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REPORT

from: Council General Secretariat
to: Delegations

12179/07 TRANS 254 CODEC 847
No Cion prop. 10092/2/07 REV 2 TRANS 189 CODEC 599

Subject: Proposal for a Regulation of the European Parliament and of the Council
on common rules for access to the international road haulage market
(recast)

Delegations will find in Annex the text of the draft Regulation as it stands following the Land Transport Working Party meetings of 13 and 18 September 2007.

In comparison to doc.12179/07 and W.Doc 2007/50 Annex II new text is in **bold**, deleted text is indicated by [...] and new footnotes are underlined.

General Scrutiny Reservation: All Delegations

Parliamentary Reservation: IE, MT, UK

Ⓔ 881/92

new

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

~~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~~

Ⓔ 3118/93

~~laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State~~

new

~~on common rules for access to the international road haulage market~~

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article ~~75~~
71 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

new

- (1) A number of substantial changes are to be made to Council Regulation (EEC) No 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 States⁵, to Council Regulation (EEC) No 3118/93 of 25 October 1993 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State⁶, and to Directive 2006/94/EC of the European Parliament and of the Council of 12 December 2006 on the establishment of common rules for certain types of carriage of goods by road⁷. In the interests of clarity and simplification, those legal acts should be recast and incorporated into one single regulation.

Ⓔ 881/92 Recital 1 (adapted)

- (2) The establishment of a common transport policy involves, inter alia, laying down common rules applicable to access to the market in the international carriage of goods by road within the territory of the Community, as well as laying down the conditions under which non-resident hauliers may operate transport services within a Member State. Those rules must be laid down in such a way as to contribute to the ~~attainment~~ smooth operation of the internal transport market.

⁵ OJ L 95, 9.4.1992, p. 1. Regulation as last amended by Regulation (EC) No 484/2002 of the European Parliament and of the Council, OJ L 76, 19.3.2002, p. 1.

⁶ OJ L 279, 12.11.1993, p. 1. Regulation as last amended by Regulation (EC) No 484/2002.

⁷ OJ L 374, 27.12.2006, p. 5.

☒ 3118/93 Recital 1 (adapted)

~~Pursuant to Article 75 (1) (b) of the Treaty, the establishment of a common transport policy entails, inter alia, laying down the conditions under which non-resident carriers may operate transport services within a Member State.~~

☒ 881/92 Recital 2

- (3) These uniform arrangements for market access also involve introducing the freedom to provide services by 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 that in which the service is to be provided.
-

new

- (4) To assure a coherent framework for international road haulage throughout the Community this Regulation should apply to all international carriage on Community territory. Carriage from Member States to third countries is still largely covered by bi-lateral agreements between the Member States and those third countries. Therefore, this Regulation should not apply to that part of the journey within the territory of the Member State of loading or unloading as long as the necessary agreements between the Community and the third countries concerned have not been concluded. It should, however, apply to the territory of a Member State crossed in transit.

Ⓔ 881/92 Recital 3 (adapted)

~~As regards carriage from a Member State to a non-member country and vice versa, implementation of the freedom to provide services for the journey within the territory of the Member State of loading or unloading should be deferred until appropriate agreements with the non-member countries concerned have been concluded or amended, in order to guarantee compliance with the principle of non-discrimination and equality of conditions of competition between Community carriers.~~

Ⓔ 881/92 Recital 4 (adapted)

~~Whereas, following the Judgment of the Court of Justice of 22 May 1985 in Case 13/83 and the conclusions adopted on 28 and 29 June 1985 by the European Council on the Commission communication on the completion of the internal market, on 21 June 1988 the Council adopted Regulation (EEC) No 1841/88 amending Regulation (EEC) No 3164/76 on access to the market in the international carriage of goods by road⁸;~~

⁸ ~~OJ No L 357, 29. 12. 1976, p. 1. Regulation last amended by Regulation (EEC) No 3914/90 (OJ No L 375, 31. 12. 1990, p. 7).~~

Ⓔ 881/92 Recital 5 (adapted)

~~Whereas under Article 4a of Regulation (EEC) No 3164/76 inserted by Regulation (EEC) No 1841/88 from 1 January 1993, Community quotas, bilateral quotas between Member States and quotas for transit traffic to and from non-member countries will be abolished for the types of carriage referred to in that Article, and arrangements for access to a market without quantitative restrictions based on qualitative criteria which hauliers must meet will be introduced;~~

Ⓔ 881/92 Recital 6 (adapted)

~~Whereas these qualitative criteria are laid down principally in Council Directive 74/561/EEC of 12 November 1974 on admission to the occupation of road haulage operator in national and international transport operations, as last amended by Council Directive 89/483/EEC of 21 June 1989⁹;~~

Ⓔ 881/92 Recital 7 (adapted)

~~Whereas pursuant to Article 4b of Regulation (EEC) No 3164/76, as inserted by Regulation (EEC) No 1841/88, the Council must adopt the measures necessary for the implementation of the aforementioned Article 4a;~~

⁹ ~~OJ No L 308, 19. 11. 1974, p. 1. Directive last amended by Regulation (EEC) No 3572/90 (OJ No L 353, 17. 12. 1990, p. 12).~~

Ⓔ 3118/93 Recital 2 (adapted)

~~Whereas this provision implies the removal of all restrictions against the person providing the services in question on the grounds of his nationality or the fact that he is established in a different Member State from the one in which the service is to be provided;~~

Ⓔ 3118/93 Recital 3 (adapted)

~~Whereas, in order for this provision to be implemented smoothly and flexibly, provision should be made for a transitional cabotage system prior to the implementation of the definitive system;~~

Ⓔ 3118/93 Recital 2 (adapted)

Council

- (4a) [...] The establishment of a common transport policy implies the removal of all restrictions against the person providing the services in question on the grounds of his nationality or the fact that he is established in a different Member State from the one in which the service is to be provided;

Ⓒ 3118/93 Recital 3 (adapted)
Council

- (4b) [...] In order for this [...] to be [...] achieved smoothly and flexibly, provision should be made for a transitional cabotage [...] regime as long as full harmonisation of the road transport market has not yet been completed . prior to the implementation of the definitive system;

Ⓒ 881/92 Recital 9 (adapted); 2006/94
Recital 4 (adapted)

- (5) ~~At present, u~~Under the First Council Directive of 23 July 1962
Directive 2006/94/EC ~~on the establishment of common rules for certain types of~~
~~carriage of goods by road between Member States~~, a certain number of types of carriage
are exempt from ~~any~~ Community authorisation and from any other carriage
authorisation . ~~in~~ Within the framework of the ~~new~~ organisation of the
market ~~introduced~~ provided for by this Regulation, a system of exemption from
the Community ~~authorization~~ licence and from any other carriage
authorisation must be maintained for some of those types of transport, because of their
special nature.

new

- (6) Under Directive 2006/94/EC, the carriage of goods using vehicles with a maximum mass of between 3,5 tonnes and 6 tonnes was exempt from the requirement of a Community licence. Community rules in the field of road transport of goods and passengers, however, apply in general to vehicles with a maximum mass of 3,5 tonnes or more. Thus the provisions of this Regulation should be aligned to the general scope of application of Community road transport rules and only provide for an exemption for vehicles with a maximum mass of below 3,5 tonnes.

Ⓔ 881/92 Recital 8 (adapted)

new

- (7) ~~With regard to the rules for applying the access arrangements~~ The international carriage of goods by road must be made conditional on the possession of a quota-free Community ~~transport authorization~~ licence . Hauliers should be required to carry a certified true copy of the Community licence aboard each of their vehicles in order to facilitate effective controls by enforcement bodies, especially those outside the Member State in which the haulier is established. To this end it is necessary to lay down more detailed specifications as regards the layout and other features of the Community licence and the certified copies.

☐ 881/92 Recital 10 (adapted)

- (8) The conditions governing the issue and withdrawal of ~~authorizations~~ Community licences and the types of carriage to which they apply, their periods of validity and the detailed rules for their use ~~must~~ should be determined.

☐ new

- (9) A driver attestation should also be established, in order to allow Member States to check effectively whether drivers from third countries are lawfully employed or at the disposal of the haulier responsible for a given transport operation.

☐ 3118/93 Recital 4 (adapted)

☐ new

- (10) ~~Only carriers~~ Hauliers who are holders of Community ~~authorizations~~ licences provided for in ~~Council this Regulation (EEC) No 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 through the territory of one or more Member States~~¹⁰ and hauliers authorised to operate certain categories of international haulage services ~~may~~ should be permitted to carry out national transport services within a Member State, without having a registered office or other establishment therein ~~(cabotage)~~.

¹⁰ ~~OJ No L 95, 9. 4. 1992, p. 1.~~

☒ 3118/93 Recital 5 (adapted)

~~Whereas such a transitional system should entail the introduction of a progressive quota of Community cabotage authorizations;~~

☒ 3118/93 Recital 6 (adapted)

~~Whereas the conditions for the issue and use of the said cabotage authorizations should be determined;~~

☒ 3118/93 Recital 7 (adapted)

~~Whereas the provisions of the host Member State applicable to cabotage operations should be fixed;~~

☒ 3118/93 Recital 8 (adapted)

~~Whereas provisions should be adopted so that action can be taken in the event of serious disturbance of the transport markets affected; whereas for that purpose it is necessary to introduce a suitable decision-making procedure and for the required statistical data to be collected;~~

new

(11) In the past, such national transport services were authorised on a temporary basis. In practice, it has been difficult to ascertain which services are authorised. Clear and easily enforceable rules are thus needed.

new

(12) The provisions of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services¹¹ apply in cases where, for the provision of cabotage operations, hauliers post workers, who have an employment relationship with those hauliers, from the Member State where they ordinarily work.

Ⓔ 2006/94 Recital 1 (adapted)

~~The First Council Directive of 23 July 1962 on the establishment of certain common rules for international transport (carriage of goods by road for hire or reward) has been substantially amended several times. In the interests of clarity and rationality the said Directive should be codified.~~

Ⓔ 2006/94 Recital 2 (adapted)

~~A common transport policy involves inter alia laying down common rules for the international carriage of goods by road to or from the territory of a Member State or passing across the territory of one or more Member States. Those rules must be laid down in such a way as to contribute to the smooth operation of the internal transport market.~~

¹¹ OJ L 18, 21.1.1997, p. 1.

Ⓔ 2006/94 Recital 3 (adapted)

~~It is necessary to ensure a progressive expansion of the international carriage of goods by road, bearing in mind developments in trade and movement of goods within the Community.~~

Ⓔ 2006/94 Recital 4 (adapted)

~~A certain number of types of carriage were exempt from any quota and carriage authorisation system. Within the framework of the organisation of the market introduced by Council Regulation (EEC) No 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, a system of exemption from Community authorisation and from any other carriage authorisation should be maintained for some of those types of transport, because of their special nature.~~

Ⓔ 2006/94 Recital 5 (adapted)

~~This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex II, Part B,~~

- (13) It is desirable that Member States should grant each other mutual assistance with a view to the sound application ~~on the system introduced~~ of this Regulation ~~is~~; ~~particularly in respect of penalties applicable in the event of infringements. Penalties should be non-discriminatory and in proportion to the seriousness of the infringements. There is a need to provide for the possibility of lodging an appeal.~~
-

new

Council

- (14) Administrative formalities should be reduced as far as possible without abandoning the controls and [...] penalties that guarantee the correct application and effective enforcement of this Regulation. To this end the existing rules on the withdrawal of the Community licence should be clarified and strengthened. The current rules should be adapted to allow the effective sanctioning of serious or repeated minor infringements committed in a Member State other than the Member State of establishment. [...] Penalties should be non-discriminatory and in proportion to the seriousness of the infringements. It should be possible to lodge an appeal in respect of any [...] penalties imposed.
- (15) Member States should enter in their national register of road transport undertakings all serious infringements and repeated minor infringements committed by hauliers and which have led to the imposition of a [...] penalty .

- (16) In order to strengthen and facilitate the exchange of information between national authorities Member States should exchange the relevant information through the national contact points set up pursuant to Regulation (EC) No XX of the European Parliament and of the Council of [date] *[establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator]*¹².
- (17) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹³.
- (18) In particular power should be conferred on the Commission to adapt Annexes I and II to technical progress. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (19) On grounds of efficiency, the normal time-limits for the regulatory procedure with scrutiny should be curtailed for the adoption of those measures.
- (20) Member States should take the necessary measures to implement this Regulation, in particular as regards effective, proportionate and dissuasive [...] penalties .

¹² OJ [...] [...], [...], p. [...].

¹³ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

(21) Since the objectives of the action to be taken cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and the effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this regulation does not go beyond what is necessary in order to achieve those objectives,

☒ 881/92 (adapted)

HAVE ADOPTED THIS REGULATION:

Chapter I: General provisions

Article 1

Scope

Ⓔ 881/92 (adapted)

new

1. This Regulation shall apply to the international carriage of goods by road for hire or reward for journeys carried out within the territory of the Community.¹⁴
2. In the event of carriage from a Member State to a ~~non-member~~ third country and vice versa, this Regulation shall apply to **the part of the journey on the territory of any Member State crossed in transit.** It shall not apply to that part of any journey carried out within the territory of the Member State of loading or unloading, ~~after conclusion of~~ as long as the necessary agreement between the Community and the ~~non-member~~ third country concerned has not been concluded.
3. Pending the conclusion of the agreements referred to in paragraph 2 between the Community and the ~~non-member~~ third countries concerned, this Regulation shall not affect:

¹⁴ NL suggested to specify the scope and to insert "in whole and in part".

- (a) provisions relating to the carriage referred to in paragraph 2 from a Member State to a third country and vice versa included in bilateral agreements concluded by Member States with those ~~non-member~~ third countries; ~~However, Member States shall endeavour to adapt those agreements to ensure compliance with the principle of non-discrimination between Community hauliers.~~
- (b) provisions relating to the carriage referred to in paragraph 2 from a Member State to a third country and vice versa included in bilateral agreements concluded between Member States which, either under bilateral authorisations or under liberalisation arrangements, allow loading and unloading in a Member State by hauliers not established in that Member State.

However, Member States shall ~~endeavour to~~¹⁵ adapt ~~those agreements~~ the agreements referred to in point (a) of the first subparagraph to ensure compliance with the principle of non-discrimination between Community hauliers.

new

4. This Regulation shall apply to national carriage of goods by road undertaken on a temporary basis by a non-resident haulier as provided for in Chapter III.

¹⁵ NL, supported by DE and FI, objected to the deletion of this term.

© 2006/94 (adapted)

new

~~Article 1~~

~~1. Under the conditions laid down in paragraph 2, Member States shall liberalise the types of international carriage of goods by road for hire or reward and on own account listed in Annex I where such carriage is performed to or from or in transit through their territory.~~

~~25. This Regulation shall not apply to The types of carriage and unladen journeys made in conjunction with the following types of carriage and unladen journeys made in conjunction with such carriage listed in Annex I shall be exempted from Community authorisation and from any carriage authorisation.~~

© 2006/94 (adapted)

new

~~ANNEX I~~

~~Types of carriage to be exempted from any Community authorisation and from any carriage authorisation~~

~~1(a)~~ carriage of mail as a public service;

~~2(b)~~ carriage of vehicles which have suffered damage or breakdown;

~~3.~~(c) carriage of goods in motor vehicles the permissible laden weight of which, including that of trailers, does not exceed ~~six~~ 3,5 ¹⁶ tonnes ~~or the permissible payload of which, including that of trailers, does not exceed 3,5 tonnes;~~

~~4.~~(d) ~~Carriage of goods in motor vehicles provided the following conditions are fulfilled:~~

~~(a)~~(i) the goods carried must be the property of the undertaking or must have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking;

~~(b)~~(ii) the purpose of the journey must be to carry the goods to or from the undertaking or to move them, either inside the undertaking or outside for its own requirements;

~~(c)~~(iii) motor vehicles used for such carriage must be driven by employees of the undertaking;

~~(d)~~(iv) the vehicles carrying the goods must be owned by the undertaking or have been bought by it on deferred terms or hired provided that in the latter case they meet the conditions of Directive 2006/1/EC of the European Parliament and of the Council ~~of 18 January 2006 on the use of vehicles hired without drivers for the carriage of goods by road~~¹⁷.

~~This provision shall not apply to the use of a replacement vehicle during a short breakdown of the vehicle normally used;~~

~~(e)~~(v) such carriage must be no more than ancillary to the overall activities of the undertaking.

~~5.~~(e) carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters.

¹⁶ Scrutiny reservation: MT and UK

¹⁷ OJ L 33, 4.2.2006, p. 82.

Point (d)(iv) of the first subparagraph ~~This provision~~ shall not apply to the use of a replacement vehicle during a short breakdown of the vehicle normally used.

Ⓔ 2006/94 (adapted)

~~Article 2~~

6. ~~This Directive~~ The provisions in paragraph 5 shall not affect the conditions under which any Member State authorises its own nationals to engage in the activities mentioned in ~~this Directive~~ that paragraph .

Ⓔ 2006/94 Art. 3 (adapted)

~~Article 3~~

~~The First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road is hereby repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex II, Part B.~~

~~References made to the repealed Directive shall be construed as being made to this Directive and should be read in accordance with the correlation table in Annex III.~~

Article 2
Definitions

For the purposes of this Regulation:

(1) '~~vehicle shall mean~~ means a motor vehicle registered in a Member State or a coupled combination of vehicles the motor vehicle of which at least is registered in a Member State and which are used exclusively¹⁸ for the carriage of goods¹⁹;

(2)²⁰ '~~international carriage shall mean~~ means :

- (a) a laden journey undertaken by a vehicle the point of departure and the point of arrival of which are in two different Member States, with or without transit through one or more Member States or ~~non-member~~ third countries;
- (b) a laden journey undertaken by a vehicle from a Member State to a ~~non-member~~ third country or vice versa, with or without transit through one or more Member States or ~~non-member~~ third countries;
- (c) a laden journey undertaken by a vehicle between ~~non-member~~ third countries, with transit through the territory of one or more Member States;
- (d) an unladen journey in conjunction with ~~such~~ the carriage referred to in (a), (b) and (c) ;

¹⁸ IE requested to replace "exclusively" with "primarily".

¹⁹ IE requested a definition of the term "goods".

²⁰ UK requested to define the terms "load" and "laden journey".

new

(3) 'host Member State' means a Member State in which a haulier operates other than the Member State where the haulier is established;

(4) 'non-resident haulier' means a road haulage undertaking which operates in a host Member State;

CE 484/2002 Art. 1(1) (adapted)

new

(5) 'driver' ~~shall mean~~ means ~~the~~ any person who drives ~~a~~ the vehicle even for a short period, or who is carried in ~~that~~ a vehicle as part of his duties ~~in order~~ to be available for driving if necessary;

new

Council

(6) 'cabotage operations' means national carriage for hire or reward carried out on a temporary basis in a host Member State;

(7) 'serious infringement [...] of Community road transport legislation' means infringements which may²¹ lead to the loss of good repute in accordance with Article 6(1) and (2) of Regulation (EC) No [...] [establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator].²²

²¹ Scrutiny reservation on the insertion of "may": UK

²² DE requested to limit this definition to serious infringements.

☒ 881/92 (adapted)

Chapter II: International carriage

Article 3

Principle

☒ 484/2002 Art. 1(2)(a) (adapted)

~~1.~~ International carriage shall be carried out subject to a Community authorisation licence and, if the driver is a national of a third country, in conjunction with a driver attestation ~~if the driver is a national of a non-member country.~~

☒ 881/92 (adapted)

Article 4

Community licence

~~1. The Community authorization referred to in Article 3 shall replace the document issued by the competent authorities of the Member State of establishment, where such a document exists, certifying that the haulier has been granted access to the market in the international carriage of goods by road.~~

~~For carriage falling within the scope of this Regulation it shall also replace both the Community authorizations and the bilateral authorizations exchanged between Member States which are necessary until this Regulation comes into force.~~

☉ 881/92 Article 3(2) (adapted)
Council

21. The Community ~~authorization~~ licence shall be issued by a Member State, in accordance with ~~Article 5 and 7~~ this Regulation, to any haulier carrying goods by road for hire or reward who:

- (a) is established in [...] **that** Member State, ~~hereinafter referred to as the «Member State of establishment»~~ in accordance with the Community legislation and the national legislation of that Member State;²³
- (b) is entitled in ~~that~~ the Member State of establishment, in accordance with the Community legislation ~~of the Community~~ and the national legislation of that Member State concerning admission to the occupation of road haulage operator to carry out the international carriage of goods by road.

☉ 484/2002 Art. 1(3) (adapted)

~~2. The driver attestation referred to in Article 3 shall certify that in the context of transport by road covered by Community authorization, a driver who is a national of a non-member country carrying out such transport is employed in the haulier's Member State of establishment in accordance with the laws, regulations or administrative provisions and, as appropriate, the collective agreements, in accordance with the rules applicable in that Member State, on the conditions of employment and of vocational training of drivers to carry out road transport operations in that State.~~

²³ LU remarked that a haulier should not be allowed to acquire more than one licence throughout the Community.

Article 5

~~21.~~ The Community ~~authorization~~ licence referred to in ~~Article 3~~ shall be issued by the competent authorities of the Member State of establishment for a renewable²⁴ period of ²⁵five years . Community licences²⁶ and certified copies issued before the date of application of this Regulation shall remain valid until the date of their expiry. ²⁷

~~32.~~ The ~~Member States~~ Member State of establishment shall issue the holder with the original of the Community ~~authorization~~ licence , which shall be kept by the haulage undertaking, and the number of certified true copies corresponding to the number of vehicles at the disposal of the holder of the Community ~~authorization~~ licence , whether wholly owned or, for example, under hire purchase, hire or leasing contracts.

~~43.~~ The Community ~~authorization~~ licence and the certified true copies shall correspond to the model set out in ~~of~~ Annex I, which also lays down the conditions governing its use.

The Commission shall adapt Annex I to technical progress. Since these measures are designed to amend non-essential elements of this Regulation, they shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).

²⁴ IE requested the deletion of this term.

²⁵ IE requested the insertion of "up to".

²⁶ IE suggested to replace the term "licence" with "authorisation".

²⁷ BE and LU proposed to harmonise the provision concerning the periods of validity of certified copies.

new

5. The Community licence and the certified true copies shall bear an engraved stamp or seal of the issuing authority as well as an original signature and a serial number.²⁸ The serial numbers of the Community licence and the certified true copies shall be recorded in the national electronic register²⁹ of road transport undertakings provided for in Article 15 of Regulation (EC) No xx/xxxx [*establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator*] as part of the data set of the haulier.

Ⓔ 881/92 (adapted)

new

64. The Community ~~authorization~~ licence shall be made out in the haulier's name. The haulier ~~he may~~ shall not transfer it to any third party. A certified true copy of the Community licence shall be kept in each of the haulier's vehicle and must be produced whenever required by an authorised inspecting officer.

²⁸ BE, DE, FR, IE, PT and SK suggested the introduction of more elaborated document security measures.

²⁹ Scrutiny reservation: DE, IE, IT, LU, NL, PT and UK.

☒ 881/92 Annex I, second page,
seventh paragraph, second and third
sentences (adapted)

In the case of a coupled combination of vehicles ~~it~~ the certified true copy ~~must~~ shall accompany the motor vehicle. It ~~covers~~ shall cover the coupled combination of vehicles even if the trailer or semi-trailer is not registered or authorised to use the roads in the name of the ~~authorization~~ licence holder or if it is registered or authorised to use the roads in another Member State.

☒ 484/2002 Art. 1(4) (adapted)

~~5. A Community authorisation shall be issued for a renewable period of five years.~~

☒ 484/2002 Art. 1(2)(b) and Art. 1(5)
(adapted)
new

Article ~~64~~ 65

Driver attestation

~~12.~~ A driver attestation shall be issued by a Member State, in accordance with this Article ~~6~~ 6, to any haulier who:

(a) is the holder of a Community ~~authorization,~~ licence;

(b) in that Member State lawfully employs drivers who are nationals of ~~non-member~~ third countries or lawfully uses drivers who are nationals of ~~non-member~~ third countries put at his disposal in accordance with the conditions of employment and of vocational training laid down in that same Member State:

(i) by laws, regulations or administrative provisions, and, as appropriate,;

(ii) by collective agreements, in accordance with the rules applicable in that Member State.

2. ~~A~~ The driver attestation shall be issued by the competent authorities of the Member State of establishment of the haulier at the request of the holder of the Community ~~authorization~~ licence for each driver who is a national of a ~~non-member~~ third country whom he lawfully employs or who is lawfully put at his disposal ~~in accordance with the laws, regulations or administrative provisions and, as appropriate, the collective agreements, in accordance with the rules applicable in that Member State, on the conditions of employment and of vocational training of drivers applicable in that same Member State.~~ Each driver attestation shall certify that the driver named therein is employed in accordance with the conditions laid down in ~~Article 4~~ paragraph 1 .

3. The driver attestation shall conform to the model set out in Annex IIII, ~~which also lays down the conditions governing its use.~~

4. The Commission shall adapt Annex II to technical progress. Since these measures are designed to amend non-essential elements of this Regulation, they shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).

5. ³⁰The driver attestation shall bear an engraved stamp or seal of the issuing authority as well as an original signature and a serial number. The serial number³¹ of the driver attestation shall be recorded in the national electronic register of road transport undertakings provided for in Article 15 of Regulation (EC) No xx/xxxx [*establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator*] as part of the data set of the haulier who puts it at the disposal of the driver designated therein.

~~Member States shall take all steps necessary to prevent the forgery of driver attestations. They shall inform the Commission thereof.~~

~~46.~~ The driver attestation shall belong to the haulier, who puts it at the disposal of the driver designated therein when that driver drives a vehicle using a Community ~~authorization~~ licence issued to that haulier. A certified true copy of the driver attestation issued by the competent authorities of the Member State of establishment of the haulier shall be kept at the haulier's premises. The driver attestation shall be produced whenever required by an authorised inspecting officer.

³⁰ Scrutiny reservation: AT, DK, LU, NL, BE and SK reiterated their concerns about document security. DK, ES, FR, LU and NL raised concerns about the issue of access to the data stored in the national register.

³¹ AT and DE are against the recording of the serial number in the national electronic register.

~~57~~. A driver attestation shall be issued for a period to be determined by the issuing Member State, subject to a maximum validity of five years. Driver attestations issued before the date of application of this Regulation shall remain valid until the date of their expiry.

The driver attestation shall be valid only as long as the conditions under which it was issued are satisfied. Member States shall take appropriate measures to ensure that if those conditions are no longer met the haulier returns the attestation immediately to the issuing authorities.

Ⓔ 881/92 Art. 7 (adapted) Ⓔ 1 484/2002 Art. 1(6)

Article ~~76~~

Verification of conditions

Ⓔ 1 1. Whenever an application for a Community ~~authorization~~ licence is lodged, not more than five years after issue and subsequently at least every five years, the competent authorities of the Member State of establishment shall verify whether the haulier satisfies or still satisfies the conditions laid down in Article ~~3(2)~~ 4(1).

Ⓔ 484/2002 Art. 1(6)

2. The competent authorities of the Member State of establishment shall regularly verify, by carrying out checks each year, covering at least 20% of the valid attestations issued in that Member State, whether the conditions referred to in Article ~~3(3)~~ 5(1) under which a driver attestation has been issued are still satisfied.

Article ~~8~~7

Refusal to issue and withdrawal of Community licence and driver attestation

1. If the conditions laid down in Article ~~3(2)~~ 4(1) or those referred to in Article ~~3(3)~~ 5(1) are not satisfied, the competent authorities of the Member State of establishment shall reject an application for the issue or renewal of a Community ~~authorization~~ licence or of a driver attestation, by means of a decision which states the reasons therefor.
2. The competent authorities shall withdraw a Community ~~authorization~~ licence or a driver attestation where the holder:
- (a) no longer satisfies the conditions laid down in Article ~~3(2)~~ 4(1) or those referred to in Article ~~3(3)~~ 5(1), or
 - (b) has supplied incorrect information in relation to ~~the data required for the issue of~~ an application for a Community ~~authorization~~ licence or for a driver attestation.

~~2. The Member States shall guarantee that the holder of a Community authorization can appeal against any decision by the competent authorities of the Member State of establishment to refuse or withdraw a driver attestation or to make the issue of driver attestations subject to additional conditions.~~

Chapter III: Cabotage

Article ~~18~~³²

Principle

1. Any ~~road haulage carrier~~ haulier for hire or reward who is a holder of ~~the~~ a Community ~~authorization~~ licence ~~provided for in Regulation (EEC) No 881/92~~ and whose driver, if he is a national of a ~~non-member~~ third country, holds a driver attestation ~~in accordance with the conditions laid down in the said Regulation~~, shall be entitled, under the conditions laid down in this ~~Regulation~~ Chapter , to ~~operate on a temporary basis national road haulage services for hire or reward in another Member State, hereinafter referred to respectively as «cabotage» and as the «host Member State», without having a registered office or other establishment therein~~ carry out cabotage operations .

³² Reservation: AT, EL, IT, SK.

The SK delegation, supported by BE, DK, EE, IE, LT, LV, NL, PL, PT and SI called for a more liberalized approach on cabotage.

new

2.³³ Hauliers referred to in paragraph 1 shall be permitted to carry out, with the same vehicle, up to three cabotage operations consecutive to an international carriage from another Member State or from a third country to the host Member State once the goods carried in the course of the incoming international carriage have been delivered. The last unloading of a load in the course of a cabotage operation before leaving the host Member State must take place within seven days from the last unloading in the host Member State in the course of the incoming international carriage.³⁴

3.³⁵ National road haulage services carried out in the host Member State by a non-resident haulier shall only be deemed in conformity with this Regulation if the haulier can produce clear evidence of the international carriage in the course of which he has arrived in the host Member State and of each consecutive cabotage operation carried out there.

Such evidence shall comprise at least³⁶ the following details for each operation:

- (a) the name, address and signature of the sender;
- (b) the name, address and signature of the ~~carrier~~ haulier;
- (c) the name and address of the consignee as well as his signature and the date of delivery once the goods have been delivered;

³³ Reservation: LU

³⁴ PT considered such a limitation as too restrictive. AT, EL, FR, IT, considered this provision as too liberal and suggested to limit it to one consecutive cabotage within three days. DE and UK underlined their support for the Commission's approach.

³⁵ BE expressed its doubts about the efficiency of the means of control stipulated in this paragraph.

Reservation: EL. This delegation objects to exercising control through CMR forms.

³⁶ NL, supported by DK, requested the deletion of this term. FR, supported by AT and UK, objected to this request.

- (d) the place and the date of taking over of the goods and the place designated for delivery;
- (e) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognised description as well as the number of packages and their special marks and numbers³⁷;
- (f) the gross weight of the goods or their quantity otherwise expressed;
- (g) the number plates of the motor vehicle and trailer.

The consignment letter or any other transport document³⁸ may be used for this purpose.

CE 3118/93 (adapted)

~~42. In addition, Any carrier haulier entitled in the Member State of establishment, in accordance with that Member State's legislation, to carry out the road haulage operations for hire or reward mentioned specified in Article 1 (5), points (a) (1), (b) (2) and (c) (3) of the Annex to the First Directive³⁹ shall be permitted, under the conditions set out in this Regulation~~

Chapter , to carry out, as the case may be, cabotage operations of the same kind or cabotage operations with vehicles in the same category.

³⁷ NL considered the last part of this provision as irrelevant and requested its deletion.

³⁸ UK considered this term as unnecessary and requested its deletion.

³⁹ ~~First Council Directive of 23 July 1962 on the establishment of certain common rules for international transport (carriage of goods by road). (OJ No 70, 6. 8. 1962, p. 2005/62). Directive as last amended by Regulation (EEC) No 881/92 (OJ No L 95, 9. 4. 1992, p. 1).~~

☒ 484/2002 Art. 2(2) (adapted)

~~If the driver is a national of a non-member country, he must hold a driver attestation in accordance with the conditions laid down in Regulation (EEC) No 881/92.~~

☒ 3118/93 (adapted)

new

~~53.~~ 63. Permission to carry out cabotage operations, within the framework of the types of carriage referred to in Article 1(5)(e) 5 of the Annex to the First Directive, shall be unrestricted.

64. Any undertaking entitled in the Member State of establishment, in accordance with that Member State's legislation, to carry out road haulage operations for own account as defined in Article 1(5)(d) shall be permitted to carry out cabotage operations on own account ~~as defined in point 4 of the Annex to the First Directive.~~

~~The Commission shall adopt the detailed rules for implementing this paragraph.~~

☒ 3118/93 (adapted)

~~Article 2~~

~~1. With a view to the progressive introduction of the definitive system defined in Article 12, cabotage operations shall be carried out from 1 January 1994 to 30 June 1998 within the framework of Community cabotage quotas, without prejudice to Article 1 (3).~~

~~Cabotage authorizations shall correspond to the model in Annex I.~~

CE 3315/94 Art. 1(1)

~~A Community cabotage quota shall consist of cabotage authorizations, each valid for two months, in accordance with the following table:~~

Year	Number of authorizations
1994	30000
1995	46296
1996	60191
1997	83206
1 January to 30 June 1998	54091

CE 3118/93

~~2. At the request of a Member State, to be submitted before 1 November of each year, one cabotage authorization may be converted into two short duration authorizations, each valid for one month.~~

~~The short duration cabotage authorizations shall correspond to the model in Annex II.~~

~~3. The quota shall be allocated amongst the Member States as follows:~~

~~€ 3315/94 Art. 1.2~~

	1995	1996	1997	1 January to 30 June 1998
Belgium	3647	4742	6223	4045
Denmark	3538	4600	6037	3925
Germany	5980	7774	10203	6632
Greece	1612	2096	2751	1789
Spain	3781	4916	6452	4194
France	4944	6428	8436	5484
Ireland	1645	2139	2808	1826
Italy	4950	6435	8445	5490
Luxembourg	1699	2209	2899	1885
Netherlands	5150	6695	8786	5711
Austria	0	0	4208	2736
Portugal	2145	2789	3661	2380
Finland	1774	2307	3029	1969
Sweden	2328	3027	3973	2583
United Kingdom	3103	4034	5295	3442

~~Article 3~~

~~1. The cabotage authorizations referred to in Article 2 shall allow the recipient to carry out the cabotage operations.~~

~~2. Cabotage authorizations shall be distributed by the Commission to the Member States of establishment and issued to carriers applying for them by the competent authority or body of the Member State of establishment.~~

~~They shall bear the distinctive sign of the Member State of establishment.~~

~~3. A cabotage authorization shall be made out in the name of the carrier. That carrier may not transfer it to a third party. Each cabotage authorization may be used by only one vehicle at a time.~~

~~«Vehicle» means a motor vehicle registered in the Member State of establishment or a coupled combination of vehicles of which at least the motor vehicle is registered in the Member State of establishment and which are used exclusively for the carriage of goods.~~

~~The non-resident carrier shall have the vehicle at his disposal either under full ownership or on another basis, inter alia, a hire purchase, hire or leasing contract.~~

~~In the case of hiring, the vehicle shall be hired by the carrier in the Member State of establishment to carry out cabotage operations. However, the non-resident carrier may, in order to complete a cabotage operation interrupted because of a breakdown or an accident, hire a vehicle in the host Member State under the same conditions as resident carriers.~~

~~The cabotage authorization and the hiring contract, if any, shall accompany the motor vehicle.~~

~~4. The cabotage authorization must be produced whenever requested by inspecting officers.~~

~~5. The date from which a cabotage authorization is valid must be entered on the authorization before it is used by the competent authority or body of the Member State of establishment.~~

~~Article 4~~

~~Transport operations effected under a cabotage authorization shall be entered in a book of record sheets and the sheets shall be returned with the authorization to the competent authority or body of the Member State of establishment which issued the authorization within eight days of the expiry of the validity of the authorization.~~

~~The book of record sheets shall correspond to the model in Annex III.~~

~~Article 5~~

~~1. At the end of each quarter and within three months, which may be reduced by the Commission to one month in the case referred to in Article 7, the competent authority or body of each Member State shall communicate to the Commission the data concerning the cabotage operations carried out during that quarter by resident carriers, such data being expressed in tonnes carried and in tonnes/kilometres.~~

~~The communication shall be effected by means of a table, the model for which is set out in Annex IV.~~

~~2. The Commission shall send the Member States as soon as possible summary statements drawn up on the basis of the data submitted under paragraph 1.~~

Article ~~69~~

Rules applicable to cabotage operations

1. The performance of cabotage ~~transport~~ operations shall be subject, save as otherwise provided in Community ~~Regulations~~ legislation, to the laws, regulations and administrative provisions in force in the host Member State in the following areas:

- (a) ~~rates and~~ conditions governing the transport contract;⁴⁰
- (b) weights and dimensions of road vehicles; ~~such weights and dimensions may, where appropriate, exceed those applicable in the carrier's Member State of establishment, but they may under no circumstances exceed the technical standards certified by the proof of compliance referred to in Article 1 (1) of Council Directive 86/364/EEC⁴¹;~~
- (c) requirements relating to the carriage of certain categories of goods, in particular dangerous goods, perishable foodstuffs, live animals;
- (d) working time ⁴², driving time and rest ~~time~~ periods ;
- (e) value added tax (VAT) on transport services. ~~In this area Article 21 (1) (a) of Directive [77/388/EEC]⁴³ shall apply to the services referred to in Article 1 of this Regulation.~~

⁴⁰ ~~AT~~ expressed concern about the deletion of "rates".

⁴¹ ~~OJ No L 221, 7. 8. 1986, p. 48.~~

⁴² ~~NL~~, supported by ~~PT~~, raised doubts about the inclusion of "working time".

⁴³ ~~Council Directive 77/388/EEC of 17 May 1977 on the harmonization for the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment (OJ No L 145, 13. 6. 1977, p. 1). Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).~~

The weights and dimensions referred to in point (b) of the first subparagraph may, where appropriate, exceed those applicable in the carrier's haulier's Member State of establishment, but they may under no circumstances exceed the limits set by the host Member State for national traffic or the technical standards certified by the proof characteristics mentioned in the proofs of compliance referred to in Article 6 (1) of Council Directive ~~86/364/EEC~~⁴⁴ 96/53/EC⁴⁵.

~~2. The technical standards of construction and equipment which vehicles used to carry out cabotage operations must meet shall be those laid down for vehicles put into circulation in international transport.~~

~~2.~~ The laws, regulations and administrative provisions referred to in paragraph 1 shall be applied to non-resident transport operators hauliers ~~on~~ under the same conditions as are imposed on that Member State's ~~those which that Member State imposes on its own~~ nationals, so as to prevent any ~~open or hidden~~ discrimination on grounds of nationality or place of establishment.

~~4. If it is established that, in the light of experience, the list of areas covered by the host Member State's laws, regulations and administrative provisions referred to in paragraph 1 needs to be adapted, the Council shall amend that list, acting by a qualified majority on a proposal from the Commission.~~

⁴⁴ ~~OJ No L 221, 7. 8. 1986, p. 48.~~

⁴⁵ OJ L 235, 17.9.1996, p. 59.

~~Article 7~~⁴⁶

~~1. In the event of serious disturbance of the national transport market in a given geographical area due to or aggravated by cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures and shall provide the Commission with the necessary information and notify it of the measures it intends to take as regards resident carriers.~~

~~2. For the purposes of paragraph 1:~~

~~'serious disturbance of the national transport market in a given geographical area' means the existence on the market of problems specific to it, such that there is a serious and potentially enduring excess of supply over demand implying a threat to the financial stability and survival of a significant number of road haulage undertakings;~~

~~'geographical area' means an area covering all or part of the territory of a Member State or extending to all or part of the territory of other Member States.~~

~~3. The Commission shall examine the situation, on the basis in particular of the latest quarterly data referred to in Article 5 and, after consulting the Advisory Committee set up by Article 5 of Regulation (EEC) No 3916/90⁴⁷, shall decide within one month of receipt of the relevant Member State's request whether or not safeguard measures are necessary and shall adopt them if they are necessary.~~

~~Such measures may involve the temporary exclusion of the area concerned from the scope of this Regulation.~~

⁴⁶ AT, FR, IT and PT objected to the deletion of this Article. BE, CZ and NL expressed its support for the Commission's approach.

⁴⁷ OJ No L 375, 31. 12. 1990, p. 10.

~~The measures introduced in accordance with this Article shall remain in force for a period not exceeding six months, renewable once within the same limits of validity.~~

~~The Commission shall without delay notify the Member States and the Council of any decision taken pursuant to this paragraph.~~

~~4. If the Commission decides to take safeguard measures concerning one or more Member States, the competent authorities of the Member States involved shall be required to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof.~~

~~These measures shall be applied at the latest as from the same date as the safeguard measures decided on by the Commission.~~

~~5. Any Member State may submit a Commission decision as referred to in paragraph 3 to the Community within 30 days of its notification.~~

~~The Council, acting by a qualified majority within 30 days of referral by a Member State or, if there are referrals by several Member States, of the first referral, may take a different decision.~~

~~The limits of validity laid down in the third subparagraph of paragraph 3 shall apply to the Council's decision.~~

~~The competent authorities of the Member States concerned shall be required to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof.~~

~~If the Council takes no decision within the period referred to in the second subparagraph, the Commission decision shall become final.~~

~~6. Where the Commission considers that the measures referred to in paragraph 3 need to be prolonged, it shall submit a proposal to the Council, which shall take a decision by qualified majority.~~

Ⓔ 881/92 Art. 11(1) (adapted)

new

Council

Chapter IV: Mutual assistance and [...] penalties

48

Article 10

Mutual assistance

~~The Member States shall give each other mutual assistance~~ assist one another in ensuring the application and monitoring of this Regulation. They shall exchange information via the national contact points established pursuant to Article 17 of Regulation (EC) No xx/xxxx [establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator].

Ⓔ 3118/93 Art. 8

~~Article 8~~

~~1. Member States shall assist one another in applying this Regulation.~~

⁴⁸ Scrutiny reservation on Chapter IV: AT, BG, DE, DK, EL, NL
Reservation on Chapter IV: ES, IT, PT

Ⓔ 484/2002 Art. 1(7) (adapted)

new

Council

Article 11⁴⁹

Sanctioning of infringements by Member State of establishment

13. In the event of a serious infringement⁵⁰ of ~~carriage regulations~~

Community road transport legislation committed or ascertained in any Member State, the competent authorities of the Member State of establishment of the haulier who has committed such infringements ~~may, inter alia, temporarily or partially withdraw the certified true copies of the Community authorisation and may withdraw driver attestations.~~ shall [...] take the appropriate action to pursue the matter which may, lead inter alia, [...] to the imposition of the following administrative [...] penalties :

(a) temporary or permanent withdrawal of some or all of the certified true copies of the Community licence;

(b) temporary or permanent withdrawal of the Community licence.

These [...] penalties shall be determined having regard to the seriousness of the infringement [...] committed by the holder of the Community ~~authorization~~ licence and having regard to the total number of certified true copies of that ~~authorization~~ licence that he holds in respect of international traffic.

⁴⁹ Scrutiny reservation: BG

Reservation: AT, EL, IE

⁵⁰ Reservation on the deletion of "repeated minor infringements": UK. This delegation indicated that the reservation will stay until the respective provisions in the "access to occupation" proposal (Article 6.2) have been examined and adapted.

24. In the event of a serious infringement~~s~~ [...] regarding any misuse whatsoever of driver attestations, the competent authorities of the Member State of establishment of the haulier who committed such infringements shall impose appropriate [...] penalties, such as:

- (a) suspension of the issue of driver attestations;
- (b) withdrawal of driver attestations;
- (c) making the issue of driver attestations subject to additional conditions in order to prevent misuse;
- (d) temporary or ~~partial~~ permanent withdrawal of some or all of the certified true copies of the Community ~~authorization~~ licence ;
- (e) temporary or permanent withdrawal of the Community licence.

These [...] penalties shall be determined having regard to the seriousness of the infringement committed by the holder of the Community ~~authorization~~ licence .

Ⓔ 881/92 (adapted)
Ⓔ¹ Corrigendum, OJ L 213, 29.7.1992,
p. 36
new
Council

3.⁵¹ In the case referred to in Article 12(1) ~~the event of a serious infringement or repeated minor infringements of carriage regulations~~, the competent authorities of the Member State of establishment ~~in which the haulier is established~~ shall on the appropriate action to pursue the matter which may lead to the imposition of a [...] penalty [...] on the haulier concerned ~~examine the ways in which the sanctions provided for in Article 8(3) and (4) are applied and~~ They shall communicate ~~their decision~~ to the competent authorities of the Member State ~~Ⓔ¹~~ in which the infringements were ascertained as soon as possible, and at the latest within [...] ⁵² months [...], after the final decision in the matter which of the [...] penalties provided for in paragraphs 1 and 2 of this Article have been imposed.

If it has not been possible to impose such [...] penalties, they shall state the reasons. ⁵³

⁵¹ IE, MT, and PT requested to leave the provisions stipulated in the grey-shaded part of this paragraph within the competence of the individual Member State.
NL considered this paragraph as superfluous and requested its deletion. This delegation also pointed out that the provisions contained in the 2nd part of this paragraph ruled out the non-imposition of a penalty.

⁵² AT, EE, FR and IT considered three months as too short, whereas CZ, ES and NL could support a period of 1 month.

⁵³ DE requested the deletion of this sentence.

Ⓒ 3118/93 Art. 8(4) (adapted)

new

~~4. The competent authority of the host Member State shall inform that of the Member State of establishment of the infringements recorded and any penalties imposed on the carrier and may, in the event of serious or repeated infringements, at the same time transmit a request that a penalty be imposed.~~

~~4. In the event of serious or repeated infringements, the competent authority of the Member State of establishment shall decide whether an appropriate penalty should be imposed on the carrier concerned; the authority~~ The competent authorities shall take into account any penalty [...] penalty imposed in the host Member State in which the infringements were ascertained and ensure that the penalties [...] penalties imposed on the carrier haulier concerned are, as a whole, proportionate to the infringement or infringements which gave rise to such penalties [...] penalties .

Ⓒ 3118/93 Art. 8(4) subparagraph 3
(adapted)

new

~~The penalty imposed by the competent authority of the Member State of establishment, after consulting the competent authorities of the host Member State, may extend to withdrawal of authorization to pursue the activity of road haulage operator.~~

☒ 3118/93 Art. 8(4) subparagraphs 4
and 5 (adapted)

5. The competent ~~authority~~ authorities of the Member State of establishment of the haulier may also, pursuant to its national law, ~~arrange~~ bring proceedings against the ~~carrier~~ haulier concerned before a competent national court or tribunal. ~~It~~ They shall inform the competent authority of the host Member State of the decisions taken to this effect ~~pursuant to the preceding paragraphs.~~

new
Council

6. Member States shall ensure that hauliers have the right to appeal against any administrative [...] penalty imposed on them pursuant to this Article.

☒ 881/92 Art. 9 (adapted)

~~The Member States shall guarantee that the applicant or the holder of a Community authorization is able to appeal against any decision by the competent authorities of the Member State of establishment to refuse or withdraw an authorization.~~

Ⓔ 881/92 Art. 9 (adapted)

~~2. The Member States shall guarantee that the holder of a Community authorisation can appeal against any decision by the competent authorities of the Member State of establishment to refuse or withdraw a driver attestation or to make the issue of driver attestations subject to additional conditions.~~

Ⓔ 881/92 (adapted)

Ⓔ 1 Corrigendum, OJ L 213, 29.7.1992,
p. 36

new

Council

Article ~~112~~⁵⁴

Sanctioning of infringements by host Member State

~~21.~~ Where the competent authorities of a Member State are aware of a serious infringement [...] of this Regulation or of Community road transport legislation attributable to a non-resident haulier ~~from another Member State~~, the Member State within the territory of [...] which the infringement is ascertained shall⁵⁵ ~~inform~~ transmit to the competent authorities of the Member State ~~in which the haulier is established~~ of establishment as soon as possible, but at the latest within [...] ⁵⁶ month [...] **after the final decision on the matter**, the following information:

⁵⁴ Scrutiny reservation: BE, BG

Reservation: AT, EL, IE

⁵⁵ NL requested to replace "shall" with "may".

⁵⁶ AT and MT considered one month as too short. AT also requested definitions for the terminology used in this paragraph.

- (a) a description of the infringement and date, time when it was committed;
- (b) the category, type and seriousness of the infringement;
- (c) the [...] penalties imposed and the [...] penalties executed.

57

~~and~~ The competent authorities of the host Member State may ~~ask~~ request the competent authorities of the Member State of establishment to impose administrative [...] penalties in accordance with ~~this Regulation~~ Article 11.

CE 3118/93 Art. 8(2) and (3) (adapted)
 new
 Council

2. Without prejudice to any criminal proceedings prosecution the competent authorities of the host Member State shall be empowered to impose penalties [...] penalties on a non-resident ~~carrier~~ haulier who has committed infringements of this Regulation or of national Community or Community national road transport legislation in their territory during a cabotage operation. They shall impose such penalties [...] penalties on a non-discriminatory basis ~~and in accordance with paragraph 3. The~~ These ~~penalties referred to in paragraph 2~~ [...] penalties may, inter alia, consist of a warning, or, in the event of a serious infringement [...], a temporary ban on cabotage transport operations within the territory of the host Member State where the infringement was committed.

⁵⁷ CZ requested to add a provision stipulating that the Member State of establishment should be supplied with evidence of the infringement and an additional Annex containing a standardized form for reporting an infringement.

new

Council

3. Member States shall ensure that hauliers have the right to appeal against any administrative [...] penalty imposed on them pursuant to this Article.

Ⓔ 3118/93 (adapted)

~~Member States shall ensure that any applicant for, or holder of, an authorization may appeal against a decision refusing or withdrawing that authorization and against any other administrative penalty taken against him by the competent authority of the Member State of establishment or of the host Member State.~~

new

Council

*Article 13*⁵⁸

Entry in national register

Member States shall ensure that serious infringements or repeated minor infringements of Community road transport legislation committed by hauliers established in their territory which have led to the imposition of a [...] penalty by any Member State as well as the [...] penalties imposed are recorded in the national register of road transport undertakings as established under Article 15 of Regulation (EC) No [...] [*establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator*]. Those entries in the register which concern a temporary or permanent withdrawal of a Community licence shall remain in the database for at least two⁵⁹ years.

⁵⁸ Scrutiny reservation: BE

Reservation: AT, IE

⁵⁹ FR requested to extend this period to four years.

Ⓔ 484/2002 Art. 1(10) (adapted)

Chapter V: Implementation

~~Article 11a~~

~~The Commission shall examine the consequences of restricting the obligation to hold a driver attestation to drivers who are nationals of non-member countries and shall, should there be sufficient justification for doing so, submit a proposal for the amendment of this Regulation.~~

Ⓔ 3118/93 (adapted)

~~Article 11~~

~~Every two years and, for the first time by 30 June 1996, the Commission shall submit a report to the Community on the application of this Regulation.~~

new

Council

Article 14

Committee

1. The Commission shall be assisted by the committee established by Article 18(1) of Council Regulation (EEC) No 3821/85⁶⁰.

2. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

⁶⁰ OJ L 370, 31.12.1985, p. 8.

The time-limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be one month.

*Article 15*⁶¹

[...] Penalties⁶²

The Member States shall lay down the rules on [...] penalties applicable to infringements of the provisions of this Regulation, and shall take all the measures necessary to ensure that they are implemented. The [...] penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by [12⁶³ months from the date on which this Regulation enters into force] at the latest and shall notify it without delay of any subsequent amendment affecting them.

The Member States shall ensure that all such measures are applied without discrimination as to the nationality or place of establishment of the haulier.

Ⓔ 881/92 Art. 10 (adapted)

new

Article ~~10~~16

Reporting

1. By 31 January each year⁶⁴ Member States shall inform the Commission of the number of hauliers possessing Community ~~authorizations~~ licences on 31 December of the previous year and of the number of certified true copies corresponding to the vehicles in circulation at that date.

⁶¹ NL expressed concern about the relation between this Article and Article 11.2.

⁶² ES, supported by AT, requested to hold an experts' meeting on this topic.

⁶³ AT, FR and MT requested a longer period, UK called for a period of 24 months.

⁶⁴ DE, supported by AT, suggested a period of two or three years.

2. Member States shall also inform the Commission of the number of driver attestations issued in the previous calendar year as well as the number of driver attestation in circulation on 31 December of that year.

Ⓔ 881/92 (adapted)

Article 12

The following shall be repealed:

~~Council Regulation (EEC) No 3164/76,~~

~~Article 4 of Council Directive 75/130/EEC of 17 February 1975 on the establishment of common rules for certain types of combined carriage of goods between Member States⁶⁵,~~

~~Council Directive 65/269/EEC of 13 May 1965 concerning the standardization of certain rules relating to authorizations for the carriage of goods by road between Member States⁶⁶,~~

~~Council Decision 80/48/EEC of 20 December 1979 on the adjustment of capacity for the carriage of goods by road for hire or reward between Member States⁶⁷.~~

⁶⁵ ~~OJ L 48, 22. 2. 1975, p. 31. Directive last amended by Directive 91/224/EEC (OJ L 103, 23. 4. 1991, p. 1).~~

⁶⁶ ~~OJ 88, 24. 5. 1965, p. 1469/65. Directive as last amended by Directive 85/505/EEC (OJ L 309, 21. 11. 1985, p. 27).~~

⁶⁷ ~~OJ L 18, 24. 1. 1980, p. 21.~~

Article 13

The First Council Directive of 23 July 1962 is hereby amended as follows:

1. the title shall be replaced by: «First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road»;
2. Article 1 shall be replaced by:

«Article 1

1. Under the conditions laid down in paragraph 2, Member States shall liberalize the types of international carriage of goods by road for hire or reward and on own account listed in the Annex where such carriage is performed to or from or in transit through their territory;
2. The types of carriage and unladen journeys made in conjunction with the carriage listed in the Annex shall be exempted from Community authorization and from any carriage authorization»;
3. Annex II shall be deleted and the text of Annex I shall be replaced by that appearing in Annex II to this Regulation.

Article 14

The Member States shall communicate to the Commission the measures they take to implement this Regulation.

Article 15

This Regulation shall enter into force on the day following of its publication in the Official Journal of the European Communities.

It shall apply from 1 January 1993.

~~Article 11~~

~~Every two years and, for the first time by 30 June 1996, the Commission shall submit a report to the Community on the application of this Regulation.~~

~~Article 12~~

~~1. This Regulation shall enter into force on 1 January 1994.~~

~~2. The Community authorization and quota system for cabotage operations provided for in Article 2 shall cease to apply on 1 July 1998.~~

~~3. From that date any non-resident carrier meeting the conditions laid down in Article 1 shall be entitled to operate, on a temporary basis and without quantitative restrictions, national road haulage services in another Member State, without having a registered office or other establishment in that State.~~

~~The Commission shall submit to the Council, where appropriate, taking account of experience acquired, of developments in the transport market and of progress made towards harmonization in the transport sector, a proposal on the detailed rules accompanying the definitive system as regards an appropriate system for observing the market in cabotage operations and the adjustment of the safeguard measures provided for in Article 7.~~

CHAPTER VI

Final provisions

Article 17

Repeals

Regulations (EEC) No 881/92 and (EEC) No 3118/93 and Directive 2006/94/EC are repealed.

References to the repealed Regulations and Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 18

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from [date of application].

Ⓔ 881/92, 3118/93

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

For the European Parliament

The President

[...]

For the Council

The President

[...]

Ⓒ 881/92 Annex I (adapted)
Ⓔ 1 Accession Act of 2003
Ⓔ 2 1791/2006 Annex pt. 6(B)(2)
Ⓔ 3 Act of Accession of Austria,
Sweden and Finland Art. 29 and Annex
I, p. 166
new

ANNEX I

EUROPEAN ~~ECONOMIC~~ COMMUNITY

(a)

(~~Blue card – DIN A4~~ Light blue, format DIN A4 synthetic paper, 150g/m² or more)

(First page of the ~~authorization~~ licence)

(Text in (one of) the official language(s) of the Member State issuing the ~~authorization~~ licence)

State issuing the ~~authorization~~ licence

Distinguishing sign⁽¹⁾

Name of the competent authority or body

CERTIFIED TRUE COPY No

for the international carriage of goods by road for hire or reward

This ~~authorization~~ licence entitles⁽²⁾

to engage in the international carriage of goods by road for hire or reward by any route, for journeys or parts of journeys effected for hire or reward within the territory of the Community, as laid down in ~~Council Regulation (EEC) No 881/92 of 26 March 1992~~ Regulation (EC) No [...] of the European Parliament and of the Council on common rules for access to the international road haulage market⁽³⁾ and subject to the general ~~provisions~~ conditions of this ~~authorization~~ licence .

Particular remarks:

This ~~authorization~~ licence shall be valid fromto

Issued in, on

(4)

- (1) The distinguishing signs of the Member States are: (B) Belgium, \mathbb{L}_2 (BG) Bulgaria, \mathbb{L}_1 (CZ) Czech Republic, (DK) Denmark, (D) Germany, \mathbb{L}_1 (EST) Estonia, (IRL) Ireland, (GR) Greece, (E) Spain, (F) France, (I) Italy, \mathbb{L}_1 (CY) Cyprus, (LV) Latvia, (LT) Lithuania, (L) Luxembourg, \mathbb{L}_1 (H) Hungary, (MT) Malta, (NL) Netherlands, \mathbb{L}_3 (A) Austria, \mathbb{L}_1 (PL) Poland, (P) Portugal, \mathbb{L}_2 (RO) Romania, \mathbb{L}_3 (SLO) Slovenia, (SK) Slovakia, \mathbb{L}_3 (FIN) Finland, (S) Sweden, (UK) United Kingdom.
- (2) Name or business name and full address of the haulier.
- (3) See page 1 of this Official Journal.
- (4) Signature and stamp of the issuing competent authority or body.

(b)

(SECOND PAGE OF THE ~~AUTHORIZATION~~ LICENCE)

(Text in (one of) the official language(s) of the Member State issuing the ~~authorization~~ licence)

GENERAL PROVISIONS

This ~~authorization~~ licence is issued under ~~Council Regulation (EEC) No 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~~ Regulation (EC) No [this Regulation] .

It entitles the holder to engage in the international carriage of goods by road for hire or reward by any route for journeys or parts of journeys effected within the territory of the Community and, where appropriate, subject to the conditions laid down herein:

- where the point of departure and the point of arrival are situated in two different Member States, with or without transit through one or more Member States or ~~non-member~~ third countries,
- from a Member State to a ~~non-member~~ third country or vice versa, with or without transit through one or more Member States or ~~non-member~~ third countries,
- between ~~non-member~~ third countries with transit through the territory of one or more Member States,

and unladen journeys in connection with such carriage.

In the case of carriage from a Member State to a ~~non-member~~ third country or vice versa, this ~~authorization~~ licence is valid for that part of the journey effected on the territory of the Community. It shall be valid in the Member State of loading or unloading ~~upon~~ only after the conclusion of the necessary agreement between the Community and the ~~non-member~~ third country in question in accordance with Regulation (~~EEC~~) ~~No 881/92~~ (EC) No [...][*this Regulation*] .

The ~~authorization~~ licence is personal to the holder and is not transferable.

It may be withdrawn by the competent authority of the Member State which issued it, notably where the holder has:

- not complied with all the conditions for using the ~~authorization~~ licence ,
- supplied incorrect information with regard to the data needed for the issue or extension of the ~~authorization~~ licence .

The original of the ~~authorization~~ licence must be kept by the haulage undertaking.

A certified copy of the ~~authorization~~ licence must be kept in the vehicle⁽¹⁾. In the case of a coupled combination of vehicles it must accompany the motor vehicle. It covers the coupled combination of vehicles even if the trailer or semi-trailer is not registered or authorised to use the roads in the name of the ~~authorization~~ licence holder or if it is registered or authorised to use the roads in another Member State.

The ~~authorization~~ licence must be produced whenever required by an authorised inspecting officer.

Within the territory of each Member State the holder must comply with the laws, regulations and administrative provisions in force in that State, in particular with regard to transport and traffic.

⁽¹⁾ 'Vehicle' means a motor vehicle registered in a Member State or a coupled combination of vehicles, the motor vehicle of which at least is registered in a Member State, used exclusively for the carriage of goods.

~~ANNEX II~~

~~"ANNEX~~

~~Types of carriage to be exempted from any Community authorization and from any carriage authorization~~

~~1. Carriage of mail as a public service.~~

~~2. Carriage of vehicles which have suffered damage or breakdown.~~

~~3. Carriage of goods in motor vehicles the permissible laden weight of which, including that of trailers, does not exceed six tonnes or the permissible payload of which, including that of trailers, does not exceed 3,5 tonnes.~~

~~4. Carriage of goods in motor vehicles provided the following conditions are fulfilled:~~

- ~~(a) the goods carried must be the property of the undertaking or must have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking;~~
- ~~(b) the purpose of the journey must be to carry the goods to or from the undertaking or to move them, either inside the undertaking or outside for its own requirements;~~
- ~~(c) motor vehicles used for such carriage must be driven by employees of the undertaking;~~

~~(d) the vehicles carrying the goods must be owned by the undertaking or have been bought by it on deferred terms or hired provided that in the latter case they meet the conditions of Council Directive 84/647/EEC of 19 December 1984 on the use of vehicles hired without drivers for the carriage of goods by road¹.~~

~~————— This provision shall not apply to the use of a replacement vehicle during a short breakdown of the vehicle normally used;~~

~~(e) carriage must be no more than ancillary to the overall activities of the undertaking.~~

~~5. Carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters."~~

—————

¹ ~~OJ L 335, 22. 12. 1984, p. 72.~~

Ⓔ 484/2002 Annex (adapted)
Ⓕ₁ Act of Accession of Austria,
Sweden and Finland Art. 29 and Annex
I, p. 166
Ⓕ₂ Accession Act of 2003
Ⓕ₃ 1791/2006 Annex pt. 6(B)(2)

ANNEX II III

EUROPEAN COMMUNITY

(a)

(Colour pink – format DIN A4; synthetic paper, 150g/m² or more)

(First page of the attestation)

(Text in (one of) the official language(s) of the Member State issuing the attestation)

Distinguishing sign of the Member State⁽¹⁾ issuing the
attestation

Name of the competent authority or body

DRIVER ATTESTATION No.....

for the carriage of goods by road for hire or reward under a Community ~~authorisation~~ licence

(~~Regulation (EEC) No 881/92 as amended by Regulation (EC) No 484/2002 of 1 March 2002~~ Regulation (EC) No [...] [*this Regulation*])

This attestation certifies that on the basis of the documents presented by:

(2)

The following driver:

Name and forename.....

Date and place of birth.....Nationality.....

Type and reference number of identity paper.....

Date of issue.....Place of issue.....

Driving licence number.....

Date of issue.....Place of issue.....

Social security number.....

Is employed, in accordance with the laws, regulations or administrative provisions and, as appropriate, the collective agreements, in accordance with the rules applicable in the following Member State, on the conditions of employment and of vocational training of drivers applicable in that Member State to carry out road transport operations in that State:

.....⁽³⁾

Particular remarks.....

.....

This attestation shall be valid from.....to.....

Issued in, on.....

.....⁽⁴⁾

-
- (1) The distinguishing signs of the Member States are: (B) Belgium, \mathbb{E}_3 (BG) Bulgaria, \mathbb{E}_2 (CZ) Czech Republic, (DK) Denmark, (D) Germany, \mathbb{E}_2 (EST) Estonia, (IRL) Ireland, (GR) Greece, (E) Spain, (F) France, (I) Italy, \mathbb{E}_2 (CY) Cyprus, (LV) Latvia, (LT) Lithuania, (L) Luxembourg, \mathbb{E}_2 (H) Hungary, (MT) Malta, (NL) Netherlands, \mathbb{E}_1 (A) Austria, \mathbb{E}_2 (PL) Poland, (P) Portugal, \mathbb{E}_3 (RO) Romania, \mathbb{E}_2 (SLO) Slovenia, (SK) Slovakia, \mathbb{E}_1 (FIN) Finland, (S) Sweden, (UK) United Kingdom.
- (2) Name or business name and full address of the haulier
- (3) Name of the haulier's Member State of establishment
- (4) Signature and stamp of the issuing competent authority or body

(Second page of the attestation)

(Text in (one of) the official language(s) of the Member State issuing the attestation)

GENERAL PROVISIONS

This attestation is issued under ~~Council Regulation (EEC) N° 881/92 of 26 March 1992, as amended, 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~~ Regulation (EC) No [...] of [date] the European Parliament and of the Council on common rules for the access to the international road haulage market .

It certifies that the driver named therein is employed, in accordance with the laws, regulations or administrative provisions and, as appropriate, the collective agreements, in accordance with the rules applicable in the Member State mentioned on the attestation, on the conditions of employment and of vocational training of drivers applicable in that same Member State to carry out road operations in that State.

The driver attestation shall belong to the haulier, who puts it at the disposal of the driver designated therein when that driver drives a vehicle ⁽¹⁾ engaged in carriage using a Community licence issued to that haulier. The driver attestation is not transferable. The driver attestation shall be valid only as long as the condition under which it was issued are still satisfied and must be returned immediately by the haulier to the issuing authorities if these conditions are no longer met.

It may be withdrawn by the competent authority of the Member State which issued it, in particular where the holder has:

- ~~N~~ot complied with all the conditions for using the attestation;
- ~~S~~upplied incorrect information with regard to the data needed for the issue or extension of attestation;

~~A~~ A certified true copy of the attestation must be kept by the haulage undertaking;

A original attestation must be kept in the vehicle and must be produced by the driver whenever required by an authorised inspecting officer.

(1) "Vehicle" means a motor vehicle registered in a Member State of a coupled combination of vehicles, the motor vehicle of which at least is registered in a Member State, used exclusively for the carriage of goods.

ANNEX III**CORRELATION TABLE**

Regulation (EEC) No 881/92	Regulation (EEC) No 3118/93	Directive 2006/94	This Regulation
Article 1(1)			Article 1(1)
Article 1(2)			Article 1(2)
Article 1(3)			Article 1(3)
			Article 1(4) new
		Article 1(1) and (2), Annex I; Article 2	Article 1(5)
		Article 2	Article 1(6)
Article 2			Article 2 amended
Article 3(1)			Article 3
Article 3(2)			Article 4(1) amended
Article 3(3)			Article 5(1) amended
Article 4			-
Article 5(1)			Article 4(2) amended
Article 5(2)			Article 4(3) amended
Article 5(3)			Article 4(4) amended
			Article 4(5) new

Regulation (EEC) No 881/92	Regulation (EEC) No 3118/93	Directive 2006/94	This Regulation
Article 5(4), Annex I, second page, seventh paragraph, second and third sentences			Article 4(6) amended
Article 5(5)			Article 4(2)
Article 6(1)			Article 5(2) amended
Article 6(2)			Article 5(2) amended
Article 6(3)			Article 5(3) amended
Article 6(4)			Article 5(4)
Article 6(5)			Article 5(5)
Article 7			Article 6
Article 8(1)			Article 7(1)
Article 8(2)			Article 7(2)
Article 8(3)			Article 11(1) amended
Article 8(4)			Article 11(2)
Article 9(1)			Article 11(6) amended
Article 9(2)			Article 11(6) amended
	Article 1(1)		Article 8(1)
	-		Article 8(2)
	-		Article 8(3)

Regulation (EEC) No 881/92	Regulation (EEC) No 3118/93	Directive 2006/94	This Regulation
	Article 1(2)		Article 8(4)
	Article 1(3)		Article 8(5)
	Article 1(4)		Article 8(6)
			Article 8(7) new
	Article 2		-
	Article 3		-
	Article 4		-
	Article 5		-
	Article 6(1)		Article 9(1) amended
	Article 6(2)		-
	Article 6(3)		Article 9(2)
	Article 6(4)		-
	Article 7		-
Article 10			Article 16(1) amended
Article 11(1)			Article 10 amended
Article 11(2)			Article 12(1) amended
Article 11(3)			Article 11(3) amended
Article 11a			-
	Article 8(1)		Article 10 amended
	Article 8(2)		Article 12(2) amended
	Article 8(3)		Article 12(2) amended
	Article 8(4) subparagraphs 1		-

Regulation (EEC) No 881/92	Regulation (EEC) No 3118/93	Directive 2006/94	This Regulation
	and 3		
	Article 8(4) subparagraph 2		Article 11(4) amended
	Article 8(4) subparagraphs 4 and 5		Article 11(5) amended
	Article 9		Article 12(3) amended
Article 12			Article 17
Article 13			-
Article 14	Article 10		-
	Article 11		-
Article 15	Article 12		Article 18
		Article 3	-
		Article 4	-
		Article 5	-
		Annex II, III	-
Annex I			Annex I
Annex II			Article 1(5)
Annex III			Annex II
	Annex I		-
	Annex II		-
	Annex III		-
	Annex IV		-