this Directive

Contents

- Each Member State shall recognise for navigation on its national waterways the navigability licences issued by another Member State on the same basis as if it had issued the licences itself.
- Member States may require that the technical specifications laid down in the Regulation on inspection of shipping on the Rhine are complied with.
- Member States may require vessels carrying dangerous goods as defined in the ADNR to comply with the requirements laid down in this Agreement.
- Vessels which fulfil the requirements laid down in the Regulation on inspection of shipping on the Rhine shall be admitted to all inland waterways in the Community.

- Special conditions for the transport of dangerous goods shall be considered fulfilled in all Community waterways if the vessels meet the requirements of the ADNR.
- Member States may require fulfilment in maritime shipping lanes of additional conditions equivalent to those required for their own vessels.
- Any Member State may interrupt the passage of a vessel, where the vessel is found on inspection to be in a condition which clearly constitutes a danger to the surroundings, until the defects have been corrected. It may also do so where the vessel or its equipment is found on inspection not to satisfy the requirements set out in the navigability licence or in the other documents referred to above.
- As soon as possible and not later than 1 January 1980, the Council shall, on a proposal from the Commission, adopt common provisions establishing technical requirements for inland waterway vessels.

Expected future changes:

- Council Directive 82/714/EEC of 4 October 1982, laying down technical requirements for inland waterway vessels (O.J. L 301 of 28.10.1982)
- Proposal for a Council Directive amending Directive 82/714/EEC of 4 October 1982, laying down technical requirements for inland waterway vessels (O.J. L 301 of 28.10.1982). The proposal is based on the latest technical rules in force on the Rhine and will therefore create a single set of technical requirements for all inland waterway vessels operating on the Community's mainland network. For this reason the proposal aims at establishing reciprocal recognition of the Community certificate and the Rhine certificate for inland navigation vessels. The proposal also contains provisions allowing the Commission to update the annexes to the Directive with the assistance of a Committee. The Council Decision on this proposal is foreseen for 1998/99, its adoption in 1999/2000.

Cross reference to other international obligations:

- The Revised Convention for the Navigation of the Rhine 1963 (Convention of Mannheim 1868). The revised Regulation on Inspection of Shipping on the Rhine of 1 January 1995. Regulation for the transport of dangerous substances on the Rhine (ADNR).
- The Danube Convention (Belgrade 1948).
- The UN Economic Commission for Europe (CEC) Recommendations on (uniform) technical requirements for inland waterway vessels (Annex to Resolution No 17, rev., 14 October 1981).

Aspects to be considered:

- Improving the safety of inland navigation

References

Official Journal L 021 of 29.1.1976.

Official Journal L 349 of 13.12.1978.

2.5 INLAND WATERWAY TRANSPORT: TECHNICAL HARMONISATION AND SAFETY

Document no. 2.5.10

Council Directive 82/714/EEC of 4 October 1982, laying down technical requirements for inland waterway vessels.

Objectives

- To lay down common technical requirements for inland waterway vessels
- To establish a Community certificate for inland navigation vessels, valid in all the Community waterways, and verifying the compliance of vessels with the common technical requirements. For the Rhine navigation, the Rhine licence continues to be required.

Scope

- Community waterways outside the Rhine
- Vessels having a total dead weight of 15 tonnes or more, or vessels not intended for the carriage of goods having a displacement of 15 cubic metres or more,
- Tugs and pusher craft, including those with a displacement of less than 15 cubic metres, provided that they have been built to tow or push or to move vessels alongside.

Excludes from scope:

- The Rhine and its affluents
- Vessels operating on navigable waterways not linked, by inland waterway, to the waterways of other Member States.
- Vessels having a dead weight not exceeding 350 tonnes which were laid down before 1 January 1950 and operate exclusively on a national waterway.
- Passenger vessels
- Ferries
- Floating equipment, floating establishments and installations including those being moved from one location to another
- Pleasure craft
- Service craft belonging to supervisory authorities and fire-service vessels
- Naval vessels

- Sea-going vessels, including sea-going tugs and pusher craft operating or based on tidal waters or temporarily on inland waterways, carrying a valid navigation permit
- Tugs and pusher craft with a displacement of less than 15 cubic metres which have been built to tow, push or move alongside only vessels with a displacement of less than 15 cubic metres.
- Member States may authorise in respect of navigation on their national waterways exemptions from one or more provisions of this Directive for limited journeys of local interest or in harbour areas. The derogations in question and the journeys or area for which they are valid shall be specified in the vessel's certificate.

Contents

- Community waterways are divided into five zones. Zone 1 to 4 and Zone R described in the annexes to the Directive.
- Zone R covers those of the above mentioned waterways for which inspection certificates are to be issued in accordance with Article 22 of the Revised Convention for the Navigation of the Rhine.
- Vessels operating on the Community waterways listed in Article 1 shall carry: - a Rhine certificate Zone R waterway,
- They shall carry a Community inland-navigation certificate when operating on waterways of other zones.
- All vessels carrying a valid certificate issued pursuant to Article 22 of the Revised Convention for the Navigation of the Rhine may navigate on Community waterways carrying only that certificate.
- However, all vessels carrying the certificate referred to in paragraph 1 shall also be provided with a supplementary inland-navigation certificate (supplementary Community certificate): - when operating on Zone 3 and 4 waterways, if they wish
to take advantage of the reduction in technical requirements on these waterways, - when operating on Zone 1 and 2 waterways, if the Member State concerned has adopted additional technical requirements for these waterways, in accordance with Article 5 of the Directive.
- Each Member State may, subject to the requirements of the Revised Convention for the Navigation of the Rhine and after consulting the Commission, adopt technical requirements additional to those in Annex II of the directive for vessels operating on Zone 1 and 2 waterways within its territory.
- Any vessel carrying a certificate issued pursuant to the Regulation for the transport of dangerous substances on the Rhine (ADNR) may carry dangerous goods throughout the territory of the Community under the conditions stated in that certificate. Any Member State may require that vessels which do not carry an ADNR certificate shall be authorized to carry dangerous goods within its territory only if the vessels comply with requirements additional to those set out in this Directive
- The Community certificate shall be issued to vessels following a technical inspection carried out prior to the vessel being put into service and intended to check whether the vessel complies with the technical requirements.

- The period of inspection is indicated in the Directive for the different categories of vessels.
- The technical inspection be carried out by competent authorities which may refrain from subjecting the vessel in whole or in part to technical inspection where it is evident from a valid attestation, issued by a classification society approved by the State in which the certificate is issued, that the vessel satisfies in whole or in part the technical requirements.
- The competent authorities of a Member State may at any time check that a vessel is carrying a certificate valid under the terms of this Directive and satisfies the requirements set out in such certificate.
- Pending the conclusion of agreements on the mutual recognition of navigability certificates between the Community and third countries, Member States may recognise the navigability certificates of vessels from third countries and, where appropriate, issue Community certificates or supplementary Community certificates to vessels from third countries in accordance with this Directive.
- The Council, acting by a qualified majority on a proposal from the Commission, shall adopt any amendments necessary to adapt the Annexes to this Directive to technical progress.
- The annexes provide:
 - I List of Community inland Waterways divided into zones 1,2,3 and 4
 - II Minimum technical requirements for vessels operating in zones 1,2,3 and 4
 - III Specimen Community Certificate for inland Navigation
 - IV Specimen Supplementary Community Certificate for Inland Waterway Vessels
- Member States shall, after consulting the Commission, adopt the provisions necessary to comply with this Directive not later than 1 January 1985.

Expected future changes:

- Proposal for a Council Directive amending Directive 82/714/EEC of 4 October 1982, laying down technical requirements for inland waterway vessels (COM(97)644 of 8.12.1997, OJ C 105 of 6.4.1998). The proposal is based on the latest technical rules in force on the Rhine and will therefore create a single set of technical requirements for all inland waterway vessels operating on the Community's mainland network.. For this reason the proposal aims at establishing reciprocal recognition of the Community certificate and the Rhine certificate for inland navigation vessels. The proposal also contains provisions allowing the Commission to update the annexes to the Directive with the assistance of a Committee. The Council Decision on this proposal is foreseen for 1998/99, its adoption in 1999/2000.
- Proposal for a Council Directive on the approximation of the laws of the Member States with regard to the transport of dangerous goods by vessels on inland waterways (COM(97) 0367 final - OJ C 267 of 3 September 1997). As the Recommendation concerning the international carriage of dangerous goods by inland waterway (ADN) sets down uniform rules for the safe international transport of dangerous goods by vessels on inland waterways, which are in line with the Regulation on the Transport of Dangerous goods on the Rhine (ADNR); it is consequently desirable that such rules should be extended in scope to national traffic in order to harmonise across the Community the conditions under which dangerous goods are carried by vessels on inland waterways. The Council Decision on this proposal is foreseen for 1998/99, its adoption in 1999/2000.

Cross reference to other international obligations:

- The Revised Convention for the Navigation of the Rhine 1963 (Convention of Mannheim 1868).The revised Regulation on Inspection of Shipping on the Rhine of 1 January 1995. Regulation for the transport of dangerous substances on the Rhine (ADNR).
- The Danube Convention (Belgrade 1948).
- The UN Economic Commission for Europe (CEC) Recommendations on (uniform) technical requirements for inland waterway vessels (Annex to Resolution No 17, rev., 14 October 1981).

Aspects to be considered:

- Promoting the best conditions as far as safety and competition are concerned

Reference

Official Journal L 301 of 28.10.1982.

2.6 SUMMERTIME

Document no. 2.6.1

Eighth Directive 97/44/EC of the European Parliament and of the Council of 22 July 1997 on summertime-arrangements.

Objective

- To harmonize the timetable of the summertime period in all Member States in the EU in order to eliminate obstacles to free movement of goods, services and peoples in the Union.

Scope

- all Member States;
- for a 4-year period from 1998 to 2001 included.

Contents

It sets the same dates for the time switch in all Member States, i.e on the last Sunday in March and on the last Sunday in October.

NB: Accession countries will apply summertime arrangements in step with Community legislation (same dates and time for time change).

Reference

Official Journal L 206, 1.8.1997, p.62.

2.7 STATE AID

Document no. 2.7.1

Regulation (EEC) no. 1107/70 of the Council of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway.

Amended by:

Council Regulation (EEC) 1473/75, (OJ L 152 of 12.6.75)

Council Regulation (EEC) 1658/82 (OJ L 184 of 29.6.82)

Council Regulation (EEC) 1100/89 (OJ L 116 of 28.4.89)

Council Regulation (EEC) 3578/92 (OJ L 364 of 12.12.92)

Council Regulation (EC) 2255/96 (OJ L 304 of 27.11.96)

Council Regulation (EC) 543/97 (OJ L 84 of 26.3.97)

Objectives

- to eliminate differences which distort competition in the transport market
- to regulate the granting of aid and to harmonise the way in which railways are supported
- to stipulate conditions allowing measures of coordination character and concerning obligations of public service pursuant to Regulations (EEC) 1192/69 and 1191/69 which regulate compensation and in harmony with Articles 75, 77 and 94 of the Treaty.

Scope

- rail, road and inland waterways.

Contents

State aid can be given:

- for transport co-ordination:
 - to contribute to the finance of transport (rail and inland waterway) infrastructure, if it is the undertaking which is also responsible for the costs of the infrastructure;
 - for the research and development of more efficient, more economic forms of transport;

- if the aid is an exception and is given to cease over-capacity, until the entry into force of rules on market access (restricted application);

- for compensation of public service obligations :

- if the service obligation is prescribed by the State or any Public body

- if there is a tariff obligation other than those included in Regulation (EEC) 1191/69.

Expected future changes:

Regulation currently under review to be brought up to date.

Reference

Official Journal L 130 of 15.6.1970.

2.8 COMPETITION RULES

Document no. 2.8.1¹²

Council Regulation (EEC) 1017/68 of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway.

Implemented by:

Commission Regulation (EEC) no. 1629/69 of 8 August 1969 on the form, content and other details of complaints pursuant to Article 10, applications pursuant to Article 12 and notifications pursuant to Article 14 (1) of Council Regulation (EEC) no. 1017/68 of 19 July 1968.

Commission Regulation (EEC) no. 1630/69 of 8 August 1969 on the hearings provided for in Article 26 (1) and (2) of Council Regulation (EEC) N° 1017/68 of 19 July 1968.

Objective

- to lay down detailed rules for proceedings under the directly applicable articles on competition law of the Treaty

Scope

- road, rail and inland navigation.

Contents

- it is forbidden:
 - to restrict competition by agreements on prices, control of supply, division of the markets, etc.,
 - to abuse a dominant position,
- the Regulation lists the exemptions for technical agreements or co-operation of SMEs and agreements to decrease concerns over structural changes in the market,
- the Regulation gives provisions for the procedures of the application.

References

Official Journal L 175 of 23.7.1968.

Official Journal L 209 of 21.8.1969.

Official Journal L 209 of 21.8.1969.

¹² For information purposes only. This Document is covered by the screening for Chapter 6 (competition policy).

2.9 PUBLIC SERVICES

Document no. 2.9.1

Council Regulation (EEC) n° 1191/69 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.

Amended by:

Council Regulation (EEC) no. 3572/90 (OJ L 353 of 17.12.90).

Council Regulation (EEC) no. 1893/91 (OJ L 169 of 29.6.91).

Objectives

- eliminate disparities causing distortion in competition conditions
- terminate public service obligations defined in this Regulation
- define the various public service obligations:
 - on operation
 - on carriage
 - on tariffs
- when competent authorities of the Member States decide
 - * to maintain public service obligations - conditions may be attached to improve yields
 - * to terminate public service obligations - they must be able to provide an alternative service
- Community procedures introduced when the termination of an obligation interfere with the interest of another Member State.

Scope

- the termination of public service obligations in transport by rail, road and inland waterway
- the right of undertakings to apply for termination of public service obligations - where economic disadvantages are involved
- conditions for the manner and time limits for such applications by the undertakings
- compensation procedures.

Excludes from scope/public service obligations may be maintained concerning:

- transport rates and conditions imposed on passenger transport undertakings in the interests of one or more particular categories of persons
- local (like urban) and regional transport by road and inland waterways.

Contents

- public service obligation \cong obligations which the transport undertaking in question, if it were considering its own commercial interests would not assume or would not assume to the same extent or under the same conditions; consists of the obligation to operate, to carry and the tariff obligations
- the obligation to operate \cong in respect of route or installations to ensure the provision of a transport service satisfying fixed standards of continuity, regularity and capacity
- the obligation to carry \cong to accept and carry passengers or goods at a specified rates and subject to specified conditions
- tariff obligations \cong to apply, in particular for certain categories of passengers and/or goods, or on certain routes, rates fixed or approved by any public authority which are contrary to the commercial interests of the undertaking

Cornerstones:

- common principles for the termination or maintenance of public service obligations:
 - public service obligation can be maintained if it is necessary for the *adequacy of transport services*, which is assessed having regard to the public interest, possibility of recourse to or substitute by other transport forms, rates and conditions
- the right of the undertakings to apply for termination of the public service obligation
 - = undertakings may propose the substitution of some other forms
 - = undertakings shall calculate their savings:
 - = obligation to operate or to carry is an economic disadvantage, if

Termination caused reduction in financial burden is greater (>) than reduction in revenues caused by the termination

where the obligation covers more categories on the whole or a substantial part of network:

If financial burden – estimated by allocating among the various categories of traffic the total costs borne by the undertaking in its transport activities – decreasing more than the amount of revenues as a result of the termination

= tariff obligation is an economic disadvantage, if

The revenue from the traffic for which the obligation applies – the financial burden of such traffic <

revenue which would be produced by that traffic - a burden thereof on a commercial basis

= applications for termination can be filed within a year after the entry of this regulation - extension of the deadlines can be until January 1 1972 (two and a half years)

- if authorities do not decide on the application within a year of the obligation to operate and to carry and within 6 month on tariff obligations

* if no decision - obligations are terminated

* if application is accepted - termination can take effect after alternative service is in operation

- if authorities maintain obligations
 - ⇒ conditions to improve the yield of operations may be attached
 - ⇒ compensation may be granted
- the methods for compensation are based on the calculation of economic disadvantage
- legal harmonisation with this amendment is proposed in the White Paper in Stage II

Summary of the latest modification by: **Regulation (EEC) n° 1893/91 of the Council of 20 June 1991 amending regulation (EEC) No. 1191/69 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway**

- Its main goal: to include provisions for public service contracts
- Its cornerstones:
 - ⇒ public service contracts may be concluded to ensure adequate services
 - ⇒ if the undertaking operates not only public services, its public services activities must be carried out in separate divisions, where operating accounts are separable, expenditures are balanced by operating revenues and payments from public authorities – without, from or to other activities
 - ⇒ the main provisions within a public service contracts are listed in the Regulation
 - ⇒ Lead time: is a year

Aspects to be considered for this modification:

- it minimises cross-subsidising;
- transparency;
- difficulty in defining public services
- difficulty in separating public services from other services - the effects of economies of scale are hard to quantify.

Reference

Official Journal L 156 of 28.6.1969.

2.10 FISCAL HARMONISATION : Vehicle taxes and tolls

Document no. 2.10.1

Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and charges for the use of certain infrastructures.

Objectives

- elimination of distortions of competition between transport undertakings
 - through harmonisation of levy systems and
 - through establishing fair mechanisms for charging infrastructure costs to hauliers

Scope

- vehicle for the carriage of goods by road and with a maximum permissible gross laden weight of not less than 12 tonnes
- road infrastructure of motorway standard

Relating EC legislation:

- Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils
- Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils.

Contents

It establishes a framework for

- the harmonisation of vehicle taxes, and
- the conditions of charging road infrastructure costs to hauliers.

Main provisions:

- vehicle taxation:
 - ⇒ procedure of levying and collecting vehicle taxes is subject to national regulations
 - ⇒ *minimum rates* are given in the Annex of the Directive and are valid until 31 December 1997
 - ⇒ *a temporary derogation* is given to France, Greece, Italy, Portugal and Spain till 31 December 1997, to apply taxes up to 50% of the minima

- ⇒ *special derogations until 1 July 1998*: for vehicles with a maximum of three axles and used solely in national transport
- ⇒ *exemptions or reductions* : for vehicles used for national or civil defence, by fire or other emergency services, by the police, for road maintenance +vehicles used in combined transport as laid down in 92/106/EEC
- ⇒ *exemptions or reductions subject to Commission agreement for vehicles used occasionally on public roads, or subject to authorisation by the Council, for operators working exclusively in part of a Member State territory.*
- tolls and user charges: (“toll” is the payment for the use of a specific section of a motorway, whereas “user charge” is the payment for use of a motorway network during a specific time period.)
 - ⇒ tolls and user charges may not both be imposed on the same stretch of a motorway, except for tolls on bridges, tunnels and mountain passes
 - ⇒ they may not be discriminatory as to nationality or origin or destination of the vehicle
 - ⇒ they should cause as little hindrance to the free flow of traffic as possible
 - ⇒ they shall be imposed only on motorways or multi-lane roads or on the highest category of roads in that Member State or on roads where there are safety reasons
 - ⇒ *the level of user charges*: maximum rate is 1,250 ECU per year till 1 January 1997 (thereafter to be reviewed every other year), they must be in proportion to the use of the infrastructure, Member States may apply only annual rates for vehicles registered in that Member State
 - ⇒ *toll rates*: to be related to the costs of constructing, operating and developing the road infrastructure
 - ⇒ possibility for a common system of user charges among two or more Member States: must be open for others to join in;
 - ⇒ until 31 December 1997 a common user charge system may grant reductions to certain Member States due to the existence of economic and geographical disadvantages; special arrangements may be made for border areas.
- application of other taxes or charges are not affected by this Directive (for example registration charges, or charges for abnormal weights or dimensions, parking fees, specific urban traffic charges etc.)
- lead time: around a year: Directive passed 25 October 1993, entry into force (i.e. national compliance with it) by 1 January 1995

Expected future changes:

The European Court of Justice annulled this Directive on 5 July 1995 because of procedural irregularities. However, the Directive remains in force until new legislation is adopted. The Commission proposal for a new Council Directive was put forward in COM (96) 331 final: Member States are still discussing the proposal within the Community institutions (Council of Ministers and European Parliament).

The new Directive is expected to introduce more differentiation in the rates of annual vehicle taxes; tolls and user charges so that vehicles causing fewer environmental nuisances and road damage will pay less than equivalent more polluting and damaging vehicles.

Reference

Official Journal L 279/32 of 12.11.1993.

2.10 FISCAL HARMONISATION: Infrastructure Accounting System

Document no. 2.10.2

Council Regulation (EEC) N° 1108/70 of 4 June 1970 introducing an accounting system for expenditure on infrastructure in respect of transport by rail, road and inland waterway.

Amended by:

Council Regulation 1384/79/EEC (O.J. L 167 of 5.7.79)

Council Regulation 3021/81/EEC (O.J. L 302 of 23.10.81)

Council Regulation 3572/90/EEC (O.J. L 353 of 17.12.90)

Objectives

- to introduce a standard and permanent accounting system for expenditure on infrastructure in respect of transport by rail, road and inland waterway, with a view to the institution of a system for the charging of the use of infrastructure.

Scope

- roads, railways and inland waterways.

Excludes from scope:

- railways not connected to the trunk network
- public roads closed to motor-vehicle traffic
- public roads exclusively used by forestry and agriculture
- inland waterways, which only vessels smaller than 250 tons can use
- maritime routes.

Contents

- Member States shall keep and send to the Commission every year
⇒ *annual accounts concerning their expenditure* on transport infrastructure as specified in Annex I of the Regulation

The following expenditure items (where appropriate) should be included:

= investment expenditure (expenditure on new construction, extension, reconstruction and renewals)

= current expenditure (expenditure on maintenance and operation)

= traffic police

= general expenses

(Annex II gives the details of rail networks, categories of road and inland waterways)

⇒ the amount of *loans* taken to finance transport infrastructure expenditure in the respective year together with amortisation and interest on loans contracted earlier;

⇒ *data on the use of transport infrastructure* relating to specific categories of networks (defined in Annex II) and expressed in specific units (according to tables in Annex III).

⇒ An advisory Committee set up in accordance with 389/64/EEC of 22 June 1964 will assist the Commission

- The Commission shall make annual reports based on the information from the Member States
- Lead time: half a year (adopted in June 1970, entered into force on 1.1.1971).

Expected future changes:

Procedures established by the Regulation need to be reviewed in order to improve the relationship between the benefits from the data collected and the cost of providing them (reliability of the data, usefulness, detailed content, frequency, presentation format etc.).

Reference

Official Journal L 130 of 15.6.1970.

2.11 CHECKING OF TRANSPORT AUTHORIZATIONS

Document no. 2.11.1

Council Regulation (EEC) 4060/89 of 21 December 1989 on the elimination of controls performed at the frontiers of Member States in the field of road and inland waterway transport

Objectives

- to increase the fluidity of movement of road and inland waterway transport within the Community
- to maintain, nevertheless, controls performed pursuant to Community or national law

Scope

- road and inland waterway transport by means of transport registered or put into circulation in a Member State

Contents

- “control” means any check, inspection, verification or formality performed at the frontiers of Member States by the national authorities
- controls shall solely be performed as part of normal control procedures throughout the territory of a Member State
- Annex covers, *inter alia*, legislation on weights and dimensions, roadworthiness tests, reciprocal recognition of navigability licences, certificates for transport of workers by coach, Community quota for the carriage of goods by road between Member States

Reference

Official Journal L 390 of 30.12.1989.

2.11 CHECKING OF TRANSPORT AUTHORIZATIONS

Document no. 2.11.2

Council Regulation (EEC) no. 3912/92 of 17 December 1992 on controls carried out within the Communities in the field of road and inland waterway transport in respect of means of transport registered or put into circulation in a third country.

Objectives

- to prevent disruption of transport market organisation and to ensure road and inland waterway safety

Scope

- road and inland waterway transport carried out by means of transport registered in a third country.

Contents

- This Regulation extends Council Regulation (EEC) no. 4060/89 to third country vehicles.
- if the means of transport is registered or put into operation in a third country, control shall be executed by the national authorities at the national frontiers confirming that the means of transport possess the authorisation to carry out transport operations on or through the territory of the concerned Member State

Reference

Official Journal L 395 of 31.12.1992.

2.12 COMBINED TRANSPORT

Document no. 2.12.1

Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States.

Repeals:

Council Directive 75/130/EEC (O.J. L 48 of 22.2.75), which was amended by:

Council Directive 79/5/EEC (O.J. L 5 of 9.1.79)

Council Directive 82/3/EEC (O.J. L 5 of 9.1.82)

Council Directive 82/603/EEC (O.J. L 247 of 23.8.82)

Council Directive 86/544/EEC (O.J. L 320 of 15.11.86)

Council Directive 91/224/EEC (O.J. L 103 of 23.4.91)

Objectives

- to promote combined transport.

Scope

- road/rail or road/inland waterway or road/maritime transport.

Contents

- **liberalisation** of combined transport operations from all quota systems and systems of authorisation by 1 July 1993 (in case of road/rail : the road haulage between the point of loading or unloading and the train station, in case of road/inland waterway or maritime: in a radius of 150 km as the crow flies from the port of loading or unloading)
- the **transport document** in case of combined transport for hire or reward must at least fulfil the requirements of Council Regulation (EEC) no. 11/60 of 27 June 1960, another type of transport document is required in case of own account transport when the trailer or semi-trailer is hauled on the final section by a tractor belonging to an undertaking engaged in transport for hire or reward
- every two years the Commission is to give a report on combined transport and the application of this Directive
- road taxes must be reduced or reimbursed in the case of combined transport operations (generally rolling-road)
- the road haulage legs are exempt from compulsory tariff regulations.

Reference

Official Journal L 368 of 17.12.1992.

2.12 COMBINED TRANSPORT

Document n° 2.12.2

Council Regulation (EC) n° 2196/98 of 1 October 1998 concerning the granting of Community financial assistance for actions of an innovative nature to promote combined transport.

Objectives

- ? To promote the use of combined transport

Scope

- ? Road/rail or road/inland waterway or road/maritime transport

Contents

- ? Financial assistance to innovative projects which contribute to increased use of combined transport ;
- ? Innovative projects can only concern:
 - (a) innovative operational measures;
 - (b) feasibility studies with a view to such measures ;
- ? Only Member States and persons established in the Community may submit projects; others may be associated but do not receive support;
- ? Financial assistance for innovative measures limited to 30%; eligible costs may include those for leasing of intermodal transport units, adjustment to rolling stock, investment/leasing regarding transshipment equipment, infrastructure access charges, training staff; financial assistance for feasibility studies limited to 50%;
- ? Detailed rules for submission of projects, including business plan for viability and contribution to common transport policy (environment, safety);

- ? Committee shall assist Commission and take majority vote on draft of measures;
- ? Commission shall submit report on activities two years after entry into force;
- ? Financial reference amount for period 1.1.1997 – 31.12.2001 is EURO 35 million.

Reference

Official Journal L 277 of 14.10.1998

2.13 TECHNOLOGY AND SAFETY : weights and dimensions

Document no. 2.13.1

Council Directive 96/53/EC of 25 July 1996 laying down the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic for certain road vehicles circulating within the Community.

Objectives

- to adapt the regulations to technical development and ensure the harmonised internal market.
- it summarises/consolidates the technical prescriptions of previous Directives and their amendments in a new piece of legislation.
- extension of scope to national transport as regards the dimensions of heavy goods vehicles

Scope

- dimensions of motor vehicles in categories M2, M3 and N2 and N3 and their trailers in categories 03 and 04 (70/156/EEC Council Directive) and the weights and certain other characteristics of these vehicles circulating on the EU territory, including Third Country vehicles

Excludes from scope:

- in principle traffic in Third Countries;
- national transport as regards the maximum weights and dimensions of passenger vehicles (M2,M3).

Contents

see [Table 1](#).

Expected future changes:

Legislative action concerning 15m buses and coaches

Cross reference to other international obligations:

- Vienna Convention of 1968 (UN ECE)
- Geneva Convention of 1958 (UN ECE)
- CSC Convention (under the auspices of IMO)
- bilateral agreements

Aspects to be considered:

- unification means equal conditions of competition;
- road standards should meet requirements of increasing weights and dimensions, but it depends on existing standards (whether valid national standards are lower or higher)
- need to renew vehicle fleet to remain competitive
- transport policy considerations regarding other modes of transport, also combined transport

Reference

Official Journal L 235, 17.9.1996, p.59-75.

Table 1

1.	Maximum authorised dimension (m)	
1.1.	Maximum length <ul style="list-style-type: none"> • motor vehicle • trailer • articulated vehicle • road train • articulated bus 	12.00 m 12.00 m 16.50 m 18.75 m 18.00 m
1.2.	Maximum width <ul style="list-style-type: none"> • all vehicles • refrigerated vehicles 	2.55 m 2.60 m
1.3.	Maximum height (any vehicle)	4.00 m
1.4.	Removable superstructures and standardised freight items such as containers are included in the dimensions specified in 1.1, 1.2 and 1.3, 1.6, 1.7, 1.8 and 4.4	
1.5.	Any motor vehicle or combined vehicle which is not in motion must be able to turn within a swept circle having an outer radius of 12,5 m and an inner radius of 5,3 m	
1.6	Max. distance between the axis of the fifth-wheel king pin and the rear of a semi-trailer	12.00 m
1.7.	Max. distance measured parallel to the longitudinal axis of the road train from the foremost external point of the loading area behind the cabin to the rearmost point of the trailer or combination minus the distance between the rear of the drawing vehicle and the front of the trailer	15.65 m
1.8.	Max. distance measured parallel to the longitudinal axis of the road train from the foremost point of the loading area behind the cabin to the rearmost point of the trailer or combination	16.40 m
2.	Maximum authorised vehicle weight (in tonnes)	
2.1.	Vehicles forming part of a combined vehicle	
2.1.1.	Two-axle trailer	18.00 tons
2.1.2.	Three-axle trailer	24.00 tons
2.2.	Combined vehicles	
2.2.1.	Road trains with five or six axles <ul style="list-style-type: none"> • two -axle motor vehicle with three-axle trailer • two-axle motor vehicle with two or three-axle trailer 	40.00 tons 40.00 tons
2.2.2.	Articulated vehicles with five or six axles <ul style="list-style-type: none"> • two-axle motor vehicle with three-axle semi-trailer • three-axle motor vehicle with 2-or 3-axle semi-trailer • three-axle motor vehicle with 2 or 3-axle semi-trailer carrying a 40-foot ISO container as a combined transport operation 	40.00 tons 40.00 tons 44.00 tons
2.2.3.	Articulated vehicles with five or six axles motor vehicle and a 2-axle trailer	36.00 tons
2.2.4.	Articulated vehicles with 4 axles consisting of a 2-axle motor vehicle and a two-axle semi-trailer, if the distance between the axles of the semi-trailer:	
2.2.4.1.	Is 1,3 m or greater but not more than 1,8 m	36.00 tons
2.2.4.2.	Is greater than 1,8 m	36.00 +2.00t
2.3.	Motor vehicles	
2.3.1.	Two-axle motor vehicle	18.00 tons
2.3.2.	Three-axle motor vehicles	25 or 26.00 t
2.3.3.	Four-axle motor vehicles with two steering axles	32 tons
2.4.	Three-axle articulated buses	28 tons
3.	Maximum authorised axle weight (in tonnes)	
3.1.	Single axes <ul style="list-style-type: none"> • Single non-driving axle 	10 tons
3.2.	Tandem axles of trailers and semi trailers The sum of the axle weights per tandem axle must not exceed, if the distance (d) between the axles is:	
3.2.1.	Less than 1 m	11.00 tons
3.2.2.	Between 1 and less than 1.3 m	16.00 tons
3.2.3.	Between 1.3 and less than 1.8 m	18.00 tons
3.2.4.	1.8 m and more	20.00 tons
3.3.	Tri-axes of trailers and semi-trailers	
3.3.1.	1.3 m or less	21.00 tons
3.3.2.	Over 1.3 and up to 1.4 m	24.00 tons
3.4.	Driving axle	
3.4.1.	Driving axles of vehicles as per 2.2.1. and 2.2.2.	11.50 tons
3.4.2.	Driving axle of vehicles as per 2.2.3., 2.2.4 and 2.4.	11.50 tons
3.5.	Tandem axles of motor vehicles The sum of the axle-weights must not exceed, if the distance between the axles is:	
3.5.1.	Less than 1 m	11.50 tons
3.5.2.	1 m or greater but less than 1.3 m	16.00 tons
3.5.3.	1.3 m or greater but less than 1.8 m	18 or 19.00 t
4.	Related characteristics	
4.1.	All vehicles Weight born by driving axle(s) of a (combined) vehicle must not be less than 25% of the total laden weight when used in international traffic	
4.2.	Road trains Distance between the real axle of a motor vehicle and the front axle of a trailer must not be less than 3 m	
4.3.	Maximum authorised weight depending on the wheelbase max. weight of a four-axle motor vehicle in tonnes may not exceed five times the distance in metres between the axes of the foremost and rearmost axles of the vehic	

4.4.

Semi-trailers

The distance measured horizontally between the axis of the fifth-wheel king pin and any point at the front of the semi-trailer must not exceed 2.04

Document no. 2.13.2

Council Directive 92/6/EEC on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community.

Objective

- improved traffic safety, protection of the environment, lower energy consumption

Scope

- the heaviest categories of motor vehicles: M3 over max. weight 10 metric tons, cat. N3

Excludes from scope:

- lighter categories of motor vehicles

Contents

- device needed for reasons of danger resulting from speeding as well as environmental protection and the incompatibilities of increased engine power with other components of vehicles
- as a first step, heavy categories of motor vehicles are concerned,
- exemption possible for M3 and N3 categories of vehicles used only in national transport (categories of vehicles as defined in Annex I. of Directive 70/156/EEC)
- defines the categories of vehicles for which the use of this devices is obligatory
- special exemptions: armed forces, public services, etc.
- three phases of application
- law harmonisation until 1 October 1993

Cornerstones:

- installation of devices on the M3 category of vehicles set to a max. speed of 100km/h, on N3 set in such a way that including tolerance etc. vehicle cannot exceed 90 km/h.
- in first phase: applicable to vehicles registered as from 1 January 1994, in the second phase: from 1 January 1995 to older vehicles, in the third phase: to the vehicles used exclusively for national transport at the latest from 1 January 1996
- technical requirements laid down by Directive 92/24/EEC.

Cross reference to other international obligations:

- ECMT: 19/CM of 1964, 29 and 30/CM of 1974

Aspects to be considered:

- increased safety and environmental protection;
- lower fuel consumption; but
- more expensive vehicles.

Reference

Official Journal L 57 of 2.3.1992.

2.13 TECHNOLOGY AND SAFETY : tread depth of tyres

Document no. 2.13.3

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.

Objectives

- harmonisation of national requirements
- to facilitate the free movement of vehicles and individual travel between Member States
- to remove barriers to trade and distortions of competition

Scope

- tyres for vehicles of categories M1, N1, O1 and O2 as defined in Annex I to Council Directive 70/156/EEC¹³, as last amended by Directive 87/403/EEC, shall have a prescribed tread depth

Excludes from scope

- vehicles which are never, or hardly ever, used on public roads and Member States made special provisions for them.

Contents

Cornerstones:

- tread depth in the main grooves of the tread surface shall be **at least 1.6 mm**

Aspects to be considered:

- increased road safety; but
- increased tyre costs.

Reference

Official Journal L 226 of 3.8.1989, p.4.

¹³ Council Directive 70/156/EEC defines the following vehicle categories:

M= passenger transport vehicles

N= goods transport vehicles

O= trailers and semi-trailers

2.13 TECHNOLOGY AND SAFETY : driving licences

Document no. 2.13.4

Council Directive 91/439/EEC of 29.07.1991 on driving licenses.

Amended by:

Council Directive 96/47/EC gives in its Annex Ia provisions for an alternative Community model driving licence (plastic credit card format).

Council Directive 97/26/EC introduces a committee for adapting annex II (practical or theoretical tests) and annex III (medical examination) and harmonised Community codes for entering additional information on the driving licence.

Objectives

- improving road traffic safety: facilitating the recognition of driving licences and the movement of persons settling in another Member State without passing a new driving test, harmonisation of categories of vehicles, prescribing minimum requirements for obtaining the licence, specific provisions for handicapped persons.

Scope

- all types of driving licences of persons residential in Member States.

Contents

- all national driving licences shall be mutually recognised,
- all driving licences newly issued should be in conformity with one of the two community models (paper or plastic cards),
- describes detailed vehicle categories and sub-categories, determines conditions of issuing licences according to these categories,
- allows restrictions in the case of physical disability,
- defines minimum age conditions,
- makes tests of skills and theoretical test as well as medical tests obligatory for professional drivers,
- regulates the voluntary exchange of licences in case of change of residence,

- annexes contain: model driving licence, test requirements, minimum standards of physical and mental fitness
- important vehicle categories from the point of view of driving licences: C and C+E (trucks and its combinations), D and D+E (bus and coach), there are further sub-categories,
- licences for C and D shall be issued only to drivers already entitled to drive vehicles in category B (cars),
- minimum ages for C and sub-categories 18 years, for D and sub-categories 21 years (without prejudice to provisions in Regulation (EEC) no. 3820/85),
- requirements cover: theoretical knowledge, practical skills, behaviour factors and specific requirements for licence categories, test contents and form, assessment requirements and the length of tests as well as their location
- medical conditions cover sight, hearing, locomotion, cardio-vascular problems, neurological and mental problems, alcohol, drugs, etc.

Cross reference to other international obligations:

- Vienna Convention of 1968 (UN ECE)
- CM/37/ECMT
- APC Agreement

Aspects to be considered:

- International harmonisation of personal documents;
- Increased individual convenience in case of moving from one country to another;
- Member States remain competent for determining: (a) validity of driving licences, (b) period of medical checks, (c) tax arrangements (1.3 Dir. 91/439/EEC);
- New driving licence might be required.

References

Official Journal L237 of 24.08.1991, p.1.

Official Journal L 235 of 17.9.1996.

Official Journal L 150 of 7.6.1997.

2.13 TECHNOLOGY AND SAFETY : safety belts

Document no. 2.13.5

Council Directive 91/671/EEC on the approximation of the laws of the Member States relating to compulsory use of safety belts in vehicles of less than 5 tonnes.

Objective

- To harmonise the compulsory use of safety belts in the Member States.

Scope

- All motor vehicles in categories M1, M2 and N1 registered in a Member State or in a third country;

Excludes from scope:

- Goods vehicles with more than 3.5 ton net weight and buses and coaches carrying more than 9 persons.

Contents

- Directives 76/115/EEC and 77/541/EEC prescribed the technical requirements relating to safety belts,
- wearing of belts is compulsory not only on front seats, but also on rear seats,
- child restraint system
- the period given to Member States to comply with this Directive is two years

Cornerstones:

- the use of safety belt or approved restraint system is **compulsory** for every person occupying the seats of vehicles
- **children** under 12 years of age and less than 150 cm tall shall be restrained by an approved restraint system
- **restraint system** combines a seat fixed to the structure of the vehicle by appropriate means and a safety belt of which at least one anchorage point is located on the seat structure
- special exemption for **handicapped** persons

Cross reference to other international obligations:

- Vienna Convention of 1968

Aspects to be considered:

Increased traffic safety.

Reference

Official Journal L 373 of 31.12.1991.

2.13 TECHNOLOGY AND SAFETY : tachograph

Document n° 2.13.6

Council Regulation (EEC) n° 3821/85 of 20 December 1985 on recording equipment in road transport.

Amended by:

Commission Regulation (EEC) n° 3314/90 (O.J. L 318, 17.11.1990, pp. 20-21) : Adapts the regulation to technical progress to eliminate the possibilities of fraud in the use of electronic recording equipment.

Commission Regulation (EEC) n° 3572/90 (O.J. L 353, 17.12.1990, p. 12) : modification as a result of **German reunification**.

Commission Regulation (EEC) n° 3688/92 (O.J. L 374, 22.12.1992, pp. 12-13) : authorisation to **break the seal** of existing recording equipment in the case of installation, adjustment or repair.

Commission Decision 94/451/EC (O.J. L 187, 22.7.1994, p. 9) : authorises the United Kingdom to exempt vehicles which are used exclusively within the boundaries of **airports** from the application Regulation 3820/85.

Commission Regulation (EC) n° 2479/95 (O.J. L 256, 26.10.1995, p. 8) **of 25 October 1995 adapting to technical progress Council Regulation (EEC) n° 3821/85 on recording equipment in road transport** : about the protection of cables connecting the recording equipment to the transmitter.

Commission Regulation (EC) n° 1056/97 of 11 June 1997 (O.J. L 154 of 12.6.97) **adapting to technical progress Council Regulation (EEC) n° 3821/85 on recording equipment in road transport** : for the vehicles category M1 and N1 which are not designed to install an armoured cable between the distance and speed sensors and the recording equipment, an adapter shall be fitted, and the armoured cable shall be fitted from the adapter to the recording equipment.

Council Regulation (EC) n° 2135/98 of 24 September 1998 amending Regulation (EEC) n° 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) n° 3820/85 and (EEC) n° 3821/85 (O.J. L 274 of 9.10.1998).

Objective

? To set Community technical construction and installation standards, harmonised approval procedure.

Scope

- ? The vehicles registered in Member States, drivers of which shall comply with Regulation 3820/85.

Allows for:

Some exemptions for a limited time, vehicles exclusively engaged in activities exempt from Regulation 3820/85.

Contents

- ? For **checking social legislation** as defined by Council Regulation (EEC) 3820/85, the equipment must be easy to use, difficult to manipulate, easy to check by drivers and control officers.
- ? Shall be installed and used in **vehicles** used for the carriage of passengers and goods, **except** : light goods vehicles, vehicles for less than nine persons, vehicles used on distances less than 50 kilometres, vehicles with max. 30 km/h speed, vehicles used for regular national passenger services and special international passenger services, etc.
- ? EEC **type approval** of recording equipment, of a model record sheet and a model driver card.
- ? Installation and inspection of recording equipment only by **approved workshops**.
- ? List of obligations of employers and drivers.
- ? The annexes contain **requirements** for technical construction, testing, installation and inspection of recording equipment, the record sheets or driver cards, **approval** mark and certificate.
- ? Tachographs and recording sheets or driver cards **with** EEC type approval only can be installed and used.
- ? The transport operator and drivers are directly **responsible** for the correct use of the tachograph.
- ? Items to be recorded: distance travelled by the vehicle, speed, driving time, other periods of work or of availability, break from work and daily rest period.

Expected future changes:

- ? Adoption of a Commission Regulation defining the technical specifications of Annex 1 B of Council Regulation (EC) n° 2135/98 for the introduction as from 1 July 2001 in all new vehicles of a digital tachograph, which automatically registers the activity of the drivers and keeps it for a year ; drivers shall have a microprocessor card with the same features keeping their activities for the last 28 days.

Cross reference to other international obligations:

? AETR Convention (UN ECE).

Aspects to be considered:

? More humane working conditions assured by checking;

? Improved road safety;

? Equal conditions of competition; but

? Increased operational costs ;

? Investment costs in order to equip fleet

Reference

Official Journal L 370 of 31.12.1985

Official Journal L 274 of 9.10.1998

2.13 TECHNOLOGY AND SAFETY : roadworthiness tests

Document no. 2.13.7

Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers.

Amends/repeals:

Council Directive 77/143/EEC.

Objective

- increased road safety.

Scope

- motor vehicles registered in the Member States.

Contents

- aiming at similar safety and competitive conditions, it lists categories of vehicles to be tested, defines the frequency of tests and the items to be tested,
- provisions of this Directive are minimum requirements and Member States may prescribe more frequent or extended tests,
- tests shall be carried out by the State or under direct supervision of the State,
- each Member State shall recognise the proof of tests issued in another Member State for international circulation but no mutual recognition of test centres..

Cornerstones:

- Frequency of tests for heavy goods vehicles: every year; buses and coaches twice a year
- Main items of tests: brakes, steering, visibility, lamps, axles, wheels, tyres, suspension, chassis, safety equipment, noise, air pollution, (public transport: additional items, such as exits, heating, etc.)
- Basic exhaust item checked: carbon monoxide (CO) contents, and, for diesel motor vehicles, smoke opacity.

Expected future changes:

- Progressive introduction of
 - ⇒ further elements to be checked and of harmonised checking
 - ⇒ harmonised checking methods

⇒ harmonised roadworthiness criteria

- Possible introduction of road side checks

Cross reference to other international obligations:

- Vienna Convention of 1968 (UN ECE)
- Geneva Convention of 1958 (UN ECE)

Aspects to be considered:

- increased road safety;
- less accident costs;
- increased possibilities for commercial services;
- mutual recognition of proof of tests; but
- stricter regulations, more frequent vehicle tests;
- increased maintenance costs.

Reference

Official Journal L 46, 17.2.1997.

Official Journal L 47, 18.2.1977.

2.14 TRANSPORT OF DANGEROUS GOODS : safety advisers

Document no. 2.14.1

Council Directive 96/35/EC of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway

Objective

- Improve the prevention of the risk inherent in the transport of dangerous goods.

Scope

- all undertakings, the activities of which cover transport, loading or unloading of dangerous goods by road, rail or inland waterway, shall appoint safety advisers who shall undergo training and pass an examination.

Contents

- adviser shall perform the duties listed in Annex I relevant to the undertaking's activities
- adviser shall hold a community-type vocational training certificate received after having undergone a training and passed an examination
- the adviser shall prepare an accident report whenever an accident affects persons, property or the environment
- the Member States shall bring into force the necessary laws, regulations and administrative provisions not later than 31 December 1999
- Annex II contains a list of subjects of the examination, Annex III presents the form of the Certificate

Expected future changes :

An additional Directive will lay down minimum examination requirements for safety advisers.

Aspects to be considered:

- increased traffic safety;
- important number of advisors should be trained in special subjects, training infrastructure should be available.

Reference

Official Journal L 145 of 19.06.1996.

2.14 TRANSPORT OF DANGEROUS GOODS : rail transport

Document no. 2.14.2

Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail.

Amended by:

Commission Directive 96/87/EC (OJ L 335 of 24.12.1996) adapting to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail : the annex has been changed due to amendments in the Annex I to Appendix B to COTIF.

Objectives

- to harmonise the legislation of the Member States and align it with RID;
- to facilitate the free movement of goods and services and to ensure a high level of safety.

Scope

- the transport of goods listed in the Annex.

Excludes from scope:

- the transport of dangerous goods conducted by means of transport equipment belonging to or under the responsibility of the armed forces;
- the running of trains;
- the marshalling of freight wagons in trains in national traffic;
- operating rules for operations ancillary to transport such as marshalling and stabling;
- the training of staff and the management of information concerning the dangerous goods transported;
- special rules for the transport of dangerous goods in passenger trains.

Contents

- rules of RID extended to cover also **national** traffic;
- authorises the Member States to apply **special provisions** concerning the package and labels, the use of languages, the use of rail wagons, tanks and receptacles, reference temperature for transport, temporary derogation from the Annex without any discrimination etc.;

- authorises the Member States to apply **stricter provisions** for transport via tunnels similar in characteristics to the Channel Tunnel or when the ambient temperature is regularly lower than -20°C ;
- Member States may maintain less stringent provisions for the transport of **small quantities** of certain dangerous goods;
- Member States may authorise the transport of dangerous goods under less stringent conditions in the case of **local transport over short distances in the perimeters of ports, airports or industrial sites**;
- Member States may maintain all national provisions applicable on 31 December 1996 to the transport of substances containing **dioxins** or **furans**;
- Existing special **bilateral and multilateral agreements** with other Member States may be applied until 31 December 1998 at the latest;
- Transport between Community territory and third countries shall be in conformity with RID with the exception of transport to and from those Republics of the former Soviet Union that are not contracting parties of COTIF;
- the Commission shall be assisted by the Committee set up by Article 9 of Directive 94/55/EC (OJ L 319 of 12.12.1994);
- Annex corresponds completely with the RID 1997.

Cornerstones:

National and international transport of dangerous goods by rail in the EU shall comply with provisions of the RID.

Cross reference to other international obligations:

RID

Aspects to be considered:

- There is a separate Directive 96/35/EC on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway (O.J. N° L 145 of 19.6.1996);
- Increased safety.
- One single European rule for the transport of dangerous goods by rail.
- RID applicable in national traffic, but there are provisions for using rail wagons and packaging constructed before 1 January 1997; investments may be necessary for new rail wagons and packaging.

Reference

Official Journal L 235 of 17. 09.1996.

2.14 TRANSPORT OF DANGEROUS GOODS : road transport

Document no. 2.14.3

Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road.

Amended by:

Commission Directive 96/86/EC (OJ L 335 of 24.12.1996) adapting to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road:

New A and B Annexes due to amendments of ADR.

Objectives

- to harmonise the legislation of Member States and align it with ADR;
- to facilitate the free movement of goods and services and to ensure a high level of safety.

Scope

- the transport of goods listed in Annexes;

Excludes from scope:

- transport of dangerous goods by vehicles belonging to or under the responsibility of the armed forces

Contents

- rules of ADR extended to cover also **national** traffic
- authorises the Member States to apply **special provisions** concerning the package and labels, the use of languages, the use of vehicles and tanks, reference temperature for transport, temporary derogation from Annexes without any discrimination, etc.
- **national legislation** can stay in force for the inland transport until 31 December 1998,
- Member States may maintain their national legislation for the transport of **small quantities** of certain dangerous goods within their territory
- conditions for transport of biological agents and genetically modified micro-organisms,
- existing special **bilateral and multilateral agreements** may be applied until 31 December 1998 at the latest, without discrimination
- **vehicles** registered in **non-member** countries shall be in conformity with ADR in the territory of the Community,

- sets up a special **committee** on the transport of dangerous goods, furthermore Member States may propose stricter rules to the Commission,
- **modifies the 89/684/EEC** on vocational training concerning the period of validity of certain certificates
- Annexes on types of dangerous goods correspond completely to respective ADR Marginals.

Cornerstones:

- national and international transport of dangerous goods by road in the EU shall comply with provisions of the ADR

Cross reference to other international obligations:

- ADR Agreement.

Aspects to be considered:

- increased safety;
- one single European rule for the transport of dangerous goods;
- ADR applicable in national traffic which makes important investments necessary in vehicles, etc.

Reference

Official Journal L 319 of 12.12.1994.

2.14 TRANSPORT OF DANGEROUS GOODS : road transport checks

Document no. 2.14.4

Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road.

Objective

- Ensure a sufficient level of checks by using a list of common items, fulfil the requirements of safety and take measures in the event of serious or repeated infringement.

Scope

- all checks carried out by Member States on the transport of dangerous goods by road regarding vehicles travelling in their territory or entering it from a third country.

Contents

- a representative proportion of consignments shall be checked
- the Member States shall use the checklist in Annex I and a copy shall be given to the driver
- infringing vehicles can be brought into compliance or immobilised and required to be brought into conformity before continuing their journey
- Annex lists infringements
- serious or repeated infringements must be reported to the competent authorities in the Member State in which the vehicle is registered
- yearly report shall be sent to the Commission on the application of this Directive
- the Member States shall communicate the text of the essential provisions of domestic law in the field governed by this Directive to the Commission.

Cross-references to other international obligations:

- ADR Agreement (UN).

Aspects to be considered:

- increased traffic safety;
- important number of drivers should be trained in special subjects, training infrastructure should be available.

Reference

Official Journal L 249 of 17.10.1995.

2.15 ECOPOINTS

Document no. 2.15.1

Commission Regulation (EC) 3298/94/EC of 21 December 1994 laying down detailed measures concerning the system of rights of transit (ecopoints) for heavy goods vehicles transiting through Austria, established by Article 11 of Protocol N° 9 to the Act of Accession of Norway, Austria, Finland and Sweden.

Replaces:

Council Regulation 3637/92/EEC (O.J. N° L 373 of 21.12.92)

Amended by:

Commission Regulation 1524/96/EC (O.J. N° L 190 of 31.7.96)

Objectives

- To adopt detailed implementing measures for the special regime of transit of heavy goods vehicles through Austria
- Replacing the system of distribution of ecopoints established by Commission Regulation 3637/92/EEC
- While the actual situation deriving from Commission Regulation 3637/92/EEC is maintained for the “present” Member States
- To take account of transit journeys of vehicles registered in Finland and Sweden (the basic year : 1991 – emission : 15.8 gr. NO_x/kw).

Scope

- Transit through Austria by heavy goods vehicles with a laden weight of over 7.5 tons and registered in any Member States (also in Austria).
- Note : Norway and Slovenia are also subject to the ecopoint system.

Cornerstones :

- *Ecocard* : duly completed standard form confirming payment for the ecopoints for the journey (its fee may cover the cost of producing and distributing the form and the ecopoints) – an ecocard shall be handed to the supervisory authority of the Member State of registration or of Austria
- *Ecotag* : programmed to contain information on the country of registration and the NO_x value of the motor vehicle, it is non-transferable and shall be affixed to the windscreen – a number of ecopoints, equivalent to the NO_x emission information stored in the ecotag shall be deducted from the total ecopoints allocated to the Member State of registration – the infrastructure for it shall be provided and operated by Austria
- *Standard COP document (conformity of production document)* : gives evidence to the NO_x emission of the vehicle registered after 1 October 1990 or registered before this date but which have had a change of engine
- COP value of vehicles registered before 1 October 1990 or without document : 15.8 gr. NO_x/kw

- Continuous journeys crossing the Austrian frontier once by train (conventional or combined) and before or after this by road *are not considered as transit by road*, but as bilateral journeys (the designated rail terminals : Fuernitz/Villach Süd, Sillian, Innsbruck/Hall, Brennersee, Graz)
- Ecopoints may be used between 1 January of the year for which they are attributed and 31 January of the next year
- 96.66 % of the total available ecopoints are distributed among the Member States in two portions (first before 1 October of the preceding year, second before 1 March of the relevant year). Ecopoints, which are likely not to be used must be returned by the Member States to the Commission before 15 October
- *Community reserve*: the un-distributed 3.34% and the returned ecopoints – the criteria for its allocation:
 - The special position of Greece and Italy
 - The effect of German reunification
 - The promotion of alternative transport modes through Austria, e.g. Ro-La (Rollende Landstraße – rolling motorway)
 - The number of ecopoints allocated to and actually used by Member States
 - The average NO_x figures for transiting vehicles from Member States
 - Unforeseen occurrences
- *Transit traffic of heavy goods vehicles with a max. authorised weight of over 3.5 tonnes registered in Austria on the “Kleines Deutsches Eck”* : Germany may limit the number of single journeys
- *Exemptions* :
 - Delivery of a brand new vehicle, no goods transported on the journey, appropriate international registration papers and export licence plates (Art. 12)
 - Journeys made under ECMT authorisation or
 - Journeys falling in the category listed in Annex C and they are e.g. occasional transport of goods to and from airports when flights are diverted, certain types of carriage of baggage, carriage of postal consignments, damaged vehicles, waste and sewage, animal carcasses, bees and fish spawn, corpses, works of art, equipment, accessories and animals for exhibitions or cultural events, spare parts for ships and aircraft, carriage of goods by removal firms, empty journey of a goods vehicle to replace a broken down one, carriage of emergency medical aid (natural disaster), of valuable goods escorted by the police
- From 1.1.1998 at least 95 % of ecopoints shall be in “electronic” format. All Member States can each have a maximum of 0.6 % of the E.U. annual quota of ecopoints as paper stamps. This means that Member States making less than 10,000 trips per year may have their entire quota of ecopoints as paper stamps, whilst the other Member States must have at least part of their quota in “electronic” format
- The ecopoint system first entered into force at the same time as the Agreement between the European Economic Community and the Republic of Austria on the transit of goods by road and rail, the regime replacing this previous one entered into force 1 January 1995 and is planned to be applied according to Art. 9 of the Regulation until 2004.

Expected future changes :

After 2004 a system for environmental control may be maintained for extremely sensitive corridors.

Aspects to be considered:

- Accelerated change/modernisation of fleet;
- It brings a liberal transit system back under quantitative control
- Increased cost of operation and of control by the authorities.

Reference

Official Journal L 341 of 30.12.1994.

2.16 REGISTRATION SIGN

Document n° 2.16.

Council Regulation (EC) n° 2411/98 of 3 November 1998 on the recognition in intra-Community traffic of the distinguishing sign of the Member State in which motor vehicles and their trailers are registered.

Objectives

- ? To ensure that Member States which under the provisions of Article 37 of the Vienna Convention require vehicles and their trailers registered in another Member State to display a distinguishing registration sign when being driven in their territory also recognize the distinguishing sign of the Member State of registration conforming to the provisions laid down in the Annex to the Regulation.

Scope

- ? All motor vehicles and their trailers as defined in:
 - Council Directive 70/156/EEC (O.J. L 42, 23.2.1970 as last amended by Directive 97/27/EC (O.J. L 233, 25.8.1997) ;
 - Council Directive 92/61/EEC (O.J. L 225, 10.8.1992) as amended by the 1994 Act of Accession.

Contents

- ? Defines the vehicles concerned;
- ? Defines the distinguishing sign of the Member State of registration ;
- ? Requires the mutual recognition of the distinguishing sign of the Member State of registration if displayed in the number plate in conformity with the Annex;
- ? Sets in the Annex the technical specifications of the way the distinguishing registration sign must be affixed on the number plate (place, size, colour, composition.....).

Reference

Official Journal L 299 of 10 November 1998.

CHAPTER 3 : AIR TRANSPORT

CHAPTER 3 : AIR TRANSPORT

INTRODUCTION

1. Economic importance of air transport

The air transport sector generates approximately 1% of the Community's gross domestic product. Some 400 000 people work for Europe's airlines.

However, the real impact of air transport on the economy and employment is far greater. Over 500 000 people work at airports in the Community. The aviation industry in turn has almost 400 000 employees. The tourist industry, in the broadest sense, also depends heavily on the performance of civil aviation.

With the exception of two recessions, the air transport industry has always achieved annual growth rates of around 5 or 6%. At the same time, however, the industry's profits and profitability have varied widely due, in particular, to its heavy dependence on macroeconomic cycles. In the process, the industry has repeatedly suffered from heavy over-capacity, forcing airlines to sell seats at promotional rates. In 1993, 71% of passengers on European flights paid a reduced fare.

As a result, Europe's leading airlines suffered heavy losses between 1990 and 1993. But the situation has been restored since then. In 1994, for example, the carriers in the Association of European Airlines recorded their highest ever occupancy rates. With a few exceptions, the industry is making profits once again. Nevertheless, in a climate of increasingly fierce international competition, airlines must continue the restructuring in progress in order to improve their productivity. This will signify further job losses in certain cases.

This sector was long dominated by a rigid system of bilateral agreements between States and inter-airline agreements. Since 1987 the policy has been to phase out the bilateral system in Europe in order to establish a genuine Single Market in civil aviation.

2. Development of the Common Air Transport Policy

The turning point resulting in a Common European Air Transport Policy was the ruling of the European Court of Justice that found, in the famous *Nouvelles Frontières* case, that the competition rules of the Treaty would also apply to the air transport sector¹⁴. Due to the special provisions on Transport in the Treaty of Rome, the applicability of the competition rules had been in dispute and prevented Community activity in this area. That is why air transport policy did not start before 1974. The connection with competition law makes it clear that European air transport policy has been dedicated from its inception to the liberalisation of this highly regulated sector. The process of internal liberalisation was completed with the adoption of the third of the three "packages" of gradual liberalisation, which entered into force on 1 January 1992¹⁵.

The three Regulations n° 2407/92, 2408/92 and 2409/92 that constitute the Third Package

¹⁴ European Court Reports 1986, pp1425-1473.

of internal liberalisation make up the core of what is called the *acquis communautaire* in Air Transport. They provide for free access of European airlines to any European airport on merely commercial considerations. The Third Package rules have to be understood in combination with the relevant competition rules. These complementary sets of rules implement the concept of the market economy, as enshrined in the Treaty of Rome, in the field of European aviation. One essential purpose of the complementary rules, relating to technical harmonisation, air safety, consumer protection and similar issues, is to establish a fair and equal playing field for all competing airlines. These rules shall also safeguard the highest possible standard of safety and environmental protection.

The policy underlying this body of law assumes that liberalisation of air transport is the best way to maintain and safeguard the international competitiveness of the European air industry, and to enable this industry to contribute its utmost.

3.1 AIR TRANSPORT: MARKET ACCESS AND LICENSING

Document no. 3.1.1

Council Regulation (EEC) n° 2407/92 of 23 of July 1992 on licensing of air carriers

Objectives

- To establish common rules on the licensing of air carriers

Covers:

- Community carriers only (no Third countries' carrier)

Contents

In order to avoid distortions of competition and, possibly, flags of convenience, it has been necessary to establish common rules for the licensing of air carriers in the Community. Regulation EEC No 2407/92 responds to that necessity by providing that, in order to be entitled to be licensed as an air carrier, an undertaking must:

- Have its principal place of business and registered office in the licensing member State;
- Be primarily engaged in air transport, either in isolation or combined with any other commercial operation of aircraft or repair and maintenance of aircraft;
- Be majority owned and effectively controlled by Member States and/or nationals of Member States;
- Have a sound financial basis and a management of good reputation (An applicant air transport undertaking has to submit a business plan for, at least, the first two years of operation and, furthermore, all the following changes to the previous business plan. Licensing authorities, anyway, may at any time assess an air carrier's financial performance and may suspend or revoke the licence);
- Be insured to cover liability in case of accidents;
- Have a valid air operator's certificate.

According to article 3, once these conditions are complied with, an air carrier is entitled to be licensed.

An air carrier using an aircraft from another undertaking or providing it to another undertaking must obtain a prior approval by the appropriate licensing authority.

As regards the relationship between the licensing rules and the freedom of market access, the Commission established a number of interpretation principles in 1993.s Those principles essentially focus on two points.

First, an air carrier's market access must not be restricted by way of attaching conditions to its operating licence which have no foundations in the third package. In particular, the scope of the licence must not be limited to specific intra-Community routes or to the provision of either scheduled or non-scheduled services only.

Second, the third package is based on the principles of mutual recognition of operating licenses and home country control. For the purposes of exercising traffic on intra-Community routes, an operating license issued by one Member State must, therefore, be accepted by all other Member States and market access must not be refused by the latter on the grounds that the licensed carrier does no longer comply with its obligations under Regulation (EEC) 2407/92. Any verification of such compliance is, in fact, exclusively for the licensing Member State.

Reference

Official Journal L 240 of 24.8.1992

3.1 AIR TRANSPORT: MARKET ACCESS AND LICENSING

Document no. 3.1.2

Council Regulation (EEC) n° 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes

Objectives

- To ensure to Community air carriers freedom to provide services

Scope

- Intra-Community air routes only

Contents

The third package has created a regulatory framework for a common air transport market based on the freedom to provide air services, thereby replacing both the provisions of the bilateral agreements between Member States. On this basis a Community person (an individual or a company) irrespective of his nationality can create an air carrier anywhere in the Community and from there, with certain limitations that ended in April 1997, such an air carrier has the right to operate wherever opportunities might exist.

The distinction between scheduled and non-scheduled air services has been eliminated; it is up to the carrier to decide in which mode they want to operate.

Regulation 2408/92 contains two sets of safeguard clauses under which the principle of free market access may be restricted. Articles 3(2), 3(4) and 5 allow for temporary restrictions on access to domestic routes, which were phased out between 1996 and April 1997. Articles 4, 6, 8 and 9, in contrast, are of a permanent nature and may be used to pursue national policy objectives, such as, for example, the maintenance of services which are in the public interest, the reduction of airport congestion or the protection of the environment. The Community institutions have been entrusted with special enforcement powers in order to be able to scrutinise any national measures adopted under those safeguard clauses.

Reference

Official Journal L 240 of 24.8.1992

3.1 AIR TRANSPORT: MARKET ACCESS AND LICENSING

Document no. 3.1.3

Council Regulation (EEC) n° 2409/92 of 23 July 1992 on fares and rates for air services

Objectives

- Allows an air carrier to freely set its fares for the services operated within the European Community

Covers:

- Intra-Community air routes

Contents

- Articles 3 and 5(1) establish the principle of price freedom for Community air carriers on intra-Community air routes. The same principle applies with respect to charter fares to be paid by the passengers to charterers for the carriage on non-scheduled services.
- The Member States are no longer allowed to subject air fares to the requirement of prior authorisation. Article 5(2) of the Regulation merely provides for the possibility of requiring the filing of such fares at least 24 hours before they become effective.
- Article 6 (1) of the Regulation contains a general safeguard clause, which allows the Member States, under certain conditions, either to withdraw an excessively high basic fare or to stop further fare decreases in case of a substantial downward development of air fares.
- The Commission is empowered to examine, at the request of a Member State or on the basis of a complaint, the legality of any action taken by the national civil aviation authorities under Art. 6.

So far, neither the Member states nor the Commission have made any use of their powers under the Regulation.

Reference

Official Journal L 240 of 24.8.1992

3.2 AIR TRANSPORT: ENVIRONMENT

Document no. 3.2.1

Council Directive 80/51/EEC of 20 December 1979 on the limitation of noise emissions from subsonic aircraft

Objectives

Limitation of noise from subsonic aeroplanes

- By preventing Member States from adding to their registers aeroplanes which do not meet the noise certification standards of Chapter 2,3, 5 or 6 of Annex 16
- By banning non-noise certified civil subsonic jet aeroplanes from using airports in the CommunityTo establish common rules on the licensing of air carriers

Covers:

- Propeller driven aeroplanes
- Subsonic jet aeroplanes

Does not cover:

- Greenland

Contents

- Ban on the registration and use of non-noise certified aeroplanes by requiring noise certification in compliance with Chapters 3,3,5 or 6 of Annex 16
- The ban on the use of non noise certified civil subsonic jet aeroplanes came into effect on 1 January 1987 for aeroplanes on the register of a Member State and on 1 January 1988 for aeroplanes on the register of a third country with a possibility in both cases to grant an exemption for 2 years maximum.

Reference

Official Journal L 18 of 24.1.1980

3.2 AIR TRANSPORT: ENVIRONMENT

Document no. 3.2.2

Council Directive 89/629/EEC of 4 December 1989 on the limitation of noise emissions from civil subsonic jet aeroplanes

Objectives

- Limitation of noise from civil subsonic by preventing Member States from adding Chapter 2 aeroplanes to their civil air registers

Covers:

- Civil subsonic jet aeroplanes registered in the Community with a maximum take off weight of 34.000 kg or more or civil subsonic jet aeroplanes with a capacity of 19 passenger seats or more

Contents

- As from 1 November 1990, the addition to Member States registers of civil sub-sonic jet aeroplanes is restricted to those complying with Chapter 3 of Annex 16
- Possibility to grant a limited number of exemptions on technical or economic grounds; all exemptions on economic grounds had to expire by 31 December 1995

Reference

Official Journal L 363 of 13.12.1989

3.2 AIR TRANSPORT: ENVIRONMENT

Document no. 3.2.3

Council Directive 92/14/EEC of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention of International Civil Aviation, 2nd Ed. (1988)

Amended by:

Council Directive 98/20/EC of 30 March 1998

Objectives

- Restriction of the operation at Community airports of Chapter 2 civil subsonic jet aeroplanes by means of a gradual phase-out as soon as the chapter 2 aeroplanes reach 25 years

Covers:

- Civil subsonic jet aeroplanes with a maximum take off mass of 34.000 kg or more
- Civil subsonic jet aeroplanes with a certified maximum internal accommodation of more than 19 passenger seats

Does not cover:

- Civil subsonic jet aeroplanes with a bypass ratio of 2 or more

Contents

- Between 1995 and 2002 operation of a Chapter 2 aeroplane only allowed if the aeroplane is less than 25 years old;
- Exemptions to the 25 years' rule can be granted in a limited number of cases, i.a. on the basis of economic hardship for a maximum of 3 years and for aircraft registered in developing nations and listed in the Annex until the final cut-off date in 2002

Cross reference to other international obligations:

Agreements with third country carriers allowing an exemption similar to that granted to Community carriers.

Reference

Official Journal L 76 of 23.3.1992

Official Journal L 107 of 7.4.1998.

3.3 AIR TRANSPORT: COMPUTER RESERVATION SYSTEMS

Document no. 3.3.1

Council Regulation (EEC) n° 2299/89 of 24 July 1989 on a code of conduct for computerised reservation

Amended by:

Council Regulation (EEC) n° 3089/93 of 29 October 1993

Objectives

- To avoid anti-competitive practices

Covers:

- Only air transport products either alone or in combination with an inclusive tour arrangement. Taking into account the current discussions to amend the code of conduct, it might soon apply to rail products as well. The Code applies to all CRSs operating in the EC. The code applies equally to sales made in the EU of air transport services between cities in third countries

Does not cover:

- The other service providers using CRS: package tour operators, ferry and car-hire companies

Contents

CRSs are highly complex computer data bases used to provide subscribers (i.e. travel agents) and their customers with information on airline and other services, and to allow bookings and ticketing on those services to be carried out. In respect of air transport services, CRSs obtain their information either through direct links into the internal reservation systems of carriers or through intermediaries which package data on fares and schedules on behalf of several carriers. The other service providers using CRSs are package tour operators, hotels, ferry, hire companies. CRSs are believed to be the world's largest civilian users of computing power in order to provide instant access to the services they offer in over 140.000 travel agents offices world-wide.

In ten of the fifteen EU member States, one of the four major CRSs present in the EU has a market share in excess of 70%. Because of its highly concentrated nature, the CRS industry raises concern for the regulator. In order to address those competition issues, the Council adopted a code of conduct on CRSs in 1987, the code was then amended in 1993. The code has been working remarkably well, however, during our review of the code we have felt that it needed some improvements in the light of recent developments such as Internet, high-speed trains etc. Hence on 9 July 1997, the Commission adopted a proposal for a further amendment to the code.

The code applies to all CRSs operating in the EU to the extent they contain air transport products. The code places a series of obligations on the various entities associated with the CRS sector:

- System vendors (entities responsible for the operation/marketing of a CRS): the obligations mainly focus on the duty for the system vendor to ensure neutrality of operation of, and access to, its CRS, to allow any air carrier to participate in its distribution facilities in a non-discriminatory way.
- Parent carriers (they directly or indirectly own system vendors): the code places a duty on them not to discriminate between their own and competing CRS.
- Participating carriers: the code requires that they must ensure that the data they provide to a CRS are accurate, non-misleading and transparent and no less comprehensive than for any other CRS in which it participates.
- Subscribers (mainly travel agents): The code places obligations on the subscribers by the indirect mechanism of requiring system vendors to include in their contracts with subscribers' constraints on the manner in which the subscriber uses the system. Generally this means that the subscriber should not manipulate the CRS data to mislead customers.

The code also contains rules on the construction of principle displays, on security of data, audit, charging policy.

The issues set out in the proposal adopted in July 1997 include additional obligations on the behaviour of subscribers, extension of the scope of the code to include rail services, clarification of charging policy and the distribution of CRS services through the Internet.

Cross reference to other international obligations:

Article 7.1 releases system vendors from the obligation to give a parent carrier from a third country equal treatment where that parent carrier's CRS does not provide Community air carriers with equivalent treatment. Similarly, article 7.2 releases parent and participating carriers from their obligations with respect to third country owned CRSs, where the carriers are not afforded equivalent treatment by the CRS outside the Community.

Reference

Official Journal L 220 of 29.7.1989

Official Journal L 278 of 11.11.1993

3. 4 AIR TRANSPORT: CONSUMER PROTECTION

Document no. 3.4.1

Council Regulation (EEC) n° 295/91 of 4 February 1991 establishing common rules for a denied boarding compensation system in air transport

Objectives

- The main objective of Regulation 295/91 is to protect the interests of the air transport users by establishing a Community system for adequate compensation to passengers who are denied boarding on overbooked flights.

Covers:

- All scheduled flights departing from an airport in a Member State

Does not cover:

- Non-scheduled flights and flight from third countries.

Contents

The Regulation has been adopted in the interest of the air transport users and provides common minimum standards in the field of denied boarding compensation, obliging air carriers to pay compensation and to provide additional services to passengers who are denied boarding.

It also obliges the airlines to lay down the rules it will follow in the event of denying passengers to board an overbooked flight, and to make them available to the passengers. In the event of a denied boarding, the carrier shall provide each passenger with a form setting out these rules.

It states that in the event of boarding being denied, the passenger shall have the choice between reimbursement, re-routing at the earliest opportunity or re-routing at a later date at the passenger's convenience.

Irrespective of the passenger's choice above, he shall be entitled to a minimum compensation amounting to 150 ECU for flights up to 3 500 km, and 300 ECU for flights of more than 3 500km. This compensation shall be paid in cash, or with the agreement of the passenger, in travel vouchers and/or other services.

In addition to the minimum compensation, the carrier shall offer to the passenger who is denied boarding the expenses for a telephone call and / of fax message to the point of destination, meals and refreshment and hotel accommodation when an additional stay of one or more nights is necessary.

The denied-boarding compensation rules do not apply in cases where the passenger is travelling free of charge or at reduced fares not available to the public.

Reference

Official Journal L 36 of 8.2.1991

3.4 AIR TRANSPORT: CONSUMER PROTECTION

Document no. 3.4.2

Council Regulation (EC) n° 2027/97 of 9 October 1997 on air carrier liability in the event of accidents

Objectives

- To improve the protection of air passengers in respect of the air carrier liability by, inter alia, increasing the liability limits and applying a uniform protection for all passengers travelling on Community air carriers. To establish common rules on the licensing of air carriers

Covers:

- All Community air carriers

Does not cover:

- Third country carriers are not concerned, except as far as their obligation to properly inform passengers is concerned

Contents

The Regulation requires from Community air carrier and irrespective of the nature of the operation (domestic or international) to waive all limits; to introduce strict liability up to the equivalent in ECU of SDR 100,000; to make available an advance payment within 15 days following the identification of the person entitled to compensation, the payment must be of at least the equivalent in ECU of SDR 15,000 in case of death; finally it requires Community and third country carriers to properly and clearly inform the passengers of the liability regime they are applying.

Cross reference to other international obligations:

The rules applying for international flights as to the liability of air carriers for injury or death of passengers and for loss or damage to baggage and cargo are governed by the 1929 Warsaw Convention (WC) for the “Unification of certain rules relating to international transportation by air”. The WC provides a world-wide system of standards and rules relating to the document of carriage (passenger ticket, baggage check and air waybill), of common rules on the regime of liability and determines which courts have jurisdiction. The Warsaw Convention continues to apply to Community air carriers for all aspects, which are not covered by the EC Regulation 2027/97. The Convention, of course, continues to apply to non-Community carriers licensed by countries party to the Convention.

Reference

Official Journal L 285 of 17.10.1997.

3. 5 AIR TRANSPORT: GROUND-HANDLING

Document no. 3.5.1

Council Directive 96/67/EC of 15 October 1996 on access to the ground-handling market at Community airports

Objectives

- The opening up of the ground-handling market at Community airports

Covers:

- Self-handling on “Land side”: all community airports open to commercial traffic
- Self-handling on “airside”: airports > 1 M pax/year
- Third-party handling: airports > 2M pax/year

Does not cover:

- All other activities of the airports, which correspond to airport charges, security and safety, and purely commercial activities such as duty free shops

Contents

- Complete opening to competition for the main part of the services
- Minimum of 2 handlers and self-handlers for four “air side” services (baggage, fuel, ramp freight and post)
- Possibility of exemptions limited in time and approved by the Commission (and consultation of the Member States) in the case of exceptional constraints of space and capacity
- When the number of self-handlers is limited: choice on neutral criteria
- When the number of suppliers is limited: selection by public tender at Community level made by an independent body if the airport is also a supplier of similar handling services
- Creation of a Committee composed of all the users of the airport: this will be a consultative committee for the choice of the suppliers when the number is limited
- Obligation to separate the accounts of the ground-handling activities from those of the others activities.
- For the airport authority: interdiction to crosssubsidize the Ground-handling activity with incomes from the airport charges

Possibility for the airport to charge a fee or the right of access to the installations

Cross reference to other international obligations

- No special reference
- Reciprocity clause: Art 20 of the Directive: possibility for the Member States to wholly or partially suspend any right arising from the directive. Commission not involved in the process.
- The MS may require that suppliers of services be established in the Community

Reference

Official Journal L 272 of 25.10.1996.

3.6 AIR TRANSPORT : SAFETY

Document no. 3.6.1

Council Directive 94/56/EEC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents

Objectives

- Improve air safety by ensuring that investigation of civil aviation accidents is carried out according to the same high principles in all the Member States

Covers:

- Accidents and incidents
- occurring in the Community
- occurring outside to Community
- aircraft when there is no other State carrying out an investigation

Contents

The main principles contained in this Directive are :

- the mandatory investigation of each accident and serious incident with the sole objective to prevent its recurrence
- a clear separation between the judicial enquiry and the technical investigation with the reinforcement of the latter's statute
- the conduct of the investigation by a permanent and independent body
- the publication of an investigation report containing conclusions and eventual safety recommendations
- a system of follow up of these recommendations.

Cross reference to other international obligations:

ICAO : Annex 13 to the Convention on International Civil Aviation

Reference

Official Journal L 319 of 12.12.1994

3.6 AIR TRANSPORT : SAFETY

Document no. 3.6.2

Council Regulation (EEC) n° 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation

Amended by:

Commission Regulation (EC) n° 2176/96 of 13 November 1996

Objectives

- Assure a maximum level of safety in civil aviation through harmonised technical requirements for the design, manufacture, operation and maintenance of aircraft and harmonised requirements for persons and organisations involved in civil aviation as well as common administrative procedures
- Guarantee the free movement of persons, products and services

Covers:

- Aircraft operated by operators who are registered in a MS or in a third country
- Certificates and approval granted by the national authorities or the bodies acting on their behalf
Community carriers only (no Third countries' carrier)

Contents

Assure the harmonization that is still under development of technical requirements and administrative procedures relating to the safety of aircraft and their operation on the basis of the JAR codes established by the JAA (Joint Aviation Authorities). The Regulation is of a general nature and provides one of the major pillars on which the common air transport policy is founded.

Special attention should be made to ANNEX II of the Regulation which lists the codes in force containing the common technical requirements and administrative procedures referred to in Article 3 of the Regulation.

Special attention should also be made to Article 8 of the Regulation. This article clearly states that none of the before mentioned provisions in the Regulation shall prevent a MS from reacting immediately to a safety problem which becomes aparent from an accident and involves a product which was designed, manufactured or maintained in accordance with this Regulation. If there is any other reason for the occurrence of a safety problem the MS shall inform the Commission and the other MS of the reason therefor.

The amendment procedure mentioned in Article 11 of the Regulation enables the adoption to scientific and technical progress to the common technical requirements and administrative procedures listed in ANNEX II or adopted by the Council in accordance with Article 4 by a committee procedure.

There is also an obligation for the MS to be full member of the Joint Aviation Authorities (third countries which are *full member of JAA* : CH, ISL, MC, N ; third countries which declared their intention to become full member of JAA: Cyprus, Czech Rep, Hungary, Malta, Poland, Slovakia, Slovenia, Turkey).

Reference

Official Journal L 373 of 21.12.1991

Official Journal L 291 of 14.11.1996

3.7 AIR TRANSPORT: PERSONNEL LICENCES

Document no. 3.7.1

Council Directive 91/670/EC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation

Objectives

- Lays down Community procedure for mutual acceptance of licences issued by Member States to civil aviation cockpit personnel
- Facilitate the movement of such personnel within the Community

Covers:

- Acceptance of licences issued by Member States together with privileges and certificates pertaining thereto

Does not cover:

- Licences issued by third countries

Contents

- Covers any licence, issued by a Member State, authorising the holder to exercise functions as a Member of the cockpit personnel on board a civil aircraft registered in a Member State.
- Acceptance of licences means any act of recognition or validation by a Member State of a licence issued by another Member State together with the privileges and certificates pertaining thereto.
- *Recognition* means the permission to use on an aircraft registered in one Member State a licence issued in another Member State, in accordance with the privileges pertaining thereto ;
- *Validation* means the express declaration by a Member State that a licence issued by another Member State can be used as one of its own.
- Acceptance can be based on requirements which are equivalent to those of host Member State (equivalence) or on the basis of experience (special validation procedure)
- Under the European Economic Area (EEA) Agreement this Directive applies also to Iceland, Lichtenstein and Norway.

Reference

Official Journal L 373 of 31.12.1991

3.8 AIR TRANSPORT: AIR TRAFFIC MANAGEMENT

Document no. 3.8.1

Council Directive 93/65/EEC on the definition and use of compatible technical specifications for the procurement of air traffic management equipment and systems

Objectives

- Ensure that ATM equipments and systems all over Europe are compliant with interoperability requirements elaborated by EUROCONTROL

Covers:

- The procurement of ATM equipment and systems by ATM service providers listed in its annex

Contents

- The Commission may give mandatory status to EUROCONTROL standards aiming at ensuring the interoperability of ATM/CNS systems and equipments
- When procuring ATM equipment and systems, awarding entities content in the annex must refer to such mandatory EUROCONTROL standards
- The Commission is associated by a regulatory Committee.

Reference

Official Journal L 187 of 29.7.1993

3.8 AIR TRANSPORT: AIR TRAFFIC MANAGEMENT

Document no. 3.8.2

Commission Directive 97/15/EC adopting EUROCONTROL standards and amending Council Directive 93/65/CEE on the definition and use of compatible technical specifications for the procurement of air traffic management equipment and systems

Objectives

- Make mandatory EUROCONTROL standards,
- Amend list of awarding entities,
- Amend a new annex II to Directive 93/65 Ensure that ATM equipments and systems all over Europe are compliant with interoperability requirements elaborated by EUROCONTROL

Contents

- Adopt the OLDI and ADEXP EUROCONTROL standards
- Adopt a new annex I of Directive 93/65 to expand the list of sectors where EUROCONTROL standards would be elaborated.

Reference

Official Journal L 95 of 10.4.1997/29.7.1993

3.9 AIR TRANSPORT: ALLOCATION OF SLOTS

Document no. 3.9.1

Council Regulation (EEC) 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports

Objectives

- To define a fair, efficient and non-discriminatory procedure for airport slot allocation

Covers:

- Community congested airports

Does not cover:

- Third-countries' airports

Contents

- The Regulation gives, in particular, the Member States responsibility for deciding on the need for slot allocation through a capacity analysis, for designating a congested airport as a coordinated or fully coordinated airport and for appointing a coordinator which shall carry out his duties in an independent manner;
- Each season, slots are allocated pursuant to the 'grandfather rule' subject to the 'use it or lose it rule'. This means that air carriers are entitled to keep slots granted to them in the previous corresponding season provided that they have used them;
- The 'use it or lose it' provides that an incumbent carrier may lose its grandfather right on a series of slots if it did not use more than 80 % of the series (70 % for non-regular services). Grandfather rights may not be withdrawn when specific circumstances justify failures to use slots;
- The available slots (non attributed/newly created/withdrawn/given-up) are put in a 'pool'. The coordinator is required to allocate 50% of the slots from the pool to new entrants unless requests by new entrants are less than 50%. All carriers with 4 slots or less during the same day in a given airport are considered as new entrants. Carriers requesting slots for new direct services on routes within the European Community are also considered as new entrants under the following conditions : (i) two carriers or less already provide air services on the route, (ii) the entrant has 4 slots or less for that service on the same day, (iii) taking into account all services to/from the same airport, the entrant has less than 3 % of the total number of slots in the airport on the same day (2 % in a system of airports);
- A carrier may use the slots it holds on the routes it wants and, accordingly, transfer one slot from one service to another. Two different carriers may exchange slots on a one for one basis.

Cross reference to other international obligations:

Article 12 of the Regulation states that:

“Whenever it appears that a third country, with respect to the allocation of slots at airports,

(a) does not grant Community air carriers treatment comparable to that granted by Member States to air carriers from that country, or

(b) does not grant Community air carriers de facto national treatment, or

(c) grants air carriers from other third countries more favourable treatment than Community air carriers,

appropriate action may be taken to remedy the situation in respect of the airport or airports concerned, including the suspension wholly or partially of the obligations of this Regulation in respect of an air carrier of that third country, in accordance with Community law.”

Reference

Official Journal L 14 of 22.1.1993

3.10 AIR TRANSPORT: STATE AIDS

Document no. 3.10.1

Guidelines for the application of Articles 92 and 93 of the EC Treaty to State aid in the aviation sector

Objectives

- To set out the Commission's policy in controlling State aid in the air transport sector

Covers:

- Operational and investment aid to air carriers (including fiscal privileges and social aid)

Does not cover:

- Aid to infrastructure projects (airports)

Contents

The liberalisation of the air transport sector stimulates competition between Community air carriers. In this regard, commercial management is the only way to achieve a better financial performance of air carriers. State aid should therefore be the exception rather than the rule as they are expressly prohibited by Article 92(1) of the EC Treaty. On this basis :

- Operational aid (direct aids aimed at supporting air services) are not allowed with the exception of
- aid granted for social purposes to individual consumers without discrimination as to the origin of the services (article 92(2)a of the EC Treaty);
- financial compensations granted for the operation of air routes on which public service obligations have been imposed in accordance with Article 4 of Regulation 2408/92.
- Investment aid can be allowed only to the extent that they fall within the scope of Article 92(3)c of the EC Treaty. In order to determine whether State aid is involved, the Commission applies the Market Economy Investor Principle (would the operation be acceptable for a private investor under similar circumstances ?). If this is not the case, the aid can be exempted subject to a complete set of conditions including the presentation of a restructuring programme.
- The Commission's guidelines for the evaluation of regional aids fully apply to air transport.

Reference

Official Journal C 350 of 10.12.1994

CHAPTER 4 : MARITIME TRANSPORT

CHAPTER 4 : MARITIME TRANSPORT

I. Origins of the Community's Maritime Transport Policy

Sea transport is of strategic importance for the European Union, due to its significant contribution to employment, security of supply, economic independence, and the spin-off effects concerning its ancillary industries (shipbuilding, port activities etc). Approximately one-third of trade within the EU and 90% of trade between Member States and non-EU countries is carried out by sea.

The Community's Common Policy in the field of maritime transport started in 1974, on the basis of Article 84 (2) of the EC Treaty. The first steps were taken in response to a 1974 Court ruling (in case 167/73) stating that the general rules in the Treaty also apply to sea transport. In May 1979, the Council adopted Regulation 954/79 to make the ratification of the United Nations Convention on a Code of Conduct for liner conferences of April 1974 by Member States compatible with EC law and with the commercial principles applied by the OECD countries.

Since the late 1970s the Community fleet has been in the midst of a serious crisis. The size of the EC-registered fleet in worldwide shipping has decreased from 32% of world tonnage in 1970 to 14% in 1995. Over-capacity in the world market has worsened the conditions of competition of EC shipping lines as compared to those from countries with lower costs: open register flags (flags of convenience), flags from developing countries, and flags from former State-trading countries. The EC must also contend with the protectionist policies of certain non-EC countries and the unfair practices (e.g. tariff dumping) by a number of shipping lines.

II. The December 1986 package

In 1985 the Commission proposed a series of measures. The Council adopted four of these measures in December 1986, which are important landmarks in the development of the Common Maritime Transport Policy:

- A Regulation applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries (Reg. 4055/86).
- A Regulation laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport (Reg. 4056/86).
- A Regulation enabling the Community to respond to the unfair pricing practices pursued by certain shipping lines outside the Community (Reg. 4057/86)
- A Regulation allowing co-ordinated action by the Community should a third country restrict access to its traffic by Community shipping lines (Reg. 4058/86).

III. The 1989 "positive" measures

In August 1989 the Commission sent the Council a package of key measures to improve the operating conditions and competitiveness of Community shipping. These centred on two ideas:

- Establishment of a Community register ("EUROS") alongside the national registers. The Commission's proposal has finally not been found opportune by the Council and has been withdrawn;
- Measures to make Community vessels more competitive. These measures included the tightening up of port inspections to ensure compliance with safety, environmental protection and labour standards, proposals for a block exemption for consortia, subject to conditions and obligations to be defined in a Regulation and measures to improve crew training.

In parallel, the Commission adopted Guidelines on State aid to the shipping sector to ensure greater consistency and transparency in this area.

IV. Follow-up to the positive measures package and recent developments

1. Competition rules

In February 1992 the Council adopted Regulation (EC) N° 479/92 on the application of Article 85(3) of the Treaty to consortia.

In April 1995, the Commission adopted Regulation (EC) no. 870/95 on the application of Art. 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) pursuant to Council Regulation 479/92.

In April 1992 the Commission adopted its first Decision on abuse of dominant positions in the maritime transport sector. Decision 92/262/EC imposed fines on certain shipping lines for forming a traffic-sharing cartel between France and 11 West African States. The Commission took a similar position imposing fines on four shipping lines operating between Europe and Northern Zaire in December 1992.

By Decision of October 1994 (TAA) under Article 85 of the Treaty the Commission outlawed the capacity management, multimodal fixing rate and two-tier rate structure of this agreement. By Decision of December 1994 (FEFC) the Commission reiterated that multimodal price fixing by conferences is not covered by the block exemption under Regulation 4056/86.

2. Maritime safety

In general, the Community has built its maritime safety policy on the basis of the IMO Conventions and rules. A number of stricter EC measures have nevertheless been found necessary in the aftermath of dramatic shipping accidents such as those involving the Amoco Cadiz, the Exxon Valdez, the Herald of Free Enterprise or, more recently, the Estonia.

In 1993 the Commission submitted to the Council a Communication on a common policy on safe seas, setting out a maritime safety strategy, which the latter approved. In application of this strategy, the Council adopted in 1994 a Directive on the minimum level of training of seafarers, a Directive on ship inspection and surveys, and a Regulation on tonnage measurement of ballast spaces in segregated ballast oil tankers. A Directive on Port State Control was adopted in June 1995 and in December 1995 the Council adopted a Regulation on the safety management of Ro-Ro passenger ferries.

In the years that followed the Commission and the Council adopted a significant number of legislative measures concerning maritime safety. More recently, already in 1998, new or amended legislation was adopted as regards safety rules and standards for passenger ships, port state control, levels of training of seafarers, classification societies and registration of persons sailing on board passenger ships within the EC.

3. Maritime cabotage

In December 1992, the Council adopted Regulation 3577/92 on maritime cabotage. This allows for free cabotage trade as from January 1993 for Community shipowners which have their ships registered in, and flying the flag of, a Member State, provided the vessels comply with all the conditions for carrying out cabotage in that Member State.

Two reports on the application of this Regulation by the Commission show that the economic effects of liberalisation have been fairly insignificant so far. However, as liberalisation progresses, there will be more scope for improving efficiency.

The Council is at present discussing two Commission proposals on manning for passenger services. The cabotage proposal provides, firstly, that host Member States may require that their rules concerning the proportion of EU nationals in the crew shall apply to all cabotage ferry operators within their territory and, secondly, where Member States allow third country nationals to be employed on cabotage passenger services they shall be treated for the purpose of labour laws as residents of the Member State where the ship is registered.

The proposal for a Directive on regular passenger services between Member States defines a minimum level of labour standards at EC level which shall apply in respect of third country nationals employed on all such services.

Action in this area is necessary because of the need to agree a definitive regime on manning conditions for island cabotage, to be adopted prior to 1 January 1999. There is also the need to avoid distortion of competition caused by third country vessels manned by third country crew employed under non-EU conditions operating between Community ports in direct competition with EU operators.

4. Maritime State Aid

Given the continuing decline of EC fleets and increasing divergence between Member States' policy responses to decreasing competitiveness, the Commission presented a new maritime strategy in March 1996. As a follow-up to this document, it adopted revised Guidelines on State aid to shipping, in July 1997, with the aim of increasing transparency of State aid whilst safeguarding EC employment, preserving maritime know-how and improving safety. The Guidelines specify the types of aid which can generally be approved by the Commission and those which cannot. The Member States have been granted a transitional period of 18 months to adapt their aid schemes to the new guidelines.

5. Ports policy

The Commission published in December 1997 a Green Paper on ports policy. The document addresses three broad areas:

- the need for various initiatives to improve port efficiency including better procedures, implementation of new technology, and fostering further co-operation in and between ports;
- actions to improve infrastructure within and around ports in order to integrate ports into multimodal networks and provide adequate accessibility to peripheral areas.
- the need to ensure that the Community's responsibilities under the Treaty for providing free and fair competition are being met in the port sector.

The ideas put forward in the Green paper are currently being discussed within the European Institutions and with the industries.

6. External relations

A number of legislative measures are in force to ensure co-ordinated action between Member States in external shipping affairs and to counter-act unfair practices by non-EU shipping lines. In March 1997 the Commission issued a Communication on external relations in the field of transport. This document notes that the central aim of EC external action in the field of shipping is to serve effectively its shipping industry and trade interests by securing free access and fair competitive conditions in the world market. It also identifies an interest by the Community in negotiating maritime agreements with relevant maritime countries such as China and India. The Commission is at present working on these issues.

4.1 MARITIME TRANSPORT: FREEDOM TO PROVIDE SERVICES

Document no. 4.1.1

Council Regulation (EEC) N°954/79 of 15 May 1979 concerning the ratification by Member States of, or their accession to, the United Nations Convention on a Code of Conduct for Liner Conferences.

Objective

To make the ratification of the UN Code of Conduct¹⁶ by Member States compatible with EC law and with the commercial principles applied by the OECD countries.

Contents

1. Member States are required to enter the four reservations listed in Annex 1 to the Regulation when ratifying or acceding to the UN Convention. The Regulation mainly addresses the issue of participation in trade.

2. On this issue, Article 2 of the UN Code of Conduct provides that within a pool of lines,

(a) The group of “national shipping lines” of each of two countries the foreign trade between which is carried by the conference shall have equal rights to participate in the freight and volume of traffic

(b) Third countries shipping lines, if any, shall have the right to acquire a significant share, such as 20 per cent, in the freight and volume of traffic generated by that trade.

This rule is commonly known as the “40/40/20” rule.

A “national shipping line” of a given country is defined by the Code as “a vessel-operating carrier which has its head office of management and its effective control in that country and is recognised as such by an appropriate authority of that country”.

3. Regulation 954/79 essentially provides for

(a) A definition of «national shipping lines» which complies with the rules of the Treaty on establishment. Member States cannot discriminate between the different vessel operating shipping lines established on their territory in accordance with the EC Treaty.

(b) A redistribution, on a commercial basis, of the volume of cargo to which all the shipping lines of Member States participating in the trade are entitled under the Code -whether they have or not the status of ‘national shipping line’-. This redistribution can be extended to shipping lines of other

¹⁶ United Nations Convention on a Code of Conduct for Liner Conferences of 6 April 1974 entered into force on 6 October 1983.

OECD States, subject to reciprocity, in trades between a Member State and a third - non-OECD - country party to the Code.

(c) A prohibition against applying certain provisions of the Code of Conduct such as the « 40/40/20 » trade sharing in conference trades between Member States and, on a reciprocal basis, between them and the other OECD countries which are parties to the Code.

4. Article 4 of Regulation 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries also refers to these provisions of Regulation 954/79. It provides that, as far as trades governed by the United Nations Code of Conduct are concerned, Member States have to phase out or adjust their cargo-sharing arrangements concluded with third countries so as to comply with the Code and the obligations of Member States under Regulation 954/79 (See other fiche).

5. As far as procedural aspects are concerned, the Regulation encourages dispute settlement outside the framework of Chapter VI of the Code of Conduct entitled “Provisions and machinery for settlement of disputes” when conference trades between Member States and between these States and other OECD countries which are party to the Code are concerned. It also lays down a special conciliation procedure for disputes arising on the issue of redistribution of cargo.

Reference

Official Journal L 121 of 17/05/1979.

4.1 MARITIME TRANSPORT: FREEDOM TO PROVIDE SERVICES

Document no. 4.1.2

Council Regulation (EEC) N°4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries.

Objective

The Regulation defines how the principle of freedom to provide services has to be applied to international maritime transport services.

Scope

Regulation 4055/86 applies not only to trades between Member States but also to trades between Member States and third countries. It covers both the carriage of passengers and the carriage of goods.

Contents

1. The beneficiaries of the freedom to provide services are
 1. a) nationals of Member States who are established in a Member State other than that of the person for whom the services are intended
 2. b) nationals of the Member States and shipping companies controlled by nationals of a Member State which are established outside the Community but have their vessels registered in that Member State
2. The Regulation requires from Member States
 - a) to phase out the unilateral restrictions by which they reserved the carriage of certain goods for vessels flying their own flag.
 - b) to phase out or adjust the cargo-sharing agreements that they had concluded with third countries before the entry into force of the Regulation on 1 January 1987.

Where trades governed by the United Code of Conduct for Liner Conferences are concerned, Member States have to comply with Regulation 954/79 which provides for a redistribution, on a commercial basis, of the volume of cargo carried by all the shipping lines of Member States participating in the trade (see other fiche).

Where trades are not governed by the UN Code of conduct the beneficiaries of the Regulation have to be granted free access to the cargo-shares which were previously reserved to the companies of the Member State concerned.

- c) not to enter into cargo-sharing arrangements after the date of entry into force of the Regulation (1 January 1987) other than in those exceptional circumstances where Community liner shipping companies would not otherwise have an effective opportunity to ply for trade to and from

the third country concerned. In this case, a decision from the Council is required and the rights of the beneficiaries of the Regulation have to be protected.

Amendments and measures taken

Council Decision 87/475/EEC of 17 September 1987 relating to maritime transport between Italy and Algeria, provides for the Italian Republic to ratify its Agreement on Maritime Transport and Navigation with the People's Democratic Republic of Algeria, signed on 28 February 1987.

Council Regulation (EEC) No 3573/90 of 4 December 1990 amended, as a result of German unification, regulation (EEC) No 4055/86 applying the principle of freedom to provide services to maritime transport between member states and between member states and third countries.

References

Council Regulation (EEC) N°4055/86 of 22 December 1986, Official Journal L 378 of 31/12/1986.

Council Decision 87/475/EEC of 17 September 1987, Official Journal L 272 of 25/09/1987.

Council Regulation (EEC) No 3573/90 of 4 December 1990, Official Journal L 353 of 17/12/1990.

4.1 MARITIME TRANSPORT: FREEDOM TO PROVIDE SERVICES

Document no. 4.1.3

Council Regulation (EEC) N° 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States.

Objective

The Regulation defines how the principle of freedom to provide services to maritime transport within Member States has to be applied.

Scope

Regulation 3577/92 applies to maritime transport services (carriage of persons or goods by sea) within a Member State including in particular mainland cabotage, island cabotage and offshore supply services.

Contents

1. The beneficiaries of the Regulation are Community shipowners who have their vessels registered in and flying the flag of a Member State, provided that these ships comply with all conditions for carrying out cabotage in that Member State.

Community shipowners are defined as:

- a) nationals of a Member State established in a Member State in accordance with the legislation of that Member State and pursuing shipping activities.
- b) shipping companies established in accordance with the legislation of a Member State and whose principal place of business is situated and effective control exercised in a Member State, or
- c) nationals of a Member State established outside the Community or shipping companies established outside the Community and controlled by nationals of a Member State if their ships are registered in and flying the flag of a Member State.

2. The Regulation establishes the manning conditions applicable in the different trades: flag state conditions apply to mainland cabotage and to cruise services; host state conditions apply to services with ships below 650 gt and in island cabotage. However, as from 1 January 1999 flag state conditions shall apply for cargo vessels over 650gt carrying out island cabotage when the voyage concerned follows or precedes a voyage to or from another Member State.

It also sets out the obligation for the Commission to submit a proposal to the Council which may include adjustments of the manning nationality provisions (this proposal was adopted by the Commission on 29 April 1998 and submitted to the Council).

3. Provided certain conditions are met, the Regulation allows the Member States to conclude public service contracts with or impose public service obligations as a condition for the provision of cabotage services on shipping companies participating in regular services to, from and between the islands.

4. The Regulation contains a safeguard clause for the event of serious disturbance of the internal transport market due to cabotage liberalization. At the request of a Member State the Commission may adopt safeguard measures which may involve the temporary exclusion not exceeding 12 months of the area concerned from the scope of the Regulation.

In the event of an emergency Member States may unilaterally adopt the appropriate provisional measures which may remain in force for no more than 3 months. The Commission shall be notified immediately and shall confirm or abrogate the measures until it takes a final decision.

5. By way of derogation, a number of temporary exemptions from the application of the Regulation are foreseen in favour of the five Southern Member States : ES, FR, POR, IT and GR.

- Cruise services until 1 January 1995

- transport of strategic goods (oil, oil products and drinking water) until 1 January 1997.

- services by ships smaller than 650 gt until 1 January 1998.

- regular passenger and ferry services until 1 January 1999.

- island cabotage services until 1 January 1999 with the exception of regular passenger and ferry services and services provided by vessels less than 650 gt in Greece which, for reasons of socio-economic cohesion, shall be exempted until 1 January 2004.

Amendments and measures taken

Commission Decision 93/125/EEC of 17 February 1993 on Spain's request for adoption by the Commission of safeguard measures under Article 5 of Regulation (EEC) No 3577/92 of 7 December 1992.

Commission Decision 93/396/EEC of 13 July 1993 on Spain's request for adoption by the Commission of a prolongation of safeguard measures pursuant to Article 5 of Regulation (EEC) No 3577/92 of 7 December 1992.

References

Council Regulation (EEC) N° 3577/92 of 7 December 1992, Official Journal L 364 of 12/12/1992.

Commission Decision 93/125/EEC of 17 February 1993, Official Journal L 049 of 27/02/1993.

Commission Decision 93/396/EEC of 13 July 1993, Official Journal L 173 of 16/07/1993.

4.2 MARITIME TRANSPORT: RIGHT OF ESTABLISHMENT

Document no. 4.2.1

Articles 52-58 of the Treaty

Articles 52-58 of the Treaty provide for the freedom of establishment. The application of this freedom to maritime transport has been determined by the European Court of Justice in Case 167/73 *Commission v French Republic*. In this case the ECJ has ruled that:

“Conceived as being applicable to the whole complex of economic activities, the basic rules set out in Part Two of the EEC Treaty¹⁷ can be rendered inapplicable only as a result of express provisions in the Treaty.”

To recall is that Part Two of the EEC Treaty (now incorporated into Part Three of the Treaty on European Union) concerns Community Policies and notably the four freedoms including the right of establishment. Article 56 provides for certain exceptions to the freedom of establishment:

“The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.”

It is in applying Article 56 that Member States can maintain minimum nationality requirements for ships entered into their register, especially in the case of the captain and officers.

For maritime transport the right of establishment is closely linked to the registration of ships into national registers. The effect of the Treaty’s freedom of establishment on the sovereign right of Member States to determine the conditions for registration into their national registers has been the subject of a ruling by the European Court of Justice in Case 246/89, *Commission of the European Communities v UK*. The ECJ found that:

“As Community law stands at present, it is for the Member States to determine, in accordance with the general rules of international law, the conditions which must be fulfilled in order for a vessel to be registered in their registers and granted the right to fly their flag. In exercising that power, the Member States must nevertheless comply with the rules of Community law.”

The ECJ in Case 246/89 further found that it was contrary to EC law for the UK to require that the owners, charterers, managers and operators of the vessels in the UK register be nationals of that Member State, or companies incorporated therein where ownership and management is at least 75% by UK nationals. However, the ECJ concluded that it is not contrary to Community law for a Member State to stipulate as a condition for vessel registration in the national register that the vessel must be managed and its operations directed and controlled from within that Member State.

¹⁷ Part two of the EEC Treaty is now incorporated into Part Three of the Treaty on European Union.

4.3 MARITIME TRANSPORT: FREE MOVEMENT OF LABOUR

Document no. 4.3.1

Article 48 of the Treaty

Article 48 of the Treaty on the freedom of movements of workers and Council Regulation n°1612/68 of 15 October 1968 on the freedom of movement of workers within the Community provide for the:

- equality of treatment which entails “the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment”.
- equality of treatment between nationals and Community nationals taking up an activity as an employed person. (Articles 1 and 3 or Council Regulation n°1612/68).

In case n°167/73 (Commission v. the French Republic) Case Reports 1974, the Court of Justice stated clearly on a similar matter that “the provisions of Articles 48 and of Council Regulation n°1612/68 are directly applicable in the legal order of every Member State, and Community law has priority over national law, and these provisions give rise, on the part of those concerned, to rights which the national authorities must respect and safeguard and as a result of which all contrary provisions of internal law are rendered inapplicable to them”.

Nationals of a Member State have the right, if they wish so, to take up employment on ships registered in and flying the flag of another Member State.

An exception to this rule could be envisaged for the post of the ship’s Master or the ship’s deputy Master (chief officer), according to paragraph 4 of Article 48 which stipulates that the provisions of the Article shall not apply to employment in the public sector.

In order to apply the exception of paragraph 4 and therefore reserve the ship’s Nos One and Two posts to its own nationals, a Member State must justify that the master or the deputy master exercise a public authority on board the ship.

4.4 MARITIME TRANSPORT: COMPETITION RULES

Document no. 4.4.1

Community Guidelines on State aid to maritime transport.

Objective

- Safeguarding EC employment, (both on board and on shore),
- Preserving maritime know-how in the Community and developing maritime skills,
- Improving safety.

Background

- The European shipping industry faces stiff international competition. In 1970, 32% of the world tonnage sailed under flags of EC Member States; by 1995 this share had decreased to 14%.
- The competitive difference between ships registered in the Community and those registered outside (especially flags of convenience) depends primarily on fiscal costs.

Contents

I. FISCAL AND SOCIAL MEASURES TO IMPROVE COMPETITIVENESS

A. Fiscal treatment of ship-owning companies (flag link in principle)

In order to create and foster conditions which allow fair competition with flags of convenience

- Measures to improve the fiscal climate for shipping companies or
- Measures to replace the corporate tax system by a tonnage tax,

have been introduced by Member States. These are considered to constitute State aids. However, since there has not been significant re-flagging as between EU Member States and since such measures have been shown to safeguard both the size of the EU flagged fleet and high quality employment, they can generally be endorsed. As a rule, such measures require a link with a Community flag (exceptions are however permissible in certain clearly prescribed circumstances).

B. Labour related costs (strict flag link)

State aid in support of employment of, in particular, skilled Community seafarers should be encouraged. Therefore,

- Reduced rates of contributions for the social protection of EC seafarers employed on board ships registered in a Member State *and*

- Reduced rates of income tax for EC seafarers on board ships registered in a Member State

should be allowed for EC shipping. A maximum reduction of liability is permitted, meaning that the aid cannot function as a net wage subsidy. A reimbursement for the costs of such levies may generally be considered equivalent.

II. CREW RELIEF

Subject to the ceiling under VIII (see below), aid may be granted in the form of payment or reimbursement of the costs of repatriation of EC seafarers working on board ships entered in Member States' registers (especially for ships operating in distant waters).

III. INVESTMENT AID

Since subsidies for fleet renewal tend to distort competition, the Commission has been reluctant to approve such schemes, except where part of a structural reform leading to reductions in overall fleet capacity.

- Investment aid may be authorised if it complies with the Seventh Directive on shipbuilding (or any subsequent legislation) or, in certain cases, if it is in line with the safe sea policy.
- Regional aid for maritime companies in disadvantaged regions may only be permitted if complying with the regional aid rules and where it is clear that the benefits will accrue to the region over a reasonable time period.

IV. REGIONAL AID ON THE BASIS OF ARTICLE 92(3) 5(A) AND (B)

In the context of regional aid schemes the Commission will apply the general rules set out in its communications on national regional aid or future amendments thereto.

V. TRAINING

State aid to training will be approved provided the aid meets the Commission's general criteria (e.g. proportionality, non-discrimination, transparency, and where appropriate a flag link). during periods of on-board training the trainee must be supernumerary to the vessel's crew. VI. RESTRUCTURING AID

Although the guidelines for restructuring and rescuing firms in difficulty apply to transport only to the extent that the specific nature of the sector is taken into account, the Commission will apply those guidelines considering restructuring aid for maritime transport companies.

VII. PUBLIC SERVICE OBLIGATIONS AND CONTRACTS

The Commission's practice in assessing contracts relating to PSOs is generally to consider that reimbursement of operating losses incurred as a direct result of fulfilling certain public service obligations is not State aid, provided that certain requirements are met. Notification is not, therefore, required under Article 93(3). The requirements are:

- an adequate public tender is made (adequate publicity)
- the contract duration is reasonable and not over-long (normally in the order of 5 years),
- the reimbursement of extra costs is directly related to calculated deficit,
- there is no cross subsidisation.

VIII. LIMITS TO AID

A reduction to zero of taxation and social charges for seafarers and of corporate taxation of shipping activities is the maximum level of aid which may be permitted. To avoid distortion of competition other systems of aid may not provide greater benefit than this. Consequently it is considered that the total amount of aid in the form of direct payments in the framework of I. FISCAL AND SOCIAL MEASURES TO IMPROVE COMPETITIVENESS, II. CREW RELIEF, III. INVESTMENT AID IV. REGIONAL AID ON THE BASIS OF ARTICLE 92(3) 5(A) AND (B) should not exceed the total amount of taxes and social contributions collected from shipping activities and seafarers.

Reference

Official Journal C 205 of 5/07/1997.

4.5 MARITIME TRANSPORT: EXTERNAL RELATIONS

Document no. 4.5.1

Council Decision 77/587/EEC of 13 September 1977 setting up a consultation procedure on relations between Member States and third countries in shipping matters and on action relating to such matters in international organisations.

Objective

To provide for a procedure whereby the EU Member States and the Commission may determine jointly whether questions arising on shipping matters raise problems of common interest. Depending upon the nature of such problems the Decision further provides for the EU Member States and the Commission to consider jointly whether Member States' action within international organizations concerned should be co-ordinated and to consider jointly any other approach which might be appropriate, and on action relating to such matters in international organisations.

Background

The Communication of June 1976 from the Commission to the Council entitled "Community Relations with non-member Countries in Shipping Matters" noted a number of problems confronting the EC shipping industry. In particular, flag discrimination, dumping, and non-adherence and non-enforcement of international safety standards. The Commission went on to propose that in view of these problems the Member States and the Commission should closely co-ordinate their positions within the international organizations.

Contents

- The Member States and the Commission shall consult each other on questions concerning shipping matters and dealt with in international organizations, and on the various aspects of development which have taken place in relations between Member States and third countries in shipping matters, and on the functioning of bilateral or multilateral agreements concluded in this sphere.
- The consultations shall be held at the request of a Member State or of the Commission, within one month of the request or at the earliest opportunity in urgent cases.
- The main aims of the consultations shall be: (a) to determine jointly whether the questions raise problems of common interest; (b) depending upon the nature of such problems: - to consider jointly whether Member States' action within the international organizations concerned should be co-ordinated, to consider jointly any other approach which might be appropriate.

Reference

Official Journal L 239 of 17/09/1977.

4.5 MARITIME TRANSPORT: EXTERNAL RELATIONS

Document no. 4.5.2

Council Decision 78/774/EEC of 19 September 1978 concerning the activities of certain third countries in the field of cargo shipping.

Objective

That each EU Member State institute a system allowing it to collect information on the activities of the fleets of third countries whose practices are harmful to the shipping interests of the Member States.

Background

This Decision provides for information to be collected and used within the framework of consultations provided for in Council Decision 77/587/CEE of 13 September 1977.

Contents

- Each Member State shall take all the necessary measures to institute a system allowing it to collect information on the activities of the fleets of third countries whose practices are harmful to the shipping interests of the Member States and in particular in so far as these activities adversely affect the competitive participation of the fleets of Member States in international maritime trade.
- This system must enable each Member State, to the extent necessary to attain the objectives referred to in paragraph 1, to collect information on: - the level of cargo shipping services offered; the nature, volume, value, origin and destination of goods loaded or unloaded in the Member States concerned by the ships engaged in these services; and the level of tariffs charged for such services.
- The Council, acting unanimously, shall decide to which third countries' fleets the information system shall be jointly applied.
- The Member States and the Commission shall examine regularly, within the framework of the consultation procedure established by Decision 77/587/EEC of 13 September 1977 and on the basis *inter alia* of the information produced by this information system the activities of the fleets of the third countries specified.
- The Council, acting unanimously, may decide on the joint application by Member States in their relations with a third country or group of third countries appropriate counter-measures forming part of their national legislation.

Amendments and measures taken

Council Decision 89/242/EEC of 5 April 1989 amended the first paragraph of Article 2 of Decision 78/774/EEC of 19 September 1978 to change the decision-making basis from unanimity to qualified majority.

References

Council Decision 78/774/CEE of 19 September 1978, Official Journal L 258 of 21/09/1978.

Council Decision 89/242/EEC of 5 April 1989, Official Journal L 097 of 11/04/1989.

4.5 MARITIME TRANSPORT: EXTERNAL RELATIONS

Document no. 4.5.3

Council Decision 83/573/EEC of 26 October 1983 concerning counter-measures in the field of international merchant shipping.

Objective

To define an appropriate Community procedure concerning counter-measures in the field of international merchant shipping in relation to third countries to be taken by the Member States concerned.

Background

The results of the maritime information system set up under the provisions of Decision 78/774/EEC of 19 September 1978 together with the experience of certain Member States, showed that it was advisable to define an appropriate Community procedure concerning counter-measures in the field of international merchant shipping in relation to third countries to be taken by the Member States concerned.

Contents

- A Member State which has adopted or intends to adopt counter-measures in the field of international merchant shipping in relation to third countries shall consult the other Member States and the Commission in accordance with the consultation procedure established by Decision 77/587/EEC of 13 September 1977.
- The Member States shall endeavour to concert any counter-measures they may take.
- The Council may, acting unanimously, decide on the joint application by Member States of appropriate counter-measures forming part of their national legislation.

Reference

Official Journal L 332 of 28/11/1983.

4.5 MARITIME TRANSPORT: EXTERNAL RELATIONS

Document no. 4.5.4

Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between member states and between Member States and third countries.

Objective

Is the freedom to provide services, dealt with elsewhere. As regards external relations the Regulation, whilst prohibiting cargo sharing arrangements does provide that such arrangements may be entered into where Community liner shipping companies would not otherwise have an effective opportunity to offer their services in the third country concerned.

Contents

- Article 3 provides for the phasing out of existing cargo-sharing arrangements in bilateral agreements.
- Article 5 provides that cargo-sharing arrangements in any future agreements with third countries are prohibited other than in those exceptional circumstances where Community liner shipping companies would not otherwise have an effective opportunity to ply for trade to and from the third country concerned.
- In these circumstances the Council, acting by qualified majority on a proposal of the Commission, which shall decide on the necessary action. Such action may include the negotiation and conclusion of cargo-sharing arrangements.

Amendments and measures taken

Council Decision 87/475/EEC of 17 September 1987 relating to maritime transport between Italy and Algeria, provides for the Italian Republic to ratify its Agreement on Maritime Transport and Navigation with the People's Democratic Republic of Algeria, signed on 28 February 1987.

Council Regulation (EEC) No 3573/90 of 4 December 1990 amended, as a result of German unification, regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between member states and between member states and third countries.

References

Council Regulation (EEC) No 4055/86 of 22 December 1986, Official Journal L 378 of 31/12/1986.

Council Decision 87/475/EEC of 17 September 1987, Official Journal L 272 of 25/09/1987.

Council Regulation (EEC) No 3573/90 of 4 December 1990, Official Journal L 353 of 17/12/1990.

4.5 MARITIME TRANSPORT: EXTERNAL RELATIONS

Document no. 4.5.5

Council Regulation (EEC) No 4057/86 of 22 December 1986 on unfair pricing practices in maritime transport.

Objective

To respond to unfair pricing practices by certain third country shipowners engaged in international cargo liner shipping, which cause serious disruption of the freight pattern on a particular route to, from or within the Community and cause or threaten to cause major injury to Community shipowners operating on that route and to Community interests. In response to unfair pricing practices which cause major injury, the Community may apply a redressive duty.

Background

There was reason to believe, *inter alia* on the basis of the information system set up by Council Decision 78/774/EEC of 19 September 1978, that the competitive participation of Community shipowners in international liner shipping had been adversely affected by certain unfair pricing practices of shipping lines of third countries.

Contents

- The Regulation lays down the procedures to lodge a complaint for those acting on behalf of the Community shipping industry who consider themselves injured or threatened by unfair pricing practices.
- Unfair pricing practices consist of continuous charging of freight rates for the transport of selected commodities which are lower than the lowest freight rates charged for the same commodities by established and representative shipowners; such pricing practices are made possible by non-commercial advantages granted by a State which is not a member of the Community.
- The Regulation provides a procedure for the Community to take redressive action against such pricing practices.
- In order to determine the existence of unfair pricing practices, provision is made for an appropriate method of calculation. When calculating the 'normal freight rate' account is taken of the comparable rate actually charged by established and representative companies operating within or outside conferences or otherwise of a constructed rate based on the costs of comparable companies plus a reasonable margin of profit.

Reference

Official Journal L 378 of 31/12/1986

4.5 MARITIME TRANSPORT: EXTERNAL RELATIONS

Document no. 4.5.6

Council Regulation (EEC) 4058/86 of 22 December 19886 concerning co-ordinated action to safeguard free access to cargoes in ocean trades.

Objective

To provide for co-ordinated action by Member States where the competitive position of Member States' merchant fleets or Member States' trading interests are adversely affected by actions by a third country which restrict, or threaten to restrict, free access to cargoes by shipping companies of Member States or by ships registered in a Member State.

Background

The observed increase in the number of countries resorting to the protection of their merchant fleets through practices which distorted the application of the principle of fair and free competition in shipping trade with EU Member States.

Contents

- Co-ordinated action may be requested by a Member State.
- The Council, following a recommendation or proposal by the Commission, may decide on the co-ordinated action.
- Co-ordinated action may consist of:
 - diplomatic representation to the third countries concerned
 - counter-measures directed at the shipping company or companies of the third countries concerned
- Counter-measures may consist of :
 - the imposition of an obligation to obtain a permit to load, carry or discharge cargoes;
 - the imposition of a quota;
 - the imposition of taxes or duties.
- Where the counter-measures are not provided for by the national legislation of a Member State they may be taken in accordance with the Council Decision to take the co-ordinated action.

Reference

Official Journal L 378 of 31/12/1986.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.1

Council Directive 79/115/EEC of 21 December 1978 concerning pilotage of vessels by deep-sea pilots in the North Sea and English Channel.

Objective

To ensure that vessels wishing to use the services of pilots in the North Sea and English Channel can call on adequately qualified deep-sea pilots, and to promote the employment of such pilots in vessels flying the flags of Member States.

Contents

The Member States which have coasts bordering on the North Sea or English Channel shall take all necessary and appropriate measures to ensure that vessels availing themselves of the services of a deep-sea pilot for pilotage in the North Sea or the English Channel be provided with adequately qualified deep-sea pilots in possession of a certificate delivered by a competent authority of one of these Member States certifying that such pilots are qualified to pilot vessels in the North Sea and the English Channel .

Each Member State shall take all necessary and appropriate measures to encourage vessels flying its national flag to avail themselves, in the North Sea and the English Channel, of the services of only those deep-sea pilots who are in possession of a certificate as referred to in paragraph 1 or of an equivalent certificate delivered by another North Sea coastal state , when seeking the assistance of deep-sea pilots .

Reference

Official Journal L 033 of 08/02/1979.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.2

Council Regulation (EEC) No 613/91 of 4 March 1991 on the transfer of ships from one register to another within the Community.

Objective

That the transfer of ships flying the flag of a Member State between the registers of Member States is not to be impeded by technical barriers, provided that the ships are recognized as complying with the provisions of relevant international Conventions.

Contents

1. This Regulation applies to cargo ships of 500 tons gross tonnage and upwards which:
 - (a) were built on or after 25 May 1980, or were built before that date, but:
 - compliance of which with the regulations for new ships defined in the 1974 Solas Convention, and
 - in the case of chemical tankers and gas carriers, compliance with the standards codes referred to in Article 1 (c) for ships built on or after 25 May 1980, is certified by or on behalf of a Member State; and
 - (b) have been flying the flag of, and registered in, a Member State, and in active service under that flag for at least six months; and
 - (c) carry valid certificates.
2. Member States shall not withhold from registration, for technical reasons arising from the Conventions, a cargo ship registered in another Member State complying with the requirements and carrying valid certificates and fittings and equipment approved or type-approved in the ship's country of origin.
3. Upon the transfer of the ship, the receiving flag Member State shall issue certificates under the same conditions as under the flag previously flown.
4. Member States shall immediately notify to the Commission any refusal to issue new certificates for reasons based on divergences of interpretation of the requirements or of the provisions which the Conventions leave to the discretion of the Parties.

Amendments and measures taken

Commission Regulation (EEC) No 2158/93 of 28 July 1993 concerning the application of amendments to the International Convention for the Safety of Life at Sea, 1974, and to the International Convention for the Prevention of Pollution from ships, 1973, for the purpose of Council Regulation (EEC) No 613/91 of 4 March 1991.

References

Council Regulation (EEC) No 613/91 of 4 March 1991, Official Journal L 068 of 15/03/1991.

Commission Regulation (EEC) No 2158/93 of 28 July 1993, Official Journal L 194 of 3/08/1993.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.3

Council Decision 92/143/EEC of 25 February 1992 on radionavigation systems for Europe.

Objective

To ensure the highest degree of safety of navigation and protection of the marine environment.

Contents

1. Without prejudice to existing radionavigation systems, Member States which participate in or join regional agreements on Loran-C shall do so in a way which fulfils international objectives.
2. With regard to their participation in the regional agreements referred to in paragraph 1, Member States shall seek to achieve the radionavigation configurations which cover the widest possible geographical area in Europe and in neighbouring waters.
3. The Commission shall:
 - ensure coordination between the Member States participating in the regional agreements referred to in paragraph 1 with a view to ensuring compatibility between the Loran-C chains introduced at regional level,
 - encourage the development of receivers, which take account of the ongoing development of satellite systems and the enhancement of the present Loran-C system,
 - pursue its work with a view to setting up a radionavigation plan which takes into account the development of satellite navigation systems, of existing terrestrial systems and of the radionavigation plans of the Member States.

Reference

Official Journal L 059 of 4/03/1992.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.4

Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels.

Objective

That vessels should have adequate medical supplies, kept in good order and checked at regular intervals, so that workers can obtain the necessary medical treatment at sea.

Background

Recognition that the safety and health of workers on board a vessel, which constitutes a workplace involving a wide range of risks eg, its geographical isolation, requires special attention.

Contents

The Directive addresses the following:

- Medicines and medical equipment - Sick-bay - Doctor
- Antidotes
- Allocation of responsibilities to ensure the provision and replenishment of the medical supplies jurisdiction are undertaken on the exclusive responsibility of the owner, without any expense to the workers;
- Information and training
- Medical consultations by radio

Reference

Official Journal L 113 of 30/04/1992.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.5

Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods.

Amended by:

Commission Directive 96/39/EC of 19 June 1996;

Commission Directive 97/34/EC of 6 June 1997;

Council Directive 98/55/EC of 17 July 1998;

Commission Directive 98/74/EC of 1 October 1998.

Objective

To improve the information of the relevant authorities about transport of dangerous or polluting goods in order to improve prevention and intervention in case of an accident at sea involving such transport.

Contents

1. The Directive lays down the minimum requirements that Member States will have to impose on masters or operators of vessels bound for or leaving a Community port and carrying dangerous or polluting goods in bulk or in packaged form.
2. It does not apply to warships and other official ships used for non-commercial purposes, or to bunkers, stores and equipment for use on board ships.
3. Member States must designate, and inform the Commission of, the competent authorities to which the notifications provided for in the Directive are to be addressed. Such information is published in the Official Journal of the European Communities.
4. No dangerous or polluting goods may be transported or taken on board unless a declaration has been delivered to the master or operator containing the correct technical names of the goods, the United Nations (UN) numbers where they exist, the IMO hazard classes in accordance with the IMDG, IBC and IGC codes, the quantities of such goods and, if in portable tanks or freight containers, their identification marks.
5. Obligation to provide information on the carriage of such goods:
 - the operator of a vessel leaving a port in a Member State must notify before departure of the vessel all information listed in Annex I to the competent authority of that Member State;
 - the operator of a vessel coming from a port located outside the Community and bound for a port located in the Community or an anchorage located in a Member State's territorial waters must, as a condition for the entry into that port or anchorage, notify on departure from the loading port, all information listed in

Annex I to the competent authority of the Member State in which the first port of destination or anchorage is located;

- Member State may exempt regular scheduled services of less than one hour's crossing from these requirements. The Commission may agree on a reasonable extension of this period, provided the information in Annex I is at all time available;
 - vessels entering or leaving a port located in a Member State must make use, in accordance with relevant national regulations, of the service provided by the local vessel traffic service (VTS), where they exist, or make use of pilots.
6. Obligation to provide information in the case of an incident:
- the competent authority of the Member State concerned must be informed immediately by the master of the vessel concerned of any incident or circumstance at sea which poses a threat to its coastline or related interest;
7. The master of the vessel must complete truly and accurately a check list as reproduced in Annex II to the Directive and make it available to the pilot for his information and to the competent authority, if it so requests. Pilots engaged in pilotage operation must immediately inform the competent authority whenever they learn that there are deficiencies which may prejudice the safe navigation of the vessel.
8. The competent authority of the Member State concerned must broadcast within the relevant areas any incident and information with regard to any vessel which poses a threat to other shipping.
9. The competent authorities in the Member States must exchange the information required for safety reasons.
10. Setting up of a committee composed of representatives of the Member States, chaired by the Commission representative and responsible for giving its opinion on the measures to be taken.

Amendments and measures taken

The Directive has been amended in 1996, 1997 and 1998 in the light of changes to international Conventions and Codes (Commission Directives 96/39/EC of 19 June 1996; 97/34/EC of 6 June 1997 and Commission Directive 98/55/EC of 17 July 1998).

The Commission has agreed on the exemption of regular scheduled services of more than one hour's crossing:

- in Germany, by way of Commission Decisions 96/127/EC of 22 January 1996, and 96/710/EC of 27 November 1996;
- and in France, by way of Commission Decision 96/513/EC of 29 July 1996

References

Council Directive 93/75/EEC of 13 September 1993 Official Journal L 247 of 5/10/1993.
Commission Decision 96/127/EC of 22 January 1996 Official Journal L 29 of 7/02/1996.
Commission Directive 96/39/EC of 19 June 1996, Official Journal L 196 of 7/08/96.
Commission Decision 96/513/EC of 29 July 1996 Official Journal L 215 of 24/08/1996.
Commission Decision 96/710/EC of 27 November 1996 Official Journal L 326 of 17/12/1996.
Commission Directive 97/34 EC of 6 June 1997, Official Journal L 158 of 17/06/1997
(corrigendum Official Journal L 162 of 19/06/1997).
Council Directive 98/55/EC of 17 July 1998 amending Council Directive 93/75/EC concerning
minimum requirements for vessels bound for or leaving Community ports and carrying dangerous
or polluting goods (Official Journal L 215 of 1 August 1998, p 65).
Commission Directive 98/74/EC of 1 October 1998, Official Journal L 276 of 13 October 1998.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.6

Council Regulation (EC) No 2978/94 of 21 November 1994 on the implementation of IMO Resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers.

Objective

To promote the use of environmentally friendly oil tankers in transport operations to, from or within the Community by implementing IMO Resolution A.747(18) on the tonnage measurement of ballast spaces in segregated ballast oil tankers.

Contents

1. The aim of the Regulation is to encourage the use of oil tankers fitted with segregated ballast capacity by requiring the Community's port and pilotage authorities either to apply the recommendations of Resolution A.747(18) or to permit a system of rebates on dues, such as that provided for in the said Resolution.
2. The Resolution invites governments to advise port authorities to apply to all tankers with segregated ballast tanks the recommendation of deducting the segregated ballast tank tonnage from the gross tonnage wherever their dues are based on the latter, and to advise pilotage authorities to act in accordance with the same recommendation.
3. The Regulation applies to oil tankers:
 - equipped with tanks especially designed to carry segregated ballast;
 - designed, built, adapted, equipped and operated as segregated ballast oil tankers, including double hull tankers of an alternative design;
 - meeting the requirements of the 1969 International Convention on Tonnage Measurement of Ships;
 - holding the International Tonnage Certificate (1969).
4. Definitions of technical terms such as "segregated ballast" and "double hull oil tanker".
5. The Regulation requires the body issuing the International Tonnage Certificate (1969) to specify both the tonnage of the segregated ballast tanks of the vessel concerned - as calculated in accordance with the method set out in Annex I to the Regulation - and the reduced gross tonnage of the vessel.
6. Where port authorities base the dues payable by an oil tanker on its gross tonnage, they must, in accordance with the provisions of Resolution A.747(18), deduct the tonnage of the segregated ballast tanks from the vessel's gross tonnage so that their calculations are based on the resulting reduced gross tonnage. Dues thus calculated must be at least 17% lower than those for an oil tanker of the same gross tonnage but without segregated ballast tanks.

7. Alternatively, the said authorities may assess dues on a basis other than that of gross tonnage as long as the dues are no less favourable than they would have been if calculated by the above method.
8. The Regulation establishes an advisory committee comprised of Member State representatives and chaired by a Commission representative.

Reference

Official Journal L 319 of 12/12/1994.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.7

Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations.

Amended by:

Commission Decision 96/587/EC of 30 September 1996, on the publication of the list of recognised organisations which have been notified in accordance with Council Directive 94/57/EC of 22 November 1994;

Commission Directive 97/58/EC of 26 September 1997.

Objective

To adopt the measures to be taken by the Member States and organizations concerned with the inspection, survey and certification of ships in order to ensure effective application of the international Conventions.

Contents

1. The purpose of this Directive is to adopt the measures which must be taken by the Member States and organizations concerned with the inspection, survey and certification of ships in order to ensure effective application of the international Conventions.
2. An obligation is placed on the Member States to ensure that their competent administrations can guarantee appropriate enforcement of the provisions of the international Conventions.
3. An obligation is placed on the Member States to make sure that they entrust inspection, survey and certification duties to recognized organizations only.
4. An obligation is placed on the Member States to recognize only organizations which meet the criteria set out in the Annex to the Directive.
5. If one of the above mentioned duties is entrusted to a recognized organization in a non-Community country, the Member States may request reciprocal recognition.
6. If these duties are delegated to recognized organizations, a working relationship must be established between the relevant national authorities and the organizations authorized to act on their behalf.
7. A regulatory Committee has been set up to assist the Commission. Its task is to closely monitor organizations granted recognition.
8. Member States may withdraw or suspend authorization of a recognized organization. The various stages of the procedure for suspending authorization are set out.
9. An obligation is placed on each Member State to monitor the recognized organizations or, in the case of organizations located in another Member State, to review the control exercised over of such organizations by the administration of the other Member States.

10. An obligation is placed on the Member States to ensure that ships flying a third state flag are not treated more favourably than ships entitled to fly the flag of a Member State.
11. A procedure is laid down for the recognition of organizations, updating of the recognition criteria and for the suspension or withdrawal of recognition.
12. An obligation is placed on every Member State to ensure that vessels flying its flag are constructed and maintained in accordance with the requirements for hull, machinery and electrical and control installations laid down by a recognized organization.
13. An obligation is placed on recognized organizations to consult with each other periodically with a view to maintaining equivalence of their technical standards and the implementation thereof.

Amendments and measures taken

The Directive has been amended in 1996 by Commission Decision 96/587/EC of 30 September 1996, on the publication of the list of recognised organisations which have been notified in accordance with Council Directive 94/57/EC of 22 November 1994.

The Directive has been amended in 1997 in order to take into consideration the provisions set out in the Annex to IMO resolution A.789 on specifications on the survey and certification functions of recognised organizations acting on behalf of the administrations (Commission Directive 97/58/EC of 26 September 1997).

List of recognised organizations:

American Bureau of Shipping (ABS)

Bureau Veritas (BV)

China classification Society (CCS)

Det Norske Veritas ((DNV)

Germanischer Lloyd (GL)

Hellenic Register of Shipping ((HR)

Korean Register of Shipping (KR)

Lloyd's Register of Shipping (LR)

Nippon Kaiji Kyokai (NK)

Registro italiano navale (RINA)

Maritime Register of Shipping (MRS)

Commission Decision 98/295/EC of 22 April 1998 on the recognition of the Hellenic Register of Shipping in accordance with Council Directive 94/57/EC.

Commission Decision 98/403/EC of 12 June 1998 on the recognition of the Russian Maritime Register of Shipping in accordance with Council Directive 94/57/EC.

References

Council Directive 94/57/EC of 22 November 1994, Official Journal L 319 of 12/12/1994.

Commission Decision 96/587/EC of 30 September 1996, Official Journal L 257 of 10/10/96.

Commission Directive 97/58/EC of 26 September 1997, Official Journal L 274 of 7/10/1997.

Commission Decision 98/295/EC of 22 April 1998, Official Journal L 131 of 5/05/98.

Commission Decision 98/403/EC of 12 June 1998, Official Journal L 178 of 23/06/98.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.8

Council Directive 94/58/EC of 22 November 1994 on the minimum level of training of seafarers

Amended by:

Directive 98/35/EC of 25 March 1998

Objective

To lay down a minimum level of training of seafarers in the Community in order to improve the safety of shipping.

Contents

1. The Directive applies to seafarers serving on board seagoing ships flying the flag of a Member State, except warships or other ships owned or operated only for government non-commercial service, fishing vessels and pleasure yachts not engaged in trade.
2. Member States are required to ensure that seafarers serving on a ship referred to in paragraph 1, are trained as a minimum in compliance with the requirements of the Standards of Training, Certification and watchkeeping for seafarers (STCW) Convention and hold a certificate, i.e. a document issued by or under the competent authority of a Member State and authorizing the holder to serve as stated in the document.
3. From 25 May 1999 onwards the provisions of the new Directive 98/35/EC will come into force reflecting the revised requirements of STCW 1995. Member States are required, inter alia, to ensure that, on board ships, the members of the crew are able to communicate with each other and that, on board passenger ships, the crew are, in particular, able to communicate with passengers in critical situations. It is also foreseen that on board all types of tankers (a) common language(s) is established.
4. Provisions relating to rest periods for watchkeeping (deck and engine) personnel are laid down by the amended Directive in accordance with the requirements of the revised STCW 95.
5. Member States in the context of Port State Control may detain a ship if crews are unable to provide proof of the professional proficiency required.
6. Establishment of a committee to give its opinion on drafts measures referring to technical changes of the Directive.

Amendments and measures taken

In light of the new training and certification rules of the revised STCW 95 Convention, the new Directive 98/35/EC also introduces:

- common criteria for the recognition in the EU of the seafarers' certificates issued by third countries,

- new provisions establishing a working language for crew communication on board ro-ro passenger ships in accordance with SOLAS requirements concerning on board communication entered into force in June 1997,
- new amendments in order to implement more efficiently the Port State Control provisions of STCW 1995.

References

Council Directive 94/58/EC of 22 November 1994 Official Journal L 319 of 12/12/1994.

Council Directive 98/35/EC of 25 May 1998 Official Journal L 172 of 17/06/98.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.9

Council Resolution of 22 December 1994 on the safety of roll-on/roll-off passenger ferries.

Objective

To enhance passenger safety on roll-on/roll-off ferries by improving their design and equipment, the quality of their crews and the responsibility of owners and operators of this type of ship.

Contents

1. The Resolution invites Member States and Commission to support the International Maritime Organization (IMO) initiative of a panel of maritime experts to recommend improvements in the safety of roll-on/roll-off passenger ferries.
2. It also invites Member States and Commission to submit or support proposals calling on IMO to:
 - review the intact and damage stability requirements applied to roll-on/roll-off passenger ferries in order to enhance their survivability;
 - review evacuation procedures for these ships;
 - review the requirements for qualified medical personnel on board these ships;
 - prepare a convention to provide for the investigation of marine casualties and for cooperation between States in such investigations;
 - improve the performance of voyage recorders as an aid to determining the causes of casualties involving these ships;
 - apply the standards set out in the Agreement concerning the stability of existing ro-ro passenger ships to all ships operating to and from ports in a specified maritime area of north-west Europe;
 - improve the focus and speed the work of IMO's Subcommittee on Flag State Implementation.
3. The Resolution also invites Commission and Member States to strive to apply provisions relating to expanded inspection under the laws on port State control.
4. It invites the Commission to submit proposals for decisions, concerning in particular the advance mandatory application of the International Safety Management Code (ISM Code) by 1 July 1996, which all aim to improve safety on board this type of ship.
5. It strongly urges dialogue between Member States and Commission on the subject of ferry safety, and emphasises that Member States and classification societies must do everything in their power to attain this safety objective.

Reference

Official Journal C 379 of 31/12/1994.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.10

Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control).

Amended by:

Council Directive 98/25/EC of 27 April 1998

Commission Directive 98/42/EC of 19 June 1998

Objective

To establish the legal framework needed for the introduction of a harmonized port State control system with a view to reducing the number of substandard vessels operating in Community waters and, with the aid of these preventive measures, enhancing safety at sea and protection of the marine environment.

Contents

1. The purpose of this Directive is to improve maritime safety in Community waters by enforcing compliance with international Standards.
2. Scope of the Directive. This Directive applies to all merchant shipping and crews using a seaport of a Member State or offshore terminal or anchored off such a port or installation.
3. An obligation is placed on the Member States to establish and maintain national maritime administrations ("competent authorities") for the inspection of ships in their ports or in the waters under their jurisdiction.
4. Inspection obligations. Each Member State is under an obligation to inspect at least 25% of the ships flying other countries' flags which enter their ports. Selection criteria for deciding which vessels to inspect are laid down. No further inspections will be carried out on vessels which have been inspected within the previous six months.
5. Inspection procedure. A list of the certificates and documents to be inspected and of the types of inspection to be carried out is laid down, together with the rules to be followed if a more detailed inspection proves necessary.
6. Enhanced controls must be carried out on:
 - oil tankers within five years or less of the date of phasing out;
 - bulk carriers older than 12 years of age;
 - passenger ships;
 - gas and chemical tankers, over ten years.

3. An obligation is placed on the Member States to ensure that any deficiencies revealed in the course of the inspection are rectified. Conditions warranting detention of the ship are laid down.
4. Follow-up of inspections and detention. The conditions to be met in order to allow a vessel to proceed to a repair yard are laid down. Notification must be given of all such movements and of the measures taken. Penalties may be imposed in the event of refusal to comply with the competent authorities' requests (refusal of access to any port within the Community).
5. Rules are laid down on the professional competence and qualification criteria for surveyors.
6. Pilots and port authorities are under an obligation to report any deficiencies which they detect.
7. An obligation is placed on the Member States to ensure that their competent authorities cooperate with their counterparts in other Member States.
8. Each competent authority is under an obligation to publish, once every quarter, details of detentions ordered. Rules are laid down on the information to be provided.
9. Owners or operators of deficient vessels warranting detention are under an obligation to pay a fee covering the inspection costs.
10. Member States are under an obligation to supply every 3 years details of the number of surveyors working on their behalf and of the number of ships entering their ports.
11. A regulatory committee has been set up to assist the Commission.

Amendments and measures taken

Council Directive 98/25/EC of 27 April 1998 amending Council Directive 95/21/EC of 19 June 1995 to include amendments to the Solas '74 Convention, Marpol 73/78, and STCW '78.

Commission Directive 98/42/EC of 19 June 1998 amending Council Directive 95/21/EC of 19 June 1995 to include amendments to the Conventions, Protocols, Codes and Resolutions of the IMO, and developments within the Paris Memorandum of Understanding.

References

Council Directive 95/21/EC of 19 June 1995 Official Journal L 157 of 7/07/1995.

Council Directive 98/25/EC of 27 April 1998 Official Journal L 133 of 7/05/1998.

Commission Directive 98/42/EC of 19 June 1998, Official Journal L 184 of 27/06/1998.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.11

Council Regulation (EC) No 3051/95 of 8 December 1995 on the safety management of Ro-Ro passenger vessels.

Amended by:

Commission Regulation (EC) No 179/98 of 23 January 1998

Objective

With a view to implementing the Council Resolution of 22 December 1994, to lay down the necessary provisions for the mandatory early (no later than 1 July 1996) application of the international safety management (ISM) Code to all Ro-Ro ferries operating regular services to or from ports in the European Community.

Contents

1. Purpose of the Regulation: following the sinking of the "Estonia" to improve safety at sea and prevention of marine pollution through:
 - the establishment and maintenance by companies of adequate safety management systems on board and on land;
 - control of these systems by the administrations of the flag state and the port.
2. Definition of the key terms used in the Regulation.
3. Definition of the companies covered by the Regulation, namely, all companies operating at least one ro-ro ferry on a regular service to or from ports in the Community, regardless of flag.
4. The obligations of companies. They are to comply with the provisions of the ISM Code as they stand in the Annex, but as if they were mandatory. Fulfilment of this obligation will be an essential condition for authorization to operate Ro-Ro ferries on a regular service to or from ports in the Community. Companies operating one or more ro-ro ferries on a regular service in sheltered waters between ports situated in the same Member State may defer compliance with the provisions of this Regulation until 1 July 1997.
5. Safety management certificate and document of compliance. Flag states are obliged to certify compliance with the annex by companies operating ro-ro ferries flying their flag (safety management certificate). After consulting the administration of the flag state Member States must issue a document of compliance for companies which have their principal place of business on their territory. Validity of the certificate and the document is limited to five years. Obligation to accept certificates issued by the authorities of any other Member State. Obligation to recognize the documents of compliance and the safety management certificates issued by the authorities of third countries or recognized organizations acting on their behalf where they guarantee compliance with the provisions of this Regulation.
6. Obligation on the part of Member States to ensure compliance with the provisions of this Regulation of all companies providing regular ro-ro ferry services to and from their ports.

7. Even where a company holds a document of compliance, a Member State may, for reasons of serious danger to safety or the environment, suspend the operation of the service and bring the matter before the Commission.
8. The Commission, assisted by a regulatory Committee, may amend the definition of certain terms and take decisions regarding suspensions of authorization by Member States.
9. Procedure governing the method of operation of the advisory committee.

Amendments and measures taken

Commission Regulation (EC) No 179/98 of 23 January 1998 introducing the relevant parts of the IMO (ISM) guidelines for administrations.

References

Council Regulation (EC) No 3051/95 of 8 December 1995, Official Journal L 320 of 31/12/1995.

Commission Regulation (EC) No 179/98 of 23 January 1998, Official Journal L 19 of 24/01/1998.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.12

Commission Directive 96/40/EC of 25 June 1996 establishing a common model for an identity card for inspectors carrying out port State control.

Objective

To set out the requirements for the identity card for port State control inspectors as referred to in Article 12 (4), of Directive 95/21/EC.

Contents

The identity card referred to in Article 12 (4), of Directive 95/21/EC shall comply with the requirements set out in the Annex to this Directive.

Reference

Official Journal L 196 of 7/08/1996.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.13

Council Directive 96/98/EC of 20 December 1996 on marine equipment.

Amended by:

Commission Directive 98/85/EC of 11 November 1998.

Objective

To harmonize the safety requirements for marine equipment in the Community.

Contents

1. Purpose of the Directive: to enhance safety at sea and prevention of marine pollution by improving the safety performance of marine equipment.
2. Definitions of the key words used in the Directive.
3. Scope. The Directive applies to equipment for use on board any new European Union ship, wherever the ship is situated at the time of construction, and to equipment placed on board existing EU ships, whether for the first time or to replace equipment already carried on board. It does not apply to equipment already on board on the date of adoption of the Directive.
4. Principle that the Member States, as flag States, bear prime responsibility for the safety performance of their fleets. Each Member State or the organizations acting on their behalf must ensure, when issuing or renewing the relevant safety certificates, that the equipment on board the ships flying its flag complies with the requirements of the Directive.
5. Principle that by 30 June 1998 at the latest only equipment proven to meet the requirements of the relevant international instruments may be placed on board EU ships. Compliance of equipment with the requirements of the international conventions and of the relevant resolutions of the International Maritime Organization may be proven exclusively in accordance with the relevant testing standards and the conformity assessment procedures referred to in Annex A.1 to the Directive.
6. Member States may not prevent the equipment referred to in Annex A.1 and complying with the provisions of the Directive from being placed on their national markets or placed on board an EU ship. Member States are also under an obligation to accept such equipment for the purposes of issuing or renewing safety certificates.
7. Description of the procedure for establishing detailed testing standards for equipment listed in Annex A.2.
8. Rules to govern the transfer to the register of a Member State of new ships not registered in another Member State, irrespective of their flag.
9. Obligation to notify the Commission and the other Member States of the bodies appointed to check conformity, indicating the specific tasks which these bodies have been appointed to carry out and the identification numbers assigned to them.

10. Description of the procedure for assessing the conformity of the equipment listed in Annex A.1 with the requirements of the international instruments referred to in the same annex.
11. Rules governing the affixing of the relevant mark to equipment manufactured in compliance with the relevant international instruments and with the conformity assessment procedures.
12. Procedure for evaluating equipment on board ships.
13. Rules concerning the safeguard clause.
14. Rules governing the placing on the market of totally new equipment.
15. Possibility of testing and, consequently, transporting equipment which does not comply with the conformity assessment procedures on board an EU ship.
16. Rules governing the replacement of equipment in a port outside the Community in exceptional circumstances, where it is impossible to find equipment which has been EC type-examined.
17. Establishment of a committee of experts to assist the Commission.
18. Possibility of amending the Directive to adapt it to any subsequent amendments of the relevant international instruments and to update Annex A, both by adding new equipment and by transferring equipment from one annex to another.
19. Description of the procedure to follow when the Directive provides for a committee procedure.
20. Establishment of the principle of mutual assistance between the Member States with a view to ensuring effective implementation and enforcement of the Directive.

Amendments and measures taken

Council Directive 96/98/EC has been amended by Commission Directive 98/85/EC of 11 November 1998 with the aim of introducing in Annex I of the parent Directive the amendments undergone by the SOLAS Convention which relate to the new testing standards and the new rules concerning the equipment to be placed on board ships.

Reference

Council Directive 96/98/EC of 20 December 1996, Official Journal L 46 of 17 February 1996.

Commission Directive 98/85/EC of 11 November 1998, Official Journal L 315 of 25 November 1998.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.14

Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over.

Objective

To lay down common safety standards for fishing vessels.

Contents

1. The purpose of the Directive : to improve the safety of new and existing fishing vessels, by introducing a set of harmonised safety rules on construction, subdivision and stability, machinery and electrical installations, fire protection, life-saving appliances, navigational and radiocommunications equipment. Scope of the Directive : new and existing fishing vessels of 24 metres in length and over and flying the flag of a Member State, or when operating in the Member States' internal waters or territorial seas or landing their catch in the ports of the Member States.
2. General safety requirements, based upon the 1993 Torremolinos Protocol on the Safety of Fishing Vessels, to be applied by Member States to own flag fishing vessels (§.1 and 4), specific requirements to be applied to own flag new fishing vessels between 24 and 45 metres in length (§.2) or operating in specific areas (§.5); safety measures to be applied by a Member State, in its capacity as Host State, to third flag fishing vessels, when operating in its internal waters or territorial sea or landing their catch in its ports (§.5). Provision for automatic recognition of marine equipment approved under the provisions of the Council Directive on marine equipment (§.5).
3. Procedures for adopting additional specific safety measures necessary to enhance safety in certain areas if justified by local conditions, exemptions and equivalent measures.
4. Standards to be applied for the design, construction and maintenance of the hull's strength, main and auxiliary machinery, electrical and automatic plants of new and existing fishing vessels.
5. Specification of the inspections (surveys) to be carried out and for issuing certificates.
6. Conditions under which Member States, in their capacity as host State, may inspect fishing vessels to check compliance with the requirements of the Directive.
7. Subjects for which the Commission may amend the Directive to take account of developments at international level and to harmonise interpretations on provisions which in the 1993 Torremolinos Protocol are left to the discretion of the Administration.
8. The regulatory Committee set up under Council Directive 93/75/EEC of 13 September 1993 will assist the Commission for the purpose of this Directive.

9. Procedure for notification to the International Maritime Organisation of the adoption of the Directive.
10. System of penalties to be provided by the Member States.

Reference

Official Journal L 34 of 9/02/1998

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.15

Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships.

Objective

To improve the safety of maritime passenger transport by laying down compliance with safety requirements as a condition for operating regular services.

Contents

1. The Directive applies to all ro-ro ferries and high-speed passenger craft operating to or from a port of a Member State on a regular service, regardless of their flag, when engaged on international voyages or on domestic voyages in sea areas of Class A. Member States may extend the scope of application to other sea areas.
 2. The purpose of the Directive is to:
 - lay down conditions for the safe operation of regular ro-ro ferry and high-speed passenger craft services to or from ports in the Member States;
 - provide the right for Member States to conduct, participate in or cooperate with any investigation of maritime casualties on these services;
 - facilitate within the Community the putting into operation on a specific regular service of ships and craft confirmed to be in compliance with the requirements of the Directive as well as the transfer of such ships and craft to other regular services with similar operational conditions.
 3. A service is considered a regular service if it consists of a series of crossings operated so as to serve traffic between two or more ports, either according to a published timetable or with crossings so frequent that they constitute a recognisable systematic series.
 4. The Directive lays down the conditions that must be met to operate a regular ro-ro ferry and high-speed passenger craft service.
3. Companies operating or intending to operate such ferries or craft must comply with the following provisions:
- they must take the measures necessary for the application of the specific requirements listed in Annex 1 (enabling the master to take the necessary decisions, recording navigational activities and incidents, reporting damage to shell doors, etc);
 - they may not prevent a host State or any substantially interested Member State from conducting any investigation of a marine casualty, nor deny them access to the information retrieved from the VDR (voyage data recorder) of their vessels involved in a casualty;

- they must inform the host States that for vessels flying a flag other than that of a Member State the Administration of that flag State has accepted the company's commitment to fulfil the requirements imposed by the host States as a condition for providing a regular service to or from one or more of their ports.
4. Ro-ro ferries and high-speed passenger craft must meet the following requirements:
 - they must carry valid certificates issued by the Administration of the flag State;
 - they must be surveyed for the issue of certificates in accordance with the provisions of the IMO;
 - they must comply with the classification standards specified for the construction and maintenance of their hull, machinery and electrical and control installation;
 - they must be fitted with a voyage data recorder (VDR) for the purpose of providing information on any casualty occurring.
 5. Each host State must verify the validity of the evidence provided as proof of compliance with these conditions and carry out an initial specific survey in accordance with the provisions laid down in Annex 3 so as to satisfy itself that the ro-ro ferry or high-speed passenger craft fulfils all the conditions to operate a regular service to or from one or more of its ports.
 5. This verification of the evidence of compliance is carried out either before the entry into operation of the ship or craft on the regular service or, if the ship or craft is already operating on regular services, within 12 months of the date of implementation of the Directive.
 6. Specific surveys are also carried out whenever the ro-ro ferry or high-speed passenger craft undergoes major repairs, alterations and modifications, or when there is a change in management or flag, or a transfer of class.
 7. Moreover, two unscheduled specific surveys are carried out during the period of validity of the certificates.
 8. Ro-ro ferries and high-speed passenger craft that have been subject to the specific surveys to the satisfaction of the host States involved are exempted from expanded inspections as provided for in Council Directive 95/21/EC of 19 June 1995.
 6. The Directive describes the procedure relating to specific surveys. If deficiencies are established, the host States must require the company to take the necessary measures to rectify these whereupon the host States concerned verify that the rectification has been carried out to their full satisfaction. If this is not the case, they must prevent the ferry or craft from operating.
 7. The Directive makes provision for substantially interested Member States to take part in any investigation concerning maritime casualties involving a ro-ro ferry or a high-speed passenger craft operating a regular service to or from a Community port.
 8. The Directive makes provision for several accompanying measures, including the following:
 - procedure for settlement of any disagreement concerning the suitability of exemptions;
 - establishment of shore-based navigational guidance systems;
 - allocation of identification numbers;

- communication to the Commission of various types of information as listed in Annex 4 concerning the vessel's ownership, crew qualifications, etc.
 - ability to implement an integrated system of contingency planning for shipboard emergencies;
 - establishment of operating restrictions.
9. On the basis of the information provided by the Member States (Annex 4), the Commission will compile a database which will be accessible to the Administrations of all the flag States and host States. On certain conditions the companies or other parties with a vested interest in the operation of the ro-ro ferry or high-speed passenger craft will likewise have access to these data.
 10. The Member States will inform third countries who bear either flag State or host State responsibilities of the requirements imposed on any company providing a regular service to or from a Community port.
 11. The Commission will be assisted by the regulatory committee set up by Directive 93/75/EEC of 13 September 1993.

Reference

Official Journal L 144 of 15/05/1998.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

Document no. 4.6.16

Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships.

Objective

To enhance the safety and possibilities of rescue of passengers and crew aboard passenger ships operating to or from ports in the Member States of the Community and to ensure that the aftermath of any accident which occurs can be dealt with more effectively.

Contents

1. List of definitions of terms employed in the proposal.
2. The proposal does not apply to warships and troopships, pleasure yachts and ships flying the flag of a Member State but carrying out voyages fully outside the Community.
3. All persons on board passenger ships departing from a port located in a Member State must be counted prior to departure of the ship. The number of passengers must be communicated to the master of the ship and to the person designated by the company.
4. All companies responsible for operating passenger ships undertaking voyages of more than 20 miles from the point of departure must set up a system for registration of information on the passengers (surname, first name, sex, age and special details) and appoint a designated person responsible for keeping and transmitting the information required.
5. The Member State from which a passenger ship departs may lower the 20 mile threshold and may exempt passenger ships operating in sheltered waters on scheduled services from some or all of the obligations mentioned in the previous paragraph, under certain conditions.
6. The registration systems must meet the following functional criteria: readability, accessibility, readiness, facilitation, security and alternative means.

Reference

Official Journal L 188 of 2/07/1998.

4.6 MARITIME TRANSPORT: MARITIME SAFETY

(Note: this is a proposal for legislation that has not yet been adopted)

Document no. 4.6.17

Proposal for a Council Directive concerning the setting up of a European vessel reporting system in the maritime zones of Community Member States.

Objective

To improve information on shipping movements in order to improve the safety of maritime traffic and prevent pollution.

Contents

1. The objective of the Directive is to set up in the Community a vessel reporting system in order to improve the safety of shipping and the prevention of pollution by ships.
2. It does not apply to warships and other official vessels used for non-commercial purposes, nor to stores and equipment for use on board.
3. The Directive sets up a European vessel reporting system (Eurorep) comprising a general reporting system and a system for reporting to vessel traffic services (VTSs).
4. Member States must designate the competent authorities and VTS which are to receive the information and reports provided for in this Directive and inform the Commission accordingly.
5. Obligation to provide information concerning the carriage of goods:
 - the captain of any vessel carrying dangerous or polluting goods which participates in the Eurorep system must notify the competent authority of the Member State concerned of its entry into and intended movements in the Eurorep zone and each Eurorep subzone in accordance with the procedures described in Annex II;
 - every vessel must report its name, call sign, its IMO identification number if any, its position, course and where necessary the presence on board of dangerous or polluting goods to the competent VTS on entering the zone for which the VTS is responsible;
 - Member States must ensure that the competent VTSs under their jurisdiction are equipped in particular with appropriate surveillance radar and communications facilities, and are run in accordance with the International Maritime Organization (IMO) guidelines on vessel traffic services in force at the time of adoption of this Directive, particularly those set out in IMO Resolution A 578 (14).

6. Participation in the Eurorep system is mandatory for any vessel carrying dangerous or polluting goods which is bound for a Community port or intending to anchor in the territorial waters of a Member State, entry into that port or anchorage in those territorial waters being conditional upon such participation, or flies the flag of a Community Member State. This requirement should be extended to transiting vessels on the entry into force of the amendments to the SOLAS Convention concerning mandatory reporting.

References

Commission proposal, Official Journal C 22 of 26/01/1994.

Amended proposal, Official Journal C 193 of 16/07/1994.

ANNEX 1

ANNEX 1 : INDEX

List of legislative measures appearing in this guide, by chapter

CHAPTER 1 : HORIZONTAL MEASURES

1.1 TRANSPORT INFRASTRUCTURE

1.1.1 Council Decision 1692/96/EC of 23 July 1996 on Community Guidelines for the development of the trans-European Transport Network.

1.1.2 Council Directive 96/48/EC of 23 July 1996 on the inter-operability of the trans-European High Speed Rail System.

1.1.3 Council Regulation (EC) 2236/95 of 18 September 1995, laying down general rules for the granting of Community financial aid in the field of Trans-European Networks

1.2 TRANSPORT EXTERNAL RELATIONS

1.2.1 Council Decision 92/578/EEC of 30 November 1992 concerning the conclusion of the Agreement between the European Economic Community and the Swiss Confederation on the carriage of goods by road and rail and Administrative Arrangement concerning the application of the overflow system laid down in the Agreement between the European Community and Switzerland on the carriage of goods by road and rail.

Amended by:

Commission Decision 93/117/EEC of 22 December 1992 approving the administrative agreements on transit traffic between the European Community and Austria on the one hand, and the European Community and Switzerland on the other (OJ L 47 of 25.2.93, p27).

1.2.2 Transport Agreement EU/Slovenia Council Decision No. 93/409/EEC of 19 July 1993 concerning the conclusion of the Agreement between the European Economic Community and the Republic of Slovenia in the field of transport

Amended by

Council Decision No.97/863/EC of 11 December 1997 concerning the conclusion of the Additional Protocol to the Agreement between the European Economic Community and the Republic of Slovenia in the field of transport.

1.2.3 Council Decision No. 97/832/EC of 27 November 1997 concerning the conclusion of the Agreement between the European Community and the former Yugoslav Republic of Macedonia in the field of transport

1.3 TRANSPORT STATISTICS

1.3.1 Council Resolution no. 92/C 86/04 of 26 March 1992 on the extension of the system for observing the markets for the carriage of goods by rail, road and inland waterway.

1.3.2 Council Regulation (EEC) no. 1172/98 of 25 May 1998 on statistical returns in respect of the carriage of goods by road, amending Council Directives 89/462/EEC and 78/546/EEC.

1.3.3 Council Directive 80/1177/EEC of 4 December 1980 on statistical returns in respect of carriage of goods by rail, as part of regional statistics.

1.3.4 Council Directive 80/1119/EEC of 17 November 1980 on statistical returns in respect of carriage of goods by inland waterways.

1.3.5 Council Directive 95/64/EC of 8 December 1995 on statistical returns in respect of carriage of goods and passengers by sea.

1.4 GLOBAL SATELLITE NAVIGATION SYSTEMS (GNSS)

1.4.1 Council Decision 98/434/EC of 18 June 1998 concerning the Agreement between the European Community, the European Space Agency and the European Organisation for the Safety of Air Navigation on a European contribution to the development of a global navigation satellite system (GNSS).

CHAPTER 2 : LAND TRANSPORT

2.1 ROAD TRANSPORT (GOODS): MARKET ACCESS

2.1.1 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.

2.1.2 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

Amended by:

Commission Regulation (EEC) no. 792/94 of 8 April 1994 laying down detailed rules for the application of Council Regulation (EEC) no. 3118/93 to road haulage operators on own account.

and by:

Council Regulation (EEC) no. 3315/94 of 22 December 1994 amending Regulation (EEC) no. 3118/93 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State.

2.1.3 Council Regulation (EEC) no. 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

Amended by:

Council Regulation (EEC) 3164/76, last amended by Council Regulation 1841/88.

2.1.4 Council Directive 84/647/EEC of 19 December 1984 on the use of vehicles hired without drivers for the carriage of goods by road.

Amending:

first Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States.

Amended by:

Council Directive 90/398/EEC.

2.1.5 Council Regulation (EEC) no. 4058/89 of 21 December 1989 on the fixing of rates for the carriage of goods by road between Member States.

Replaces:

Council Regulation (EEC) no. 3568/83, last amended by Council Regulation (EEC) no. 1991/88.

2.2 ROAD TRANSPORT (PASSENGER): MARKET ACCESS

2.2.1 Council Regulation (EEC) no. 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus.

Amended by:

Council Regulation (EC) no. 11/98.

2.2.2 Council Regulation (EEC) no. 12/98 of 11 December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State.

2.2.3 Commission Regulation (EC) n° 2121/98 of 2 October 1998 laying down detailed rules for the application of Council Regulation (EEC) n° 684/92 and (EC) n° 12/98 as regards documents for the carriage of passengers by coach and bus.

Repeals:

Commission Regulation (EEC) n° 1839/92 of 1 July 1992 laying down detailed rules for the application of Council Regulation n° 684/92 as regards documents for the international carriage of passengers and its amendment (Commission Regulation (EEC) n° 2944/93).

2.3 SOCIAL LEGISLATION

2.3.1 Council Regulation (EEC) No 3820/85 on the harmonisation of certain social legislation relating to road transport.

2.3.2 Council Directive 88/599/EEC on standard checking procedures for the implementation of Regulation (EEC) no. 3820/85 on the harmonisation of certain social legislation relating to road transport and Regulation (EEC) no. 3821/85 on recording equipment in road transport.

2.3.3 Council Directive 96/26/EC of 29 April 1996 on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations.

Repeals:

Directives 74/561/EEC, 74/562/EEC, 77/796/EEC and their successive amendments: 80/1178/EEC, 80/1179/EEC, 80/1180/EEC, 85/578/EEC, 85/579/EEC, 89/438/EEC, and Articles 1 and 2 of Regulation 3572/90/EEC

Amended by Directive 98/76/EC of 1 October 1998

2.3.4 Council Directive 76/914/EEC on the minimum level of training for some road transport drivers

2.4 RAILWAY TRANSPORT

2.4.1 Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways

2.4.2 Council Directive 95/18/EC of 9 June 1995 on the licensing of railway undertakings

2.4.3 Council Directive 95/19/EC of 19 June 1995 on the allocation of railway infrastructure capacity and the charging of infrastructure fees.

2.4.4 Council Regulation (EEC) no. 1192/69 of 26 June 1969 on common rules for the normalisation of the accounts of railway undertakings.

2.4.5 Council Regulation (EEC) no. 2830/77 of 12 December 1977 on the measures necessary to achieve comparability between the accounting systems and annual accounts of railway undertakings.

2.4.6 Council Regulation (EEC) no. 2183/78 of 19 September 1978 laying down uniform costing principles for railway undertakings.

2.5 INLAND WATERWAY TRANSPORT

2.5.1 Council Regulation (EEC) n° 2919/85 of 17 October 1985 laying down the conditions for access to the arrangements under the Revised Convention for the navigation of the Rhine relating to vessels belonging to the Rhine Navigation.

2.5.2 Council Regulation (EEC) n° 3921/91 of 16 December 1991, laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State.

2.5.3 Council Regulation (EC) no. 1356/96 of 8 July 1996, on common rules applicable to the transport of goods or passengers by inland waterway between Member States with a view to establishing freedom to provide such transport services.

2.5.4 Council Regulation (EEC) no. 1101/89 of 27 April 1989, on structural improvements in inland waterway transport.

2.5.5 Council Directive 96/75/EC of 19 November 1996, on the systems of chartering and pricing in national and international inland waterway transport in the Community.

2.5.6 Council Directive 87/540/EEC of 9 November 1987, on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation.

2.5.7 Council Directive 91/672/EEC of 16 December 1991, on the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway.

2.5.8 Council Directive 96/50/EC of 23 July 1996, on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community.

2.5.9 Council Directive 76/135/EEC of 20 January 1976, on reciprocal recognition of navigability licences for inland waterway vessels.

2.5.10 Council Directive 82/714/EEC of 4 October 1982, laying down technical requirements for inland waterway vessels.

2.6 SUMMERTIME

2.6.1 Directive 97/44/EC of the European Parliament and of the Council of 22 July 1997 on summertime-arrangements.

2.7 STATE AID

2.7.1 Regulation (EEC) no. 1107/70 of the Council of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway.

Amended by:

Council Regulation (EEC) 1473/75, (OJ L 152 of 12.6.75)

Council Regulation (EEC) 1658/82 (OJ L 184 of 29.6.82)

Council Regulation (EEC) 1100/89 (OJ L 116 of 28.4.89)

Council Regulation (EEC) 3578/92 (OJ L 364 of 12.12.92)

Council Regulation (EC) 2255/96 (OJ L 304 of 27.11.96)

Council Regulation (EC) 543/97 (OJ L 84 of 26.3.97)

2.8 COMPETITION RULES

2.8.1 Council Regulation (EEC) 1017/68 of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway.

Implemented by:

Commission Regulation (EEC) no. 1629/69 of 8 August 1969 on the form, content and other details of complaints pursuant to Article 10, applications pursuant to Article 12 and notifications pursuant to Article 14 (1) of Council Regulation (EEC) no. 1017/68 of 19 July 1968.

Commission Regulation (EEC) no. 1630/69 of 8 August 1969 on the hearings provided for in Article 26 (1) and (2) of Council Regulation (EEC) N° 1017/68 of 19 July 1968.

2.9 PUBLIC SERVICES

2.9.1 Council Regulation (EEC) n° 1191/69 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.

Amended by:

Council Regulation (EEC) no. 3572/90 (OJ L 353 of 17.12.90).

Council Regulation (EEC) no. 1893/91 (OJ L 169 of 29.6.91).

2.10 FISCAL HARMONISATION

2.10.1 Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and charges for the use of certain infrastructures.

2.10.2 Council Regulation (EEC) N° 1108/70 of 4 June 1970 introducing an accounting system for expenditure on infrastructure in respect of transport by rail, road and inland waterway.

Amended by:

Council Regulation 1384/79/EEC (O.J. L 167 of 5.7.79)

Council Regulation 3021/81/EEC (O.J. L 302 of 23.10.81)

Council Regulation 3572/90/EEC (O.J. L 353 of 17.12.90)

2.11 CHECKING OF TRANSPORT AUTHORIZATIONS

2.11.1 Council Regulation (EEC) 4060/89 of 21 December 1989 on the elimination of controls performed at the frontiers of Member States in the field of road and inland waterway transport

2.11.2 Council Regulation (EEC) no. 3912/92 of 17 December 1992 on controls carried out within the Communities in the field of road and inland waterway transport in respect of means of transport registered or put into circulation in a third country.

2.12 COMBINED TRANSPORT

2.12.1 Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States.

Repeals:

Council Directive 75/130/EEC (O.J. L 48 of 22.2.75), which was amended by:

Council Directive 79/5/EEC (O.J. L 5 of 9.1.79)

Council Directive 82/3/EEC (O.J. L 5 of 9.1.82)

Council Directive 82/603/EEC (O.J. L 247 of 23.8.82)

Council Directive 86/544/EEC (O.J. L 320 of 15.11.86)

Council Directive 91/224/EEC (O.J. L 103 of 23.4.91)

2.12.2 Council Regulation (EC) n° 2196/98 of 1 October 1998 concerning the granting of Community financial assistance for actions of an innovative nature to promote combined transport.

2.13 TECHNOLOGY AND SAFETY

2.13.1 Council Directive 96/53/EC of 25 July 1996 laying down the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic for certain road vehicles circulating within the Community.

2.13.2 Council Directive 92/6/EEC on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community.

2.13.3 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.

2.13.4 Council Directive 91/439/EEC of 29.07.1991 on driving licenses.

Amended by:

Council Directive 96/47/EC and Council Directive 97/26/EC

2.13.5 Council Directive 91/671/EEC on the approximation of the laws of the Member States relating to compulsory use of safety belts in vehicles of less than 5 tonnes.

2.13.6 Council Regulation (EEC) no. 3821/85 of 20 December 1985 on recording equipment in road transport.

Amended by:

Commission Regulation (EEC) No 3314/90

Commission Regulation (EEC) No 3572/90 and Commission Regulation (EEC) No 3688/92

Commission Regulation (EEC) No 3688/92

Commission Decision 94/451/EC,

Commission Regulation (EC) No 2479/95 of 25 October 1995 adapting to technical progress Council Regulation (EEC) No 3821/85 on recording equipment in road transport

Commission Regulation (EC) No 1056/97 of June 1997, adapting to technical progress Council Regulation (EEC) No 3821/85

Council Regulation (EC) n° 2135/98 of 24 September 1998 amending Regulation (EEC) n° 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) n° 3820/85 and (EEC) n° 3821/85

2.13.7 Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers.

Amends/repeals:

Council Directive 77/143/EEC.

2.14 TRANSPORT OF DANGEROUS GOODS

2.14.1 Council Directive 96/35/EC of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway

2.14.2 Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail.

Amended by:

Commission Directive 96/87/EC (OJ L 335 of 24.12.1996) adapting to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail.

2.14.3 Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road.

Amended by:

Commission Directive 96/86/EC adapting to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road.

2.14.4 Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road.

2.15 ECOPOINTS

2.15.1 Commission Regulation (EC) 3298/94/EC of 21 December 1994 laying down detailed measures concerning the system of rights of transit (ecopoints) for heavy goods vehicles transiting through Austria, established by Article 11 of Protocol N° 9 to the Act of Accession of Norway, Austria, Finland and Sweden.

Replacing:

Council Regulation 3637/92/EEC.

Amended by:

Commission Regulation 1524/96/EC.

2.16 REGISTRATION SIGN

2.16 Council Regulation (EC) n° 2411/98 of 3 November 1998 on the recognition in intra-Community traffic of the distinguishing sign of the Member State in which motor vehicles and their trailers are registered.

CHAPTER 3 : AIR TRANSPORT

3.1 MARKET ACCESS AND LICENSING

3.1.1 Council Regulation (EEC) n° 2407/92 of 23 of July 1992 on licensing of air carriers

3.1.2 Council Regulation (EEC) n° 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes

3.1.3 Council Regulation (EEC) n° 2409/92 of 23 July 1992 on fares and rates for air services

3.2 ENVIRONMENT

3.2.1 Council Directive 80/51/EEC of 20 December 1979 on the limitation of noise emissions from subsonic aircraft

3.2.2 Council Directive 89/269/EEC of 4 December 1989 on the limitation of noise emissions from civil subsonic jet aeroplanes

3.2.3 Council Directive 92/14/EEC of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention of International Civil Aviation, 2nd Ed. (1988)

Amended by:

Council Directive 98/20/EC of 30 March 1998

3.3 COMPUTER RESERVATION SYSTEMS

3.3.1 Council Regulation (EEC) n° 2299/89 of 24 July 1989 on a code of conduct for computerised reservation

Amended by:

Council Regulation (EEC) n° 3089/93 of 29 October 1993

3.4 CONSUMER PROTECTION

3.4.1 Council Regulation (EEC) n° 295/91 of 4 February 1991 establishing common rules for a denied boarding compensation system in air transport

3.4.2 Council Regulation (EC) n° 2027/97 of 9 October 1997 on air carrier liability in the event of accidents

3.5 GROUND HANDLING

3.5.1 Council Directive 96/67/EC of 15 October 1996 on access to the ground-handling market at Community airports

3.6 AIR TRANSPORT SAFETY

3.6.1 Council Directive 94/56/EEC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents

3.6.2 Council Regulation (EEC) n° 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation

Amended by:

Commission Regulation (EC) n° 2176/96 of 13 November 1996

3.7 PERSONNEL LICENCES

3.7.1 Council Directive 91/670/EC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation

3.8 AIR TRAFFIC MANAGEMENT

3.8.1 Council Directive 93/65/EEC on the definition and use of compatible technical specifications for the procurement of air traffic management equipment and systems

3.8.2 Commission Directive 97/15/EC adopting EUROCONTROL standards and amending Council Directive 93/65/EEC on the definition and use of compatible technical specifications for the procurement of air traffic management equipment and systems

3.9 ALLOCATION OF SLOTS

3.9.1 Council Regulation (EEC) 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports

3.10 STATE AIDS

3.10.1 Guidelines for the application of Articles 92 and 93 of the EC Treaty to State aid in the aviation sector

CHAPTER 4 : MARITIME TRANSPORT

4.1 FREEDOM TO PROVIDE SERVICES

4.1.1 Council Regulation (EEC) no. 954/79 of 15 May 1979 concerning the ratification by Member States of, or their accession to, the United Nations Convention on a Code of Conduct for Liner Conferences.

4.1.2 Council Regulation (EEC) no. 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and Third Countries.

Amended by:

Council Regulation (EEC) No 3573/90 of 4 December 1990 as a result of German unification

Applied in:

Council Decision 87/475/EEC of 17 September 1987

4.1.3 Council Regulation (EEC) N° 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States.

Applied in:

Commission Decision 93/125/EEC of 17 February 1993

Commission Decision 93/396/EEC of 13 July 1993

4.2 RIGHT OF ESTABLISHMENT

4.2.1 Articles 52-58 of the Treaty

As applied in:

European Court of Justice Case 167/73 Commission of the European Communities v French Republic.

European Court of Justice Case 246/89, Commission of the European Communities v UK.

4.3 FREE MOVEMENT OF LABOUR

4.3.1 Article 48 of the Treaty

As applied in:

European Court of Justice Case 167/73, Commission of the European Communities v French Republic.

4.4 COMPETITION RULES

4.4.1 Community Guidelines on State aid to maritime transport of 5 July 1997.

4.5 EXTERNAL RELATIONS

4.5.1 Council Decision 77/587/EEC of 13 September 1977 setting up a consultation procedure on relations between Member States and third countries in shipping matters and on action relating to such matters in international organisations.

4.5.2 Council Decision 78/774/EEC of 19 September 1978 concerning the activities of certain third countries in the field of cargo shipping.

Amended by:

Council Decision 89/242/EEC of 5 April 1989

4.5.3 Council Decision 83/573/EEC of 26 October 1983 concerning counter-measures in the field of international merchant shipping.

4.5.4 Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries.

As applied in:

Council Decision 87/475/EEC of 17 September 1987

4.5.5 Council Regulation (EEC) No 4057/86 of 22 December 1986 on unfair pricing practices in maritime transport.

4.5.6 Council Regulation (EEC) No 4058/86 of 22 December 1986 concerning co-ordinated action to safeguard free access to cargoes in ocean trades.

4.6 MARITIME SAFETY

4.6.1 Council Directive 79/115/EEC of 21 December 1978, concerning pilotage of vessels by deep-sea pilots in the North Sea and English Channel.

4.6.2 Council Regulation (EEC) No 613/91 of 4 March 1991 on the transfer of ships from one register to another within the Community.

Amended by:

Commission Regulation (EEC) No 2158/93 of 28 July 1993

4.6.3 Council Decision 92/143/EEC of 25 February 1992 on radionavigation systems for Europe.

4.6.4 Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels.

4.6.5 Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods.

Amended by:

Commission Directive 96/39/EC of 19 June 1996

Commission Directive 97/34/EC of 6 June 1997

Council Directive 98/55/EC of 17 July 1998;

Commission Directive 98/74/EC of 1 October 1998.

As applied in:

Commission Decision 96/127/EC of 22 January 1996

Commission Decision 96/513/EC of 29 July 1996

Commission Decision 96/710/EC of 27 November 1996

4.6.6 Council Regulation (EC) No 2978/94 of 21 November 1994 on the implementation of IMO Resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers.

4.6.7 Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations.

Amended by:

Commission Decision 96/587/EC of 30 September 1996

Commission Directive 97/58/EC of 26 September 1997

As applied in:

Commission Decision 98/295/EC of 22 April 1998

Commission Decision 98/403/EC of 12 June 1998

4.6.8 Council Directive 94/58/EC of 22 November 1994 on the minimum level of training of seafarers.

Amended by:

Council Directive 98/35/EC of 25 May 1998

4.6.9 Council Resolution of 22 December 1994 on the safety of roll-on/roll-off passenger ferries.

4.6.10 Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control).

Amended by:

Council Directive 98/25/EC of 27 April 1998

Commission Directive 98/42/EC of 19 June 1998

4.6.11 Council Regulation (EC) No 3051/95 of 8 December 1995 on the safety management of Ro-Ro passenger vessels.

Amended by:

Commission Regulation (EC) No 179/98 of 23 January 1998

4.6.12 Commission Directive 96/40/EC of 25 June 1996 establishing a common model for an identity card for inspectors carrying out port State control.

4.6.13 Council Directive 96/98/EC of 20 December 1996 on marine equipment.

Amended by:

Commission Directive 98/85/EC of 11 November 1998

4.6.14 Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over.

4.6.15 Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships.

4.6.16 Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships.

4.6.17 Proposal for a Council Directive concerning the setting up of a European vessel reporting system in the maritime zones of Community Member States.

ANNEX 2

EU transport facts and figures

ANNEX 2 : EU Transport facts and figures

European Transport in Figures Household expenditure

In 1996 transport-related expenditure of private households in EU 15 amounted to nearly 600 billion ECU or 14% of private expenditure (compared to about 10% in the 60s). As people's income increases they tend to spend a growing share of their income on transport-especially for private cars and long-distance travel (the share of expenditure for food, beverages and energy on the other hand contracts as the level of income rises). This explains why the share of transport in private household expenditure is less than 10% in Greece, but more than 15% in Denmark and Luxembourg. The interaction between transport costs, mobility and spatial patterns implies that low specific transport costs lead in the long run rather to more mobility than to savings. Despite low prices for fuel and transport services per capita expenditure for transport in the US is higher than in Europe- a result of high mobility and transport-intensive spatial patterns. Although transport related prices are high transport represents only 8% of private expenditure in Japan (private car motorization is only 80%, car traffic per person only 2/3 the EU level).

Total transport related expenditure *gross expenditure	1 trillion ECU is spent each year in EU 15 for transport Private household, commercial and public expenditure for transport in EU 15 amounts to about 1 trillion ECU or 15 % of GDP each year (the total is less than the sum of the 3 components because the categories overlap: e.g. private households spend over 100 billion ECU each year for fuel taxes which cover already a large part of public expenditure for transport). Nevertheless estimated external costs of 2% (4% if congestion costs included) of GDP still remain. The turnover of the transport services sector is over 500 billion ECU (8% of GDP), half of which is value created.	Transport related expenditure 1996		Bio ECU	%	
		GDP EU 15		6 760	100	
		Private household expenditure		600	8-9	
		of which passenger cars		530	7-8	
		Commercial expenditure		450*	6	
		of which freight transport		350	5	
		of which passenger cars		50	1	
		Public expenditure		150	2	
		of which infrastructure investment		70	1	
		Total transport expenditure		ca. 1000	15	
		External costs of transport		140/270	2/4	
		Turnover of transport sector		520 (95)	8	
		Value created by transport sector		270	4	
		Private expenditure (1996)		Bio ECU	%	
Private expenditure for transport *incl. ca. 15 bio (10%) spent by self-employed persons/companies for passenger car fuel	Private expenditure for transport is nearly 600 billion ECU per year According to household surveys ca. 12.5 % of private disposable income in the EU is spent on transport (520 billion ECU). The share rises to 14% or nearly 600 billion ECU if garage rental, the transport costs of package tours and vehicle/road tax are included. 90% of expenditure is for individual transport (of which over 95% for cars) and 10 % for transport services.	Purchase of transport equipment		200	34	
		- of which cars		190	32	
		Motor fuels		150*	25	
		Vehicle accessories, spare parts, tyres		25	4	
		Vehicle maintenance and repair		60	10	
		Vehicle tax and insurance		80	13	
		Garage rental, parking		25	4	
		Transport services		60	10	
		Total		600	100	
		Vehicles bought (1996)		million vehicles		
Purchase of transport equipment	Expenditure: 200 billion ECU 12-14 million new cars and 25-30 million used cars are sold each year in the EU. Annual household expenditure for passenger cars and other transport equipment is about 200 billion ECU (95% of which is spent for cars, 5% for other personal transport equipment).	New Cars (registrations)		12.4		
		Used cars		30		
		Caravans and camping cars (new)		0.15		
		Mopeds and motorcycles (new)		2		
		Bicycles (new)		15.5		
		Fuel prices	Petrol price (unleaded)	% taxes	Diesel price	% taxes
Motor fuels	Expenditure: 150 billion ECU In 1996 the 139 million gasoline cars and 24 million mopeds/motorcycles in EU 15 consumed 157 billion litres of petrol (118 million tonnes), the 25 million diesel cars consumed about 30 billion litres diesel (26 million tonnes). Expenditure for petrol was ca. 130 billion ECU (of which 100 billion ECU taxes), expenditure for diesel ca. 20 billion ECU (of which 14 billion taxes). The 150 billion ECU spent for fuel include ca. 10% expenditure by companies/self-employed persons for fuel for cars. Goods vehicles and other commercial vehicles consumed about 100 billion litres diesel (90 million tonnes). Expenditure for fuel for commercial vehicles was ca. 70 billion ECU (of which taxes ca. 40 billion ECU). Receipts from fuel taxes (over 150 billion ECU per year, VAT included), roughly correspond to direct public expenditure for transport.	June 1998	ECU/litre	(96)	ECU/litre	(96)
		Sweden	1.00	74	0.90	59
		UK	0.97	76	0.98	75
		Netherlands	0.96	73	0.64	56
		Finland	0.95	75	0.65	62
		Italy	0.95	73	0.74	68
		France	0.92	80	0.65	71
		Belgium	0.92	73	0.69	62
		Ireland	0.87	67	0.85	52
		Denmark	0.87	71	0.70	66
		Austria	0.86	67	0.68	60
		Germany	0.84	74	0.62	64
		Portugal	0.81	71	0.56	62
		Spain	0.67	67	0.56	62
		Greece	0.66	68	0.50	64
		Luxembourg	0.64	65	0.52	60
		€ EU 15	0.89	74	0.69	69
		Private household expenditure for transport services		Bio ECU 1996		
Transport services	Expenditure: nearly 60 billion ECU 50% is spent for local transport services (of which 5 billion for taxis) and 50% for long distance transport services. Private expenditure covers less than half of costs of public road and rail passenger transport.	Road passenger transport		25		
		Railway transport		20		
		Air transport (excl. package tours)		6.5		
		Water transport		1.5		
		Other services		5		
		Total		58		

Sources: Eurostat (Household budget statistics, national accounts and energy statistics), National statistics, ACEA, UK Automobile Association

Rail freight transport

The modal share of rail freight in the EU decreased from 32% in 1970 to only 14 % in 1996. Rail tonne-km declined in the same period by 64 billion tonne-km or 23 %. However, rail freight transport will probably develop better in the future as a result of:

- ❖ the ongoing growth of transport distances (the market share of rail transport grows with distance)
- ❖ the liberalisation of rail transport markets and the removal of hindrances to border crossing transport
- ❖ the decreasing relative importance of stagnating or declining markets (like coal and steel)
- ❖ the strong growth of containerised transport
- ❖ the economic integration of rail oriented Central and Eastern European countries

The development of the past in addition includes singularities like the economic transition in East Germany after 1989 and breaks in time series (upward revision of road -tkm data in 1994) which overstate the decline of the market share of rail freight transport.

The comparison with the USA and Canada shows the potential of rail freight in geographically large, liberal transport markets.

International Comparison	Modal share of rail freight (tkm) : EU: 14%, USA: over 40%. The bigger a country the greater is in general the share of rail in freight transport. The market share of rail freight is over 50% in Canada (10 mio km ²), over 40% in USA (9.4 mio km ²) and Australia (7.7 mio km ²). Transport intensity (tkm per person) also grows with the size of a country.	1996	Inland freight transport		Railway transport	
			bio tkm	tkm per person	bio tkm	Modal share%
		USA	5035	18 900	2175	43
		Canada	594	19 800	337	57
		Australia	223	12 200	104	47
		Japan (95)	320	2 500	25	8
		EU 15	1575	4 200	218	14
Transport Distance	Average transport distance in EU rail freight : 250 km . Because of double counting of tonnes in international transport (ca. 170 mio tonnes) 'real' average rail transport distance in Europe is, however, ca. 310 km. The average rail transport distance in the EU increases by ca. 2% per year, whereas the tonnes transported tend to decrease (1992: 940 mio t, 1995: 895 mio t, 1996: 870 mio t). The productivity (costs and energy consumption per tkm decrease as transport distance and volume increase) and the market share of rail transport in general increase with the average length of a haul (in countries like Luxembourg and Austria statistics on a country/company level understate transport distances, a high share of rail transport is part of a longer, international transport chain). The availability of other modes and the structure of goods are other factors determining the market share of rail transport.	1996	Area 1000 km ²	£ length of haul, km	Rail market share %	
		USA	9372	1350	43.0	
		EU 15	3236	250 (310)	13.9	
		Sweden	450	341	36.6	
		Austria	83	199	34.2	
		Finland	338	233	26.6	
		France	544	392	21.0	
		Luxembourg	2	35	18.4	
		Germany	357	236	15.9	
		Belgium	30	127	12.7	
		Portugal	91	235	9.7	
		Ireland	70	184	9.4	
		Italy	301	302	9.2	
		UK (95)	244	133	7.5	
		Denmark	43	217	6.2	
		Spain	506	404	5.0	
		Netherlands	41	150	2.9	
		Greece	132	153	1.9	
International Transport	International transport represents about 45% of EU rail tonne-km. The smaller a country the greater the share of international transport. International transport is growing more rapidly than national transport. The share of international transport in the EU (tonne-km, UIC railways) increased from 36% in 1990 to 43% in 1995 and 45% (without UK) in 1997.	Rail freight tonne-km	% international 1997		% international 1997	
		Luxembourg	84.5	EU 15	ca. 45.0	
		Austria	76.8	Sweden	40.3	
		Netherlands	76.4	France	39.6	
		Belgium	72.7	Finland	36.5	
		Denmark (96)	68.0	Spain	21.7	
		Greece	57.6	Portugal	17.5	
		Italy	54.2	Ireland	0.0	
		Germany	47.8	UK	n.d.	
Freight Transport Receipts	Receipts per tonne-km decreased from 1992 to 1996 by 17%. Inflation in this period was about 14%, in real terms receipts per tkm thus decreased by about 30%. The decline was strongest in Germany, where freight transport and tariffs were strongly regulated before 1993. Average revenues decreased less in small countries with a high share of international transport (which traditionally had a liberal tariff system). Despite low receipts per tkm US freight railways are profitable. Productivity (tkm/person) is more than ten times as high as in Europe. Size of the rail freight market: EU: 10 bio ECU, USA: 27 bio ECU.	Rail freight traffic receipts 1996	ECU/1000 tkm (% change 1992-96)	ECU/1000 tkm (% change 1992-96)		
		USA	12.7 (-9)	France	48.3	(-6)
		Japan (1995)	57.3 (-5)	Netherlands	47.3	(+30)
		EU 15	45.0 (-17)	Belgium	46.9	(+1)
		Ireland	93.0 (0)	Finland	36.3	(-16)
		Denmark	80.7 (+4)	Italy	35.8	(-8)
		Greece	61.8 (+8)	Spain	30.7	(-15)
		UK (1995)	58.0 (-8)	Portugal	28.0	(+1)
		Austria	55.4 (+6)	Sweden	23.3	(-5)
		Germany	50.6 (-32)			
Transport growth	Rail freight transport in the EU was by and large stagnating in the period 1970-1989. In the economic transition in East Germany after 1989 the Deutsche Reichsbahn lost 80% of its traffic (45 bio tkm, 20% of EU traffic). In 1993 a recession further reduced rail freight traffic in Europe. Since 1994 there is, however, an upward trend which accelerated in 1997/98.	Annual growth (tkm) %				
		1970-80	+ 0.2	1994	+ 6.5	
		1980-89	- 0.5	1995	+1.1	
		1989-92	- 7.2	1996	-1.0	
		1993	- 6.5	1997	+ 7.5	
				1998 (1st q)	+ 9.9	

Sources: UIC (for EU countries), Jane's World railways (results for Canada), Statistical Yearbooks of Australia, USA

World passenger transport

Passenger mobility is strongly determined by per capita income levels. As peoples' income increases they spend a growing share of their budget on mobility (less than 5% in developing countries, 10-15 % in industrialized countries, in the EU: 14%). Mobility expenditure thus grows more quickly than disposable per capita income. While the travel time per day (ca. 1 hour) is fairly constant, increasing income means that people buy speed (i.e. private motorized and air transport) and thus travel greater distances. Growing per capita income is reflected in a growing vehicle stock (world vehicle stock in 1995: 1 200 million bicycles, 130 million powered two wheelers, 480 million passenger cars, 6 million buses/coaches and 150 million lorries, pickups and vans) and in the purchase of more long distance transport services (air, rail, bus). As a result of high per capita income, low fuel prices and transport intensive spatial patterns the USA has the highest per capita passenger mobility in the world.

World Passenger transport	World passenger traffic is about 35 trillion pkm, of which 80 % motorized transport. The EU represents 18% of world motorized traffic (USA: 28%, Japan 5%, CEC: 2.5%, China 3%). Motorized mobility per capita is 5000 km in the world average (EU: 13 500 km, USA: 25 000 km, Japan: 11 500 km, CEC: 6 000 km, China: 850 km). Air transport is the mode with the strongest growth, followed by powered two wheelers (strong growth in Asia) and passenger cars.	World modal split, 1995 Car Powered 2-wheelers Bus/Coach Railway Tram & Metro Air Water Motorized transport Cycling Walking Non-motorized transport	billion pkm % World 15 000 54 1 000 4 7 000 25 2 000 7 250 0.9 2 500 9 100 0.3 28 000 100 1 000 6 000 7 000	billion pkm EU 3 690 73 110 2 360 7 270 5.5 41 1 550 11 27 0.5 5050 100 70 160 230
Car * = incl. passenger traffic by private vans, pickups, sports/utility vehicles (esp. in USA); estimates (country-level) in italic	More than 50 % of world motorized travel is by car. The USA has 38 % of world car traffic (EU: 24%, Japan: 5%) and the highest car mobility per capita (22 000 km, of which 14 000 km by passenger cars, 8000 km by vans, pickups etc). Per capita car mobility in EU 15 is about 10 000, but only 500 pkm in developing countries. World car traffic is ca. 15 trillion pkm (incl. traffic by vans, pickups).	Mio passenger cars , 1995 (Pass. cars/1000 persons) USA 136 (520) EU 15 160 (430) Japan 45 (360) CEC 20 (190) Russia 14 (100) China 3.5 (3) India 4 (4) World 480 (85)	bio pkm % 5700* 38 3600 24 800 5 400 3 300 2 100 1 100 1 15 000*	km per person 22 000* 9 700 6 400 3 800 2 000 80 110 2 600*
Bus	The bus is world wide the second biggest mode. The bus (incl. coach/minibus) is the dominant motorized mode in most developing countries. Bus traffic is about 1000 km per person and year in industrialized countries.	Bus/Coach transport 95 China EU 15 USA CEC Japan World	bio pkm 460 360 220 120 100 7 000	km per person 380 970 840 1100 800 1 200
Tram and Metro	There are 350 tram systems and 90 metro systems world wide. The EU has 1/3 of all metro and tram/light rail systems. 18 new tram/light rail/metro systems have been opened in the US since 1978 but traffic volumes of many systems remains low (tram/light rail systems: 1.3 bio pkm). Russia is the country with most urban rail traffic.	Number of systems Metro/Tram EU 15 29 / 101 USA 11 / 23 Japan 9 / 19 Russia 5 / 68 CEC 4 / 48 China 4 / 3 World 90 / 350	bio pkm % 41 16 19 8 25 10 72 29 20 8 5 2 250	Metro systems passengers (bio) Paris 1.0 New York 1.1 Tokyo 2.7 Moscow 3.2 Prague 0.4 Peking 0.5 World 25
Railways *Railway traffic data for Japan include urban rail systems (tram & metro = ca. 25 bio pkm)	Japan is the leading railway country (ca. 20% of world traffic). The railways in Japan perform more pkm than those of all other OECD countries together on a (mainly narrow gauge) network of only 26 500 km (1/6 of EU network). Traffic per day and rail-km is 39 000 passengers (EU: 4 500). Rail Market share (pkm): Japan: 30%, EU: 6 %, USA: 0.3%.	Railway lines (1000 km) Japan 26.5 China 57 India 63 EU 15 166 Russia 87 CEC 67 USA (Amtrak: 39) 212 World 1 250	bio pkm % 375/400* 19 350 18 320 16 270 14 190 9 67 3 22 1 2000 100	km per person 3000 290 350 730 1300 630 80 350
Air Domestic/intra-EU traffic indicated in ()	About 10 % of world motorized passenger transport is by air. 1/3 of world wide scheduled revenue pkm is performed in North America. US domestic traffic (670 bio pkm) represents over ¼ of world air traffic. Intra-EU air traffic (all carriers) is about 275 billion pkm or 11% of world traffic.	by flag of carrier, 1995 USA EU 15 Japan Russia China CEC World	bio pkm % 870 (670) 35 550 (275) 22 130 (65) 5 70 3 70 3 17 0.7 2 500 100	km per person 3 300 1 500 1 000 470 60 160 440
Non-motorized Transport	Cycling and walking represent about 20% of world person-km. Walking per day and person is about 4-5 km in least developed countries and 1 km in industrialized countries. Half of world cycling is in China. Other cycling-countries: Vietnam, Bangladesh (rickshaws), Cuba, the Netherlands and Denmark. In the EU 5% of all trips are by bicycle, in the USA only 0.7 % (Japan: 14%).	Asia Europe North America Latin America Australia Africa	leading cycling cities Tianjin (China) Groningen Gainesville, FL Havana Perth Harare (ZW)	Cycling in % of all trips 60 (77*) 39 (48*) 33 30 6 5 * = of vehicle trips

Sources: ECMT, IRF, IRU, UIC, UITP, IATA, UN, Jane's Urban Transport systems, national statistics (USA, China, Japan)

Energy consumption

As a result of traffic growth and a modal shift to less energy efficient modes the energy consumed by transport has grown faster in the past than total energy consumption. In 1960 transport consumed in the EU 16.7 % of final energy, in 1995 already 31% (or 20% of gross energy consumption, sea transport not included). Transport uses mostly fossil fuel, which when combusted combines with oxygen to the greenhouse gas CO₂. Solutions for the problem of growing fossil energy consumption and increasing CO₂ emissions are sought on several levels: traffic avoidance, modal shift to more energy efficient or less fossil fuel dependent modes and technical improvements to make vehicles more energy efficient (making vehicles lighter, reducing friction and transforming a greater part of the chemical energy in fuel to kinetic energy of the vehicle and less to heat energy) or less fossil fuel dependent (using electricity from non-fossil energy sources, using fuel cell technology based on non-fossil primary energy).

Total energy consumption (EU 15)	About 30 % of final energy (20 % of all energy) is consumed by the transport sector The share is even higher if the energy used for infrastructure construction/maintenance and vehicle production is included (ca. 40%). In 1960 only 16.7 % of final energy was consumed by transport.	Energy consumption EU 15 (Mio tonnes oil equivalents) 1990 1995 change 90-95 p. a. , % Gross inland consumption 1239 1367 2.0 -Losses/Non-energy cons. 423 468 2.0 -Final energy consumption 817 899 (100%) 1.9 -- Industry 252 258 (29%) 0.4 -- Services & Households 318 365 (40%) 2.8 -- Transport 247 276 (31%)* 2.3 * or 20 % of gross consumption																																																					
Transport energy consumption by type of energy	About 99 % of transport final energy consumption is based on fossil fuels Half of electricity consumption of rail transport (1% of total) is based on non-fossil energy (mainly nuclear and hydro energy).	Inland market consumption (gas/electricity in Mio t oil equivalents) 1995 growth 90-95 <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Mio t (%)</th> <th style="text-align: center;">p.a. in %</th> <th style="text-align: center;">Modes</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Jet fuel 31.6 (12)</td> <td style="text-align: center;">3.5</td> <td style="text-align: center;">Air</td> </tr> <tr> <td style="text-align: center;">Motor spirit (Petrol) 115.2 (44)</td> <td style="text-align: center;">0.5</td> <td style="text-align: center;">Cars</td> </tr> <tr> <td style="text-align: center;">Diesel oil 112.3 (42)</td> <td style="text-align: center;">3.9</td> <td style="text-align: center;">Road, Rail, Water</td> </tr> <tr> <td style="text-align: center;">Natural Gas 0.2 (0.1)</td> <td style="text-align: center;">5.1</td> <td style="text-align: center;">Cars, Buses</td> </tr> <tr> <td style="text-align: center;">Electricity 4.7 (2)</td> <td style="text-align: center;">4.3</td> <td style="text-align: center;">Rail (Cars/Buses)</td> </tr> </tbody> </table>			Mio t (%)	p.a. in %	Modes	Jet fuel 31.6 (12)	3.5	Air	Motor spirit (Petrol) 115.2 (44)	0.5	Cars	Diesel oil 112.3 (42)	3.9	Road, Rail, Water	Natural Gas 0.2 (0.1)	5.1	Cars, Buses	Electricity 4.7 (2)	4.3	Rail (Cars/Buses)																																	
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Consumption of petroleum products by mode	Road represents more than 80% of transport energy consumption - of which over 60% (= ca. 50% of total) is consumed by passenger cars, and 35% by lorries (buses: ca. 3%). Air transport represents over 10% of transport energy consumption.	Final consumption of petroleum products by mode 1995 (oil equivalents) <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Mio toe</th> <th style="text-align: center;">Change 90-95 % p.a.</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Air 32.5 (12 %)</td> <td style="text-align: center;">+ 3.5</td> </tr> <tr> <td style="text-align: center;">Road 228.8 (84 %)</td> <td style="text-align: center;">+ 2.1</td> </tr> <tr> <td style="text-align: center;">Rail 2.7 (1 %)</td> <td style="text-align: center;">+ 2.9</td> </tr> <tr> <td style="text-align: center;">Inland navigation (goods+pass) 6.7 (3 %)</td> <td style="text-align: center;">+ 0.1</td> </tr> <tr> <td style="text-align: center;">Transport (excl. sea) 270.7 (100 %)</td> <td style="text-align: center;">+ 2.2</td> </tr> <tr> <td style="text-align: center;">(Sea) (34.7) (12%)</td> <td style="text-align: center;">+ 0.6</td> </tr> </tbody> </table>			Mio toe	Change 90-95 % p.a.	Air 32.5 (12 %)	+ 3.5	Road 228.8 (84 %)	+ 2.1	Rail 2.7 (1 %)	+ 2.9	Inland navigation (goods+pass) 6.7 (3 %)	+ 0.1	Transport (excl. sea) 270.7 (100 %)	+ 2.2	(Sea) (34.7) (12%)	+ 0.6																																					
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Fuel consumption and CO2 Emissions	The combustion of 1 t of fossil fuel results in about 3 t CO₂ E.g.: Petrol and diesel consist mainly of hydrocarbon molecules, the carbon content being ca. 85%. If fuel is burnt this carbon (atomic weight: 12) combines with two oxygen atoms (atomic weight 2*16=32) to CO ₂ which is 3.67 times (=44:12) as heavy as carbon.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Fuel density Kg/l (at 15° C)</th> <th style="text-align: center;">Carbon content (C) in %</th> <th colspan="2" style="text-align: center;">CO₂/C</th> <th colspan="2" style="text-align: center;">CO₂ emissions (kg)</th> </tr> <tr> <th></th> <th></th> <th style="text-align: center;">per 1</th> <th style="text-align: center;">per kg</th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Petrol 0.75</td> <td style="text-align: center;">85 (3.67)</td> <td style="text-align: center;">2.34</td> <td style="text-align: center;">3.117</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Diesel 0.86</td> <td style="text-align: center;">86 (3.67)</td> <td style="text-align: center;">2.71</td> <td style="text-align: center;">3.153</td> <td></td> <td></td> </tr> </tbody> </table>			Fuel density Kg/l (at 15° C)	Carbon content (C) in %	CO ₂ /C		CO ₂ emissions (kg)				per 1	per kg			Petrol 0.75	85 (3.67)	2.34	3.117			Diesel 0.86	86 (3.67)	2.71	3.153																													
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Consumption of non-fossil energy (railways)	About 75% of train-km in the EU are by electric traction 46% of the railway network in the EU are electrified. 74% of freight train-km and 79% of passenger train-km (or more than 80% of performance) are by electric traction (UIC railways). About half of European electricity production is based on non-fossil (non-CO₂) fuels The share of non-fossil energy consumed by rail traffic is therefore at least 40% (some railways rely even more on non-fossil electricity than the economy as a whole).	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">% of rail network electrified (1995)</th> <th style="text-align: center;">% of electr. train-km Freight/Pass.*</th> <th style="text-align: center;">% of national non-fossil electricity production () = main non-fossil energy</th> </tr> </thead> <tbody> <tr><td style="text-align: center;">Luxembourg</td><td style="text-align: center;">95 (44 / 96)</td><td style="text-align: center;">72 (hydro)</td></tr> <tr><td style="text-align: center;">Netherlands</td><td style="text-align: center;">73 (75 / 89)</td><td style="text-align: center;">5 (nuclear)</td></tr> <tr><td style="text-align: center;">Belgium</td><td style="text-align: center;">70 (68 / 91)</td><td style="text-align: center;">57 (nuclear)</td></tr> <tr><td style="text-align: center;">Sweden</td><td style="text-align: center;">68 (92 / 88)</td><td style="text-align: center;">93 (hydro + nuclear)</td></tr> <tr><td style="text-align: center;">Italy</td><td style="text-align: center;">64 (95 / 79)</td><td style="text-align: center;">19 (hydro)</td></tr> <tr><td style="text-align: center;">Austria</td><td style="text-align: center;">60 (93 / 84)</td><td style="text-align: center;">69 (hydro); railways: 81</td></tr> <tr><td style="text-align: center;">Spain</td><td style="text-align: center;">56 (82 / 82)</td><td style="text-align: center;">49 (nuclear + hydro)</td></tr> <tr><td style="text-align: center;">France</td><td style="text-align: center;">43 (88 / 77)</td><td style="text-align: center;">92 (nuclear)</td></tr> <tr><td style="text-align: center;">Germany</td><td style="text-align: center;">43 (83 / 80)</td><td style="text-align: center;">34 (nuclear)</td></tr> <tr><td style="text-align: center;">Finland</td><td style="text-align: center;">35 (46 / 77)</td><td style="text-align: center;">51 (nuclear + hydro)</td></tr> <tr><td style="text-align: center;">UK</td><td style="text-align: center;">29 (16 / 55)</td><td style="text-align: center;">28 (nuclear)</td></tr> <tr><td style="text-align: center;">Portugal</td><td style="text-align: center;">18 (36 / 51)</td><td style="text-align: center;">29 (hydro)</td></tr> <tr><td style="text-align: center;">Denmark</td><td style="text-align: center;">18 (0 / 36)</td><td style="text-align: center;">3 (wind)</td></tr> <tr><td style="text-align: center;">Ireland</td><td style="text-align: center;">2 (0 / 21)</td><td style="text-align: center;">6 (hydro)</td></tr> <tr><td style="text-align: center;">Greece</td><td style="text-align: center;">0 (0 / 0)</td><td style="text-align: center;">10 (hydro)</td></tr> <tr><td style="text-align: center;">EU</td><td style="text-align: center;">46 (74 / 79)</td><td style="text-align: center;">49 (nuclear 35, hydro 14)</td></tr> </tbody> </table>			% of rail network electrified (1995)	% of electr. train-km Freight/Pass.*	% of national non-fossil electricity production () = main non-fossil energy	Luxembourg	95 (44 / 96)	72 (hydro)	Netherlands	73 (75 / 89)	5 (nuclear)	Belgium	70 (68 / 91)	57 (nuclear)	Sweden	68 (92 / 88)	93 (hydro + nuclear)	Italy	64 (95 / 79)	19 (hydro)	Austria	60 (93 / 84)	69 (hydro); railways: 81	Spain	56 (82 / 82)	49 (nuclear + hydro)	France	43 (88 / 77)	92 (nuclear)	Germany	43 (83 / 80)	34 (nuclear)	Finland	35 (46 / 77)	51 (nuclear + hydro)	UK	29 (16 / 55)	28 (nuclear)	Portugal	18 (36 / 51)	29 (hydro)	Denmark	18 (0 / 36)	3 (wind)	Ireland	2 (0 / 21)	6 (hydro)	Greece	0 (0 / 0)	10 (hydro)	EU	46 (74 / 79)	49 (nuclear 35, hydro 14)
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Specific CO₂ Emissions	Per tonne-km transported road produces 6 times as much CO₂ as water or rail transport. In passenger transport the bus is the most energy efficient motorised mode.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Passenger transport gram CO₂ per pkm (EU-average 95, estimate)</th> <th style="text-align: center;">Freight transport gram CO₂ per tonne-km (EU-average 95, estimate)</th> </tr> </thead> <tbody> <tr><td style="text-align: center;">Car 125</td><td style="text-align: center;">Road 190</td></tr> <tr><td style="text-align: center;">Bus 45</td><td style="text-align: center;">Railway 30</td></tr> <tr><td style="text-align: center;">Railway 65</td><td style="text-align: center;">Inland navigation 30</td></tr> <tr><td style="text-align: center;">Air 150-200</td><td style="text-align: center;">Sea <30</td></tr> </tbody> </table>			Passenger transport gram CO ₂ per pkm (EU-average 95, estimate)	Freight transport gram CO ₂ per tonne-km (EU-average 95, estimate)	Car 125	Road 190	Bus 45	Railway 30	Railway 65	Inland navigation 30	Air 150-200	Sea <30																																									
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Sources: EUROSTAT: Energy -Yearly statistics 1995; Energy Balance Sheets 1994-95, UIC: International Railway Statistics 1995

Trade

There is an ongoing globalization of the world economy. Merchandise exports represent already 20% of world GDP (exports of commercial services represent another 5% or 1 trillion ECU) and trade is growing more rapidly than economic output (average annual growth 1990-96, World: merchandise trade + 6%, merchandise production + 2%, GDP +1.5%). Traffic flows, however, grow less quickly than trade (1990-96: tonnes transported in sea trade + 3% p.a.) because the value density of goods is increasing by several percent per year (1990-96 ca. 3% p.a.). Globalization and trade growth are fuelled by the liberalization of World trade. In the 8 GATT negotiation rounds the average tariffs on industrial products were reduced from 45% in 1947 to about 4% today (for industrial countries). The Uruguay Round 1986-93 led to a strong reduction of tariffs, the creation of the World Trade Organization (WTO) in 1995 and widened the scope of liberalization to textiles, agricultural products and services

Data sources: Eurostat, WTO

World trade	<p>The EU's share of world exports is about 20% (40% if intra-EU trade is included). Merchandise exports as % of GDP: World: 20%, EU: 25%. The share of exports depends on the size of an economy, the smaller an economy, the greater the share of exports, e.g: USA: 11%, Germany : 22%, Ireland: 66%.</p>	Billion ECU, 1996	imports	exports
		EU 15 intra (63%) EU 15 extra (37%) USA Japan Russia China DEA (East Asia) World (excl. intra-EU) World (incl. intra-EU)	1014 (%) 580 (18) 644 (20) 275 (8) 34 (1) 109 (3) 579 (18) 3254 (100) 4268	1060 (%) 624 (20) 491 (16) 324 (11) 64 (2) 119 (4) 544 (17) 3105 (100) 4165
EU trade by partner DEA = dynamic East Asian economies: Singapore, Hong Kong, Taiwan, South Korea, Malaysia, Thailand	<p>Intra-EU trade represents over 60% of the trade of EU countries. The US is the biggest trading partner of the EU (almost 20% of external trade of EU), followed by the EFTA countries. The EU has currently an export surplus (greatest surplus: with Mediterranean Basin Countries).</p>	in billion ECU, 1996 intra-EU extra-EU <i>EU trade partners</i> USA EFTA CEC Mediter. Countries Japan Russia China DEA (East Asia)	imports 1014 580 (%) 113 (19) 75 (13) 47 (8) 29 (5) 53 (9) 23 (4) 30 (5) 57 (10)	exports 1060 624 (%) 114 (18) 73 (12) 64 (10) 68 (11) 36 (6) 19 (3) 15 (2) 70 (11)
EU trade by mode and Value	<p>By value 2/3 of intra-EU trade is by road. By value more than 20% of external trade of EU 15 is already by air. The value density of goods transported in intra-EU trade is (in ECU/tonne): Air: 65 000, Road: 1700, Rail: 800, Sea: 700, Inland waterways: 100.</p>	in billion ECU, 1995 Sea Road Rail Inland waterways Pipeline Air Other All modes	intra-EU (%) 187 (19) 658 (66) 50 (5) 13 (1) 9 (1) 40 (4) 34 (3) 992 (100)	imports (%) 234 (43) 114 (21) 12 (2) 7 (1) 16 (3) 112 (21) 49 (9) 543 (100)
EU trade by mode and weight	<p>By weight over 70% of EU external trade is by sea. By weight the EU imports 4 times as many goods as it exports. The value density (ECU/tonne) of EU exports in 1995 was 1700, the value density of imports only 440 (intra-EU: 1070).</p>	Mio tonnes 1995 Sea Road Rail Inland waterways Pipeline Air Other All modes	intra-EU (%) 280 (30) 383 (41) 65 (7) 118 (13) 74 (8) 0.6 (0.1) 6 (0.6) 927	imports (%) 909 (74) 64 (5) 51 (4) 40 (3) 161 (13) 2 (0.2) 36 (3) 1263
EU trade by groups of goods	<p>By value 70% of EU exports (and 60% of imports) are machinery/ manufactured articles. By weight petroleum makes up almost half of all EU imports.</p>	Bio ECU/ (mio tonnes) 1995 Agricultural products Coal, other solid fuel Petroleum Iron ore, steel, met. prod. Cement, buliding mat. Chemicals, fertilizers Machinery, manuf. articl.	intra-EU <i>(mio t)</i> 125 (173) 1 (13) 24 (211) 66 (123) 13 (141) 122 (122) 639 (143)	imports <i>(mio t)</i> 65 (142) 6 (147) 58 (594) 37 (191) 9 (54) 48 (64) 319 (69)
			exports <i>(mio t)</i> 47 (70) 0 (2) 9 (65) 26 (43) 12 (45) 73 (43) 399(57)	

Employment

In the EU about 4 % of all persons employed work in transport services and an additional 6% in sectors directly related to transport. Due to the liberalisation of the transport market and the strong reduction of staff by railway companies (-350 000 in 5 years) productivity in the transport services sector grew by about 2.5% per year in the period 1990-95. In spite of an annual traffic growth of more than 2% employment in this sector therefore declined by about 0.5% per annum. In the first half of the nineties there was also a strong growth of productivity in transport equipment industry (+ 4% annually) that led to a considerable reduction of employment. Because the relative importance of declining sectors is decreasing and liberalisation might have a smaller impact employment in transport will probably develop better in the future (in the US employment in transport services grows by about 2% per year). However, there is still potential for further improvement of productivity: in the US only 4.1 million persons (EU: 6.3 million) work in the transport services sector and they handle a transport market that is more than twice as big as in EU 15 (productivity measured in passenger/tonne-km per employed person is 3 times greater than in Europe).(data in table for EU 15 and 1995, estimates in italic)

Total employment in EU - 15	About 15 million persons are employed in transport and in related sectors or 10% of all persons employed.	Total employment EU 15 - Transport services - Transport equipment industry - Services related to transport Transport related employment	<i>in mio</i> 148 6.3 2.05 6 - 7 15	<i>change p.a. 90-95 in %</i> - 0.6 -0.5 - 3.5 - 1 - 1
Employment in the transport services sector	About 6 million persons are employed in the transport services sector or over 4% of all persons employed. Employment in the transport services sector decreased in the period 90-95 by about 150 000- or by 0.4 % per year (if railways are excluded, employment, however, slightly increased).	Railways Road transport - Passenger transport - Freight transport Water transport - Inland navigation Air transport Pipelines Supporting transport services (incl. ports/airports, travel agencies etc) Transport services	<i>employment (in 1000)</i> 1000 2900 1000 1900 265 45 350 5 1780 6300	<i>change p.a. 90-95 in %</i> - 6 + 0.5 0 + 1 - 1 - 1 + 0.4 (91-96) 0 + 1.5 -0.5
Employment in the transport equip-ment industry	About 2 million persons are employed in the European transport equipment industry Several million persons are in addition employed in ancillary industries (like tyre manufacturing, steel production etc).	Motor vehicles Motor vehicle parts Motorcycles/Bicycles Railway rolling stock Shipbuilding Aerospace equipment Transport equipment industry	<i>employment (in 1000)</i> 1030 470 40 80 70 360 2050	<i>change p.a. 90-95 in %</i> - 3.5 - 2.5 - 6 - 1 - 5 (91-94) - 4 - 3.5
Employment in other transport related sectors	More than 6 million persons are working in sectors closely related to transport Only sectors for which data are available/or estimates possible are included here.	Own account transport Vehicle distrib.,maint. and repair Car rental Filling stations Post and courier activities Infrastructure construction Related sectors	<i>employment (in 1000)</i> 1000 2800 70 250 1350 1000 > 6500	<i>change p.a. 90-95 in %</i> - 1 - 0.5 0 - 3 - 2 - 1 - 1
Employment by sex and by age*	85% are male <u>% female employment</u> Land transport 12 Water transport 17 Air transport 38	The average age of persons employed in this sector is 40	<u>average age by transport sector</u> Land transport 41 Water transport 41 Air transport 38	
Employment status*	88 % are employees, 12% are self-employed	93% work full-time, 7% work part time	<u>part time employment in %</u> Land transport 7 Water transport 5 Air transport 10	

*= data refer to the transport services sector, **sources:** Eurostat, Panorama of EU industry (DG II) , for services related to transport only few EU data available

CO2

There is a global CO₂ cycle: CO₂ is liberated by respiration, decomposition and the combustion of fossil fuels whereas plants absorb CO₂ (photosynthesis); oceans also play a role as a CO₂ sink). Man made CO₂ emissions are only a part of all CO₂ emissions (ca. 7 %). However, the natural CO₂ cycle is in balance, whereas man made emissions result in an increase of the atmospheric concentration of carbon dioxide. There is concern that the contribution from human activities in increasing the atmospheric concentration of CO₂ and other greenhouse gases will lead to irreversible changes in the earth's climate. The role of burning fossil fuels (coal, oil and natural gas) has been firmly established, but there is still some scientific debate about the exact nature of the consequences. The potential risk of global warming leading to climatic instability and a rise in sea level is, however, so great that the European Union is committed to stabilizing its CO₂ emissions at 1990 levels by the year 2000, and reducing them by about till 2008/2012. The transport sector shows the strongest growth in CO₂ emissions. Transport thus plays an important role within strategies to reduce CO₂ emissions.

Greenhouse Effect	CO₂ emissions contribute more than 50% to the greenhouse effect. And this proportion is rising. Greenhouse effect: short wave radiation from the sun can penetrate the atmosphere, but the long wave radiation reflected from the earth is absorbed by a CO ₂ -rich atmosphere, leading to an increase in average global temperature and possible changes in the climate.	<i>Greenhouse gas</i>	<i>contrib. to greenhouse effect</i>	<i>Main source*</i>
		CO ₂	55 %	E, T, I
		Methane	15 %	A
		CFCs	24 %	I
		N ₂ O	6 %	A, T
Emission factors	The combustion of 1 tonne of fossil fuel results in about 3 tonnes of CO₂. There are no technical possibilities to change this. If fossil fuel is burnt the carbon (C) in it combines with 2 oxygen atoms to CO ₂ , which releases energy. But some fuels produce more energy per tonne burnt.		<i>CO₂ per tonne of fuel burnt</i>	<i>CO₂ per terajoule</i>
		Oil	3.3	73
		Coal	2.5	95
		Natural Gas	3.0	56
CO₂ – concentration in atmosphere	Nature can absorb about 50% of man-made CO₂ emissions. The rest contributes to the man made greenhouse effect. CO ₂ concentration in the atmosphere increased from 280 ppm to 360 ppm or by about 30% in the last 200 years.	<i>CO₂ concentration in atmosphere</i>	<i>parts per million</i>	<i>1750 =100</i>
		1750		
		1960	280	100
		1980	317	113
		1990	339	121
		1995	354	126
			361	129
World CO₂-emissions by region	World : in 1994 22 billion tonnes of CO₂ emitted from burning fossil fuels - of which EU: 3 bio tonnes or 14% EU per capita emissions are twice the world average.	<i>CO₂ emissions 1994</i>	<i>bio t</i>	<i>%</i>
		World	22	100
		USA	5	23
		EU 15	3	14
		China	2.8	13
		Russia	1.6	7
		Japan	1.1	5
EU CO₂-emissions by sector	Transport represents 26 % of CO₂ emissions of the EU (29% if fuel from maritime bunkers included). And this share is increasing. As a result of improved energy efficiency CO ₂ emissions from transport are, however, growing more slowly than transport demand.	<i>EU 15 CO₂ emissions 1995</i>	<i>% of total</i>	<i>change p.a. 90-95</i>
		Total	3050	- 0.3
		Energy prod.	36	1090
		Transport	26	800
		Industry	17	520
		Households	21	630
		(mar. bunkers)	(3)	(110)
				(+ 0.3)
EU transport emissions by mode	Road represents 85% (74 % if sea included) of transport CO₂ emissions of which ca. 70% private cars (= 50% of transport emissions) and 30% goods vehicles. But the fastest growth is in aviation.	<i>Transport CO₂ emissions 1995</i>	<i>% of total</i>	<i>change p.a. 90-95</i>
			85 (74)	
		Road	1	678
		Rail	2	8
		Inland navig.	12 (11)	21
		Air	(12)	97
		Sea**		110
				+0.3

*A= Agriculture, T= Transport, E= Energy production, I= Industry, bio = billion ** CO₂ from maritime bunker fuel not included in EU total of 3.05 bio tons; percentages if sea included are indicated in brackets, **Source of statistical data:** Eurostat (F-3)

World Freight Transport Markets

Whereas passenger transport is mainly local, freight traffic is characterised by long distance and international transport flows with sea transport dominating in terms of transport performance. Global freight transport is growing in parallel to GDP. International merchandise trade (by value) is however growing much faster than freight transport because the value density of goods produced is increasing constantly. Freight transport of the European Union is more sea and road oriented than that of the World as a whole. (Data in the table relate to 1995) version 21/7/97

Freight transport (total)	World: 55 000 billion tkm More than 2/3 of world freight transport is by sea (about 2/3 of transport is at the same time international traffic). 3 countries (USA, Russia, China) stand for 50% of World land transport. Global freight transport increased by about 4% in 1995.	Modal Split Sea Road Railways Pipeline Inland water Air	bio tkm 38 000 7 000 6 000 2 500 1 500 80	% 69 13 11 4.5 3 0.2
Sea	World: 38 000 billion tkm The 26000 ships (>1000 grt) involved in international sea traffic transport more than 1 billion tkm each (8000 ships or 30% of the fleet is EU-controlled). Traffic to and from EU-ports is over 10 000 billion tkm (30% of world traffic). 9000 million tons of goods are loaded/ unloaded in ports. Due to declining oil transports (oil represents 45% of tkm, another 30% is iron ore, coal and grain) sea transport stagnated in the 80s. In the 90s sea transport increased by 3.5 % per year.	Major Markets EU 15 USA Japan Korea Australia Singapore	mio tons loaded/unloaded 2500 1000 900 350 350 300	% 28 11 10 4 4 3
Road	World: 7 000 billion tkm World road traffic is growing by about 4-5% per year , it has in early nineties overtaken rail transport and is now the second biggest mode in freight transport (figures for road transport, however, tend to be unprecise).	Major Markets USA EU 15 China Brazil Japan	bio tkm 1350 1100 450 350 290	% 19 16 6 5 4
Railways	World: 6 000 billion tkm 3 countries (USA, China, Russia) represent 3/4 of world rail freight traffic. World rail traffic decreased in the period 1989-1994 by about 1/6 (due to the decline of industrial production in Eastern Europe and the former USSR where rail transport decreased by more than 50%). In 1995 world rail traffic increased by more than 4% (it grew strongly in the US and China and stagnated in Europe).	Major Markets USA China Russia Canada India EU 15 Ukraine	bio tkm 1900 1300 1200 250 250 220 200	% 32 22 20 4 4 3.7 3.5
Pipeline (oil)	World: 2 500 billion tkm More than 60% of worldwide oil pipeline traffic takes place in 2 countries (USA and Russia). World pipeline traffic is growing by less than 2 % per year (transport by natural gas pipelines which is growing more quickly is not included in transport statistics).	Major Markets USA Russia EU 15	bio tkm 880 700 90	% 35 28 3.6
Inland Waterways	World: 1 500 billion tkm More than 60% of worldwide inland navigation traffic takes place in 2 countries (USA and China). Inland water traffic is growing strongly in China (boom in construction sector), in most other regions it is growing only slowly.	Major Markets USA China EU 15 Canada Brazil Russia	bio tkm 530 410 120 100 80 80	% 35 27 8 7 5 5
Air	World: 80 billion tkm Air traffic is still small if measured in tkm. By value of goods transported air traffic however has a much bigger market share. Air transport already represents 20% of trade between EU and Third Countries. The biggest air transport market is Asia/Pacific (Asian carriers: 34% of World market) followed by Europe (30%) and North America (26%). Air freight transport is increasing by 8-10% per year.	Major Markets (Carriers) EU 15 USA Japan Korea Singapore	bio tkm 22 19 6.3 4.3 3.7	% 27 23 8 5 4

sources: sea: Fearnleys, ISL; rail: UIC , UN; road: IRF, UN; inland waterways and pipelines : national statistics, *estimates*

Freight Transport

Results for European freight transport performance and modal split depend on the number of modes considered.

Sea transport is often not included because data on ton-km by sea are not available on a European level. Data on transport performance of intra-European sea transport in the table were estimated by using country to country sea transport matrices (to avoid double-counting only goods loaded were considered in intra-EU sea traffic). The estimates for the traffic between EU and non-EU ports (extra-EU sea traffic) were not included in the EU total. Data for the distance classes and the groups of goods transported were available only for 3 inland modes (road, rail and inland waterways) and for EU 12 (1992). In general data in the table relate to EU 15 and 1995. Transport distances are much greater in freight transport than in passenger transport. Whereas passenger transport is still mainly local, global structures have emerged in freight transport with international sea transport dominating in terms of transport performance. (sources: Eurostat, national statistics, UIC)

Tons transported	13 000 million tons per year 14 500 million tons if sea transport between EU and non-EU ports included	<u>million t</u> road rail inland water pipeline air sea intra-EU sea extra-EU	10 700 900 500 500 10 500 1500	% 81 7 4 4 0,1 4
Performance (tkm)	1950 billion ton-km Sea traffic between EU and non-EU ports is in tkm, however, more than 5 times as big as all intra-EU freight traffic	<u>billion tkm</u> road rail inland water pipeline air sea intra-EU sea extra-EU	1 100 220 120 90 20 400 10 000	% 58 11 6 4 1 20
National/ International	of tons: 90 % national, 10 % internat. in international traffic tons partially double-counted of ton-km: 65% national, 35% internat. share depends strongly on size of a country, in small central countries internat. transport > 50% of tkm	<u>% international</u> road rail inland water pipeline sea intra-EU sea total	tons 4 15 50 50 55 90	tkm 20 45 70 50 70 99
Distance	average distance of a ton transported is 150 km average distance increases by ca. 1% per year (*Rail: 320 km if tonnes in international transport not counted twice)	<u>∅ distance, km</u> road rail* inland water pipeline sea intra-EU sea extra-EU	100 250 240 170 800 >7 000	
	distance classes in national transport (road, rail, inland water): transport >150 km represents more than 2/3 of tkm	<u>% (3 modes) nat. transport</u> 0-49 km 50-149 km 150-499 km 500- km	tons 60 22 15 3	tkm 10 20 45 25
Groups of goods	% of goods transported (tkm) Agricultural products Coal, other solid mineral fuels Petroleum and petroleum products Iron ore, steel, other metal products Cement, building materials Chemicals, fertilizers Machinery, manufactured articles	<u>3 modes</u> road rail in. water	25 29 1 5 8 19 9 29	13 13 12 8 20 11 11 25 3

sources: Eurostat, national statistics, UIC.

Passenger Mobility in Europe

European transport statistics focused in the past on freight transport. Passenger transport data are, however, getting more important, passenger transport represents 90% of vehicle movements on the road and 50% of transport CO₂-emissions.

The number of trips and the travel time are relatively stable over time, however, the modal split is changing and the increasing length of trips is causing traffic growth. Passenger transport growth rates nevertheless are decreasing (1970-80: +3.5%, 1980-90: + 3,1%, 1990-95 + 2.1%) partly caused by declining motorisation growth rates as private car stock is approaching saturation in some Member States.

The figures in the factsheet relate to 1995.

Number of Trips	<i>per person:</i> 3 trips per day more than 1000 trips per year	<i>in EU 15:</i> more than 1000 million trips per day ca. 400 000 million trips per year	
Length of trips	<i>distance:</i> 50% of trips £ 3 km (private car trips: 50% £ 5 km)	- more than 75% of trips are under 10 km - less than 1% of trips are above 100 km (they represent however ca. 20% of passenger-km)	
	<i>person-km:</i> ca. 36 km per day and person (ca. 12 km per trip) ca. 13 000 km per year, in EU 15 ca. 5000 billion per year		
Travel time	<i>per person:</i> ca.1 hour per day, ca. 20 min per trip		
Modal Split	Air Railways Bus/Tram/Metro Bicycle Walking Private Car	<i>% pkm</i> 5% 5% 10% 1.5 3% 75%	<i>% trips*</i> 0,1% 1% 10% 5% 30-35% 50%
	Private 80%, Public 20%; Road 90%, other 10%	* Based on ca. 1100 trips per year average mobility per person and year is ca.1 trip by air, 12 trips by railway, 550 by car	
Travel Purpose	<i>% of trips:</i> 10% Business (trips during work) 20% Shopping (however, of pkm: only 10%) 30% Work and Education 40% Leisure (incl. holiday)		

Source: For motorised transport performance: Eurostat, UIC, ECMT, ICAO, AEA, for non-motorised transport: ECF, for travel time and trip length: estimates based on national travel survey results for UK, D, CH, NL