

## COUNCIL REGULATION (EEC) No 4059/89

of 21 December 1989

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

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas, 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, hereinafter referred to as 'cabotage';

Whereas the freedom to provide national transport services implicit in this provision entails 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;

Whereas, in order for this freedom to provide services to be implemented smoothly and flexibly, a transitional cabotage system should be adopted before the definitive system is adopted;

Whereas such a transitional system should provide for the introduction of a Community cabotage quota comprising a number of specific authorizations;

Whereas such authorizations should be granted solely to carriers established in a Member State and authorized in that State to operate international road haulage services;

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

Whereas provisions should be adopted so that action can be taken in the event of serious disturbance of the transport markets affected and in order to obviate cabotage operations being concentrated in one Member State;

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

Whereas it is desirable that Member States should grant each other mutual assistance with a view to the sound application of the system introduced, particularly in respect of penalties applicable in the event of infringements;

Whereas the definitive cabotage system which will be applicable from the date on which this Regulation expires should be drawn up in compliance with the Treaty,

HAS ADOPTED THIS REGULATION:

*Article 1*

With effect from 1 July 1990, any road haulage carrier for hire and reward who:

- is established in a Member State, hereinafter referred to as 'Member State of establishment', in accordance with its legislation,
- is authorized, in that State, to operate international road haulage services, in accordance with the legislation of the aforementioned State,

shall be entitled, under the conditions laid down in this Regulation, to operate on a temporary basis national road haulage services for hire and reward in another Member State (cabotage), hereinafter referred to as the 'host Member State', without having a registered office or other establishment therein.

*Article 2*

1. National road haulage operations as referred to in Article 1 shall be carried out within Community cabotage quotas.

Cabotage authorizations shall correspond to the specimen in Annex I.

A Community cabotage quota shall consist of 15 000 cabotage authorizations, each valid for two months.

2. At the request of a Member State, to be submitted before 1 July 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 specimen in Annex II.

<sup>(1)</sup> OJ No C 349, 31. 12. 1985, p. 26.

<sup>(2)</sup> OJ No C 255, 13. 10. 1986, p. 236.

<sup>(3)</sup> OJ No C 180, 8. 7. 1987, p. 37.

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

- Belgium: 1 302
- Denmark: 1 263
- Germany: 2 073
- Greece: 573
- Spain: 1 350
- France: 1 767
- Ireland: 585
- Italy: 1 767
- Luxembourg: 606
- Netherlands: 1 842
- Portugal: 765
- United Kingdom: 1 107.

4. The quota shall increase annually as from 1 July 1991.

The Commission shall, before 1 April each year, fix the increase in the quota in line with the average trends in internal road haulage in the Member States on the basis of the Community statistics available.

If the average percentage increase is less than 10 %, the figure of 10 % shall be adopted.

The cabotage increases resulting from an increase in the quota shall be allocated amongst the Member States on a linear basis.

5. In the event of serious disturbance of the internal transport market in a given geographical area due to cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures.

After consulting the other Member States, the Commission shall decide on the necessary safeguard measures within one month of receipt of the relevant Member State's request.

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

The Commission shall communicate to the Council and the Member States any decision it takes on safeguard measures.

#### Article 3

1. The cabotage authorizations referred to in Article 2 shall give the recipient free access to the territory of the host Member States to allow him to carry out any carriage of goods by road for hire and reward.

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 authorities of the Member States of establishment.

They shall name the Member State of establishment.

3. Where the Commission establishes, on the basis of the data communicated to it pursuant to Article 4, that the volume of cabotage operations in a Member State exceeds 30 % of the total volume carried out under the cabotage authorizations, it shall examine the situation, at the request of the Member State concerned and after consulting the other Member States, with a view to applying the procedure laid down in Article 2 (5).

In carrying out this examination, the Commission shall take into account one of the following two criteria:

- either the fact that the number of days spent on cabotage operations in a Member State exceeds 30 % of the total number of days that can be covered by the cabotage authorizations available to the 12 Member States.
- or the fact that the volume, expressed in tonnes/km of cabotage operations carried out in a Member State exceeds 30 % of the total volume of tonnes/km carried out under the cabotage authorizations available to the 12 Member States.

The distance covered while in transit through the territories of other Member States to reach, or return from, that Member State where the cabotage service is to be provided shall not be counted in the percentage referred to in the previous subparagraph.

4. A cabotage authorization shall be made out in the name of a 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' shall mean a rigid vehicle or a coupled combination of vehicles.

The cabotage authorization shall accompany the tractor vehicle; it shall cover coupled combinations of vehicles even if the trailer or semi-trailer is not registered or put into circulation in the name of the holder of the authorization or is registered or put into circulation in a different Member State.

5. The cabotage authorization must be produced whenever requested by inspecting officers in the host Member State.

#### Article 4

The date from which a cabotage authorization is valid must be entered on the authorization before it is used.

Transport operations effected under a cabotage authorization shall be entered in a book of record sheets which shall be returned with the authorization, within eight days of the expiry of the validity of the authorization, to the competent authorities of the Member State of establishment which issued them.

A specimen of the book of record sheets is given in Annex III.

At the end of each quarter and within three months, which may be reduced to one month in the case referred to in Article 2 (5), the competent authorities of each Member State shall communicate to the Commission the data concerning the cabotage operations carried out during that quarter by those carriers to whom they issued cabotage authorizations; such communication shall be effected by means of a table a specimen of which is set out in Annex IV.

#### Article 5

1. The performance of cabotage transport operations shall be subject, save as otherwise provided in Community regulations, 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;
- (b) weights and dimensions of road vehicles;
- (c) requirements relating to the carriage of certain categories of goods, in particular dangerous goods, perishable foodstuffs, live animals, etc.;
- (d) driving and rest time;
- (e) VAT on transport services. In this field, Article 21 (1) (a) of Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment<sup>(1)</sup>, as last amended by Directive 89/465/EEC<sup>(2)</sup>, shall apply to the services referred to in Article 1 of this Regulation.

The technical standards 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 provisions referred to in paragraph 1 shall be applied to non-resident transport operators on the same conditions as those which that Member State imposes on its own nationals, so as effectively to prevent any discrimination on grounds of nationality or place of establishment.

3. If, during the transitional period, it is established that, in the light of practice, 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.

#### Article 6

1. The Member States shall assist one another with a view to applying this Regulation.

2. Any infringements of this Regulation committed by a non-resident carrier shall, without prejudice to any criminal

<sup>(1)</sup> OJ No L 145, 13. 6. 1977, p. 1.

<sup>(2)</sup> OJ No L 226, 3. 8. 1989, p. 21.

proceedings to which they expose that carrier in the host Member State, be communicated to the competent authorities of the carrier's Member State of establishment.

The competent authorities shall communicate to one another all information in their possession on the penalties imposed in respect of such infringements.

Where a cabotage authorization that is falsified is produced, the authorization shall be withdrawn immediately; it shall be forwarded to the competent authority of the carrier's Member State of establishment.

3. The competent authorities of the host Member State may, in the event of serious or repeated infringements, ask the competent authorities of the Member State of establishment to impose penalties.

Those penalties may in particular consist of:

- a warning,
- a temporary or permanent ban on the undertaking's access to national carriage within the host Member State,
- a temporary or permanent ban on the undertaking's access to the territory of the host Member State.

4. The Member State of establishment shall be obliged, in the event of an infringement of this Regulation, either to impose the penalty agreed upon between the authorities of the host Member State and those of the Member State of establishment, or to arraign the carrier concerned before a competent national court or tribunal.

The host Member State shall be informed immediately of any penalty imposed.

#### Article 7

The Member States shall adopt in good time and communicate to the Commission the laws, regulations and administrative provisions relating to the implementation of this Regulation.

#### Article 8

The Commission shall report to the Council on the application of this Regulation before 31 December 1991.

#### Article 9

This Regulation shall enter into force on 1 July 1990.

It shall apply until 31 December 1992.

Before 1 July 1992 the Council, acting in accordance with the conditions laid down in the Treaty, shall, acting on a proposal from the Commission submitted by 31 December 1991, adopt a Regulation laying down the definitive cabotage system, which shall enter into force on 1 January 1993.

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

Done at Brussels, 21 December 1989.

*For the Council*  
*The President*  
E. CRESSON

ANNEX I

(a)

(Thick green paper — format DIN A4)

(First page of cabotage authorization)

(Deadlines of periods of validity)

(Text to be worded in the official language or languages of the Member State issuing the authorization; translations in the other official languages of the Community to be given on pages (e) and (f)).

COMMISSION OF THE EUROPEAN COMMUNITIES

(Impressed stamp of the Commission of the European Communities)

State issuing the authorization/international distinguishing sign (1)

Competent authority or agency

CABOTAGE AUTHORIZATION No . . .

for the carriage of goods by road for hire and reward in a Member State of the European Economic Community performed by a non-resident carrier (cabotage)

This authorization entitles (2) .....

to carry goods by road for hire and reward, by means of a rigid vehicle or a coupled combination of vehicles, in a Member State of the European Economic Community other than that in which the holder of this authorization is established, and to move such vehicle or combination unladen over any part of the territory of the aforesaid Community.

This authorization is valid for a period of two months from ..... to .....

Issued at ..... date .....

(3)

(1) International distinguishing signs of Member States: Belgium (B), Denmark (DK), Germany (D), Greece (GR), Spain (E), France (F), Ireland (IRL), Italy (I), Luxembourg (L), Netherlands (NL), Portugal (P), United Kingdom (GB). (2) Name, or registered business name, and full address of carrier. (3) Signature and stamp of the competent authority or agency issuing the authorization.

(b)

(Second page of cabotage authorization)

(Text to be worded in the official language or languages of the Member State issuing the authorization; translations in the other official languages of the Community to be given on pages (c) and (d))

#### General provisions

This authorization permits the national carriage of goods by road for hire and reward in a Member State other than that in which the holder of the authorization is established (cabotage).

It is personal to the holder and non-transferable.

It may be withdrawn by the competent authority of the Member State which issued it or, where the authorization is a forgery, by the Member State in which the cabotage transport operations are carried out.

It may be used for only one vehicle at a time <sup>(1)</sup>. In the case of a coupled combination of vehicles, it shall accompany the tractor vehicle; it shall cover coupled combinations of vehicles even if the trailer or semi-trailer is not registered or put into circulation in the name of the holder of the authorization or is registered or put into circulation in a different Member State.

It must be carried in the vehicle and must be accompanied by a book of record sheets for all national cabotage operations effected under it.

The cabotage authorization and the book of record sheets must be filled in before the cabotage operations begin.

The authorization and the book of record sheets for national cabotage operations must be produced together whenever required by an authorized inspecting officer.

Save as otherwise provided in Community regulations, the performance of cabotage transport operations shall be subject 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;
- (b) weights and dimensions of road vehicles;
- (c) requirements relating to the carriage of certain categories of goods, in particular dangerous goods, perishable foodstuffs, live animals, etc.;
- (d) driving and rest time;
- (e) VAT on transport services. In this field, Article 21 (1) (a) of Directive 77/388/EEC shall apply to the services referred to in Article 1 of Regulation (EEC) No 4059/89.

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

This authorization must be returned to the competent issuing authority or agency within eight days following its date of expiry.

<sup>(1)</sup> 'Vehicle' shall be taken to mean a rigid vehicle or a coupled combination of vehicles.

(c) and (d)

(Third, fourth and fifth pages of Community cabotage authorization)

(Translations in the other official languages of the Community of the text on page (b))

(e) and (f)

(Sixth, seventh and eighth pages of the cabotage authorization)

(Translations in the other official languages of the Community of the text on page (a))

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ANNEX II

(a)

(Thick red paper — format DIN A4)

(First page of short-term cabotage authorization)

(Deadlines of periods of validity)

(Text to be worded in the official language or languages of the Member State issuing the authorization; translations in the other official languages of the Community to be given on pages (e) and (f))

COMMISSION OF THE EUROPEAN COMMUNITIES

(Impressed stamp of the Commission of the European Communities)

State issuing the authorization/international distinguishing sign (1)

Competent authority or agency

CABOTAGE AUTHORIZATION No . . . /1 (to 2)

for the carriage of goods by road for hire and reward in a Member State of the European Economic Community performed by a non-resident carrier (cabotage)

This authorization entitles (2) .....

to carry goods by road for hire and reward, by means of a rigid vehicle or a coupled combination of vehicles, in a Member State of the European Economic Community other than that in which the holder of this authorization is established, and to move such vehicle or combination unladen over any part of the territory of the aforesaid Community.

This authorization is valid for a period of one month from ..... to .....

Issued at ..... date .....

(3)

(1) International distinguishing signs of Member States: Belgium (B), Denmark (DK), Germany (D), Greece (GR), Spain (E), France (F), Ireland (IRL), Italy (I), Luxembourg (L), Netherlands (NL), Portugal (P), United Kingdom (GB). (2) Name, or registered business name, and full address of carrier. (3) Signature and stamp of the competent authority or agency issuing the authorization.



(b)

(Second page of short-term cabotage authorization)

(Text to be worded in the official language or languages of the Member State issuing the authorization; translations in the other official languages of the Community to be given on pages (c) and (d))

#### General provisions

This authorization permits the national carriage of goods by road for hire and reward in a Member State other than that in which the holder of the authorization is established (cabotage).

It is personal to the holder and non-transferable.

It may be withdrawn by the competent authority of the Member State which issued it or, where the authorization is a forgery, by the Member State in which the cabotage transport operations are carried out.

It may be used for only one vehicle at a time <sup>(1)</sup>. In the case of a coupled combination of vehicles, it shall accompany the tractor vehicle; it shall cover coupled combinations of vehicles even if the trailer or semi-trailer is not registered or put into circulation in the name of the holder of the authorization or is registered or put into circulation in a different Member State.

It must be carried in the vehicle and must be accompanied by a book of record sheets for all national cabotage operations effected under it.

The cabotage authorization and the book of record sheets must be filled in before the cabotage operations begin.

The authorization and the book of record sheets for national cabotage operations must be produced together whenever required by an authorized inspecting officer.

Save as otherwise provided in Community regulations, the performance of cabotage transport operations shall be subject 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;
- (b) weights and dimensions of road vehicles;
- (c) requirements relating to the carriage of certain categories of goods, in particular dangerous goods, perishable foodstuffs, live animals, etc.;
- (d) driving and rest time;
- (e) VAT on transport services. In this field, Article 21 (1) (a) of Directive 77/388/EEC shall apply to the services referred to in Article 1 of Regulation (EEC) No 4059/89.

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

This authorization must be returned to the competent issuing authority or agency within eight days following its date of expiry.

<sup>(1)</sup> 'Vehicle' shall be taken to mean a rigid vehicle or a coupled combination of vehicles.

(c) and (d)

(Third, fourth and fifth pages of Community cabotage authorization)

(Translations in the other official languages of the Community of the text on page (b))

(e) and (f)

(Sixth, seventh and eighth pages of the cabotage authorization)

(Translations in the other official languages of the Community of the text on page (a))

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ANNEX III

(a)

(Format DIN A4)

(Front cover of book of record sheets)

(Text in the official language or languages of the Member State issuing the book of record sheets — translations in the other official languages of the Community to be given overleaf)

State issuing the book of record sheets

Competent authority or agency

— International distinguishing sign of Member State <sup>(1)</sup> —

Book No . . .

**BOOK OF RECORD SHEETS FOR NATIONAL CABOTAGE TRANSPORT OPERATIONS CARRIED OUT UNDER CABOTAGE AUTHORIZATION**  
No . . .

This book is valid until ..... <sup>(2)</sup>.

Issued at ..... , date .....

<sup>(3)</sup>

<sup>(1)</sup> International distinguishing signs of Member States:  
Belgium (B), Denmark (DK), Germany (D), Greece (GR), Spain (E), France (F), Ireland (IRL), Italy (I), Luxembourg (L), Netherlands (NL), Portugal (P), United Kingdom (GB).  
<sup>(2)</sup> The period of validity may not exceed that of the cabotage authorization.  
<sup>(3)</sup> Stamp of the competent authority or agency issuing the book.

(b)

(Inside front cover of book of record sheets)

1. (Translation in the other official languages of the Community of text overleaf)
2. (Text in the official language or languages of issuing Member State)

#### General provisions

1. This book of record sheets contains 25 detachable sheets, numbered 1 to 25, on which details must be given, at the time of loading, of all goods transported under the cabotage authorization to which they relate. Each book is numbered and that number is marked on every page of the book.
2. The carrier is responsible for the proper completion of the records of national cabotage operations.
3. The book must accompany the cabotage authorization to which it relates and be kept on board the vehicle travelling laden or unladen under the said authorization. It must be produced whenever required by an authorized inspecting officer.
4. Record sheets must be used in numerical order and the successive loading operations must be entered in chronological order.
5. Each item in the record sheet must be completed accurately and legibly by printing in indelible ink.
6. Not later than eight days after the end of the month to which the sheet relates, each completed record sheet must be returned to the competent authority or agency of the Member State which issued this book. Where an operation spans two census periods, the date of loading determines the period which the record must cover (e.g. an operation beginning towards the end of January and ending in the early part of February should be included in the January return).

(c)

(Front of the page inserted before the 25 detachable sheets)

(Text in the official language or languages of the issuing Member State)

**Explanatory notes**

The information to be given on the following sheets relates to all goods transported under the cabotage authorization to which this record book relates.

A separate line on this sheet must be completed for each consignment of goods loaded.

Column 2: give, where appropriate, the information requested by the issuing Member State;

Column 3: give the day (01, 02 . . . 31) of the month indicated at the top of the sheet during which the vehicle departed under load;

Columns 4 and 5: specify the place and, if necessary to make this clear, the department, province, land, etc.;

Column 6: use the following distinguishing signs:

— Belgium:	B
— Denmark:	DK
— Germany:	D
— Greece:	GR
— France:	F
— Ireland:	IRL
— Spain:	E
— Italy:	I
— Luxembourg:	L
— Netherlands:	NL
— United Kingdom:	GB
— Portugal:	P;

Column 7: state the distance travelled between the place of loading and the place of unloading;

Column 8: give the weight in tonnes to one decimal point (e.g. 10,0 t) of the consignment of goods in the same way as for the customs declaration; do not include the weight of containers or pallets;

Column 9: in addition, describe as accurately as possible the goods in the consignment;

Column 10: for official use only.



## ANNEX IV

TRANSPORT OPERATIONS CARRIED OUT IN . . . . . (QUARTER) . . . . . (YEAR)  
 UNDER COVER OF COMMUNITY TRANSPORT AUTHORIZATIONS ISSUED BY . . . . .  
 (INTERNATIONAL DISTINGUISHING SIGN OF THE COUNTRY)

Member State of loading and unloading	Number of		
	days	Tonnes carried	Tonne-kilometres worked (thousands)
D			
F			
I			
NL			
B			
L			
GB			
IRL			
DK			
GR			
E			
P			
Total cabotage:			