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(Acts whose publication is obligatory)

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

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 ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas 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; whereas those rules must be laid down in such a way as to contribute to the attainment of the internal transport market;

Whereas 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;

Whereas, 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;

Whereas, following the Judgment of the Court of Justice of 22 May 1985 in Case 13/83 ⁽⁴⁾ 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 ⁽⁵⁾ amending Regulation (EEC) No 3164/76 on access to the market in the international carriage of goods by road ⁽⁶⁾;

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;

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 1989 ⁽⁷⁾;

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;

Whereas 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;

⁽¹⁾ ECR 1985, p. 1513.

⁽²⁾ OJ No L 163, 30. 6. 1988, p. 1.

⁽³⁾ 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).

⁽⁷⁾ 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).

⁽¹⁾ OJ No C 238, 13. 9. 1991, p. 2.

⁽²⁾ OJ No C 39, 17. 2. 1992.

⁽³⁾ OJ No C 40, 17. 2. 1992, p. 15.

Whereas at present, under the First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States⁽¹⁾, a certain number of types of carriage are exempt from any quota and carriage authorization system; whereas, within the framework of the new organization of the market introduced by this Regulation, a system of exemption from Community authorization and from any other carriage authorization must be maintained for some of those types of transport, because of their special nature;

Whereas the conditions governing the issue and withdrawal of authorizations and the types of carriage to which they apply, their periods of validity and the detailed rules for their use must be determined,

HAS ADOPTED THIS REGULATION:

Article 1

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.

2. In the event of carriage from a Member State to a non-member country and vice versa, this Regulation shall apply to that part of any journey carried out within the territory of the Member State of loading or unloading, after conclusion of the necessary agreement between the Community and the non-member country concerned.

3. Pending the conclusion of agreements between the Community and the non-member countries concerned, this Regulation shall not affect:

- provisions relating to the carriage referred to in paragraph 2 included in bilateral agreements concluded by Member States with those non-member countries. However, Member States shall endeavour to adapt those agreements to ensure compliance with the principle of non-discrimination between Community hauliers,
- provisions relating to the carriage referred to in paragraph 2 included in bilateral agreements concluded between Member States which either under bilateral authorizations or under liberalization arrangements, allow loading and unloading in a Member State by hauliers not established in that State.

Article 2

For the purposes of this Regulation:

- 'vehicle' shall mean 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 exclusively for the carriage of goods,

— *international carriage*, shall mean:

- a 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 countries;
- a journey undertaken by a vehicle from a Member State to a non-member country or vice versa, with or without transit through one or more Member States or non-member countries;
- a journey undertaken by a vehicle between non-member countries, with transit through the territory of one or more Member States;
- an unladen journey in conjunction with such carriage.

Article 3

1. International carriage shall be carried out subject to Community authorization.

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

- is established in a Member State, hereinafter referred to as the 'Member State of establishment' in accordance with the legislation of that Member State,
- is entitled in that Member State, in accordance with the legislation of the Community and of that State concerning admission to the occupation of road haulage operator to carry out the international carriage of goods by road.

Article 4

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.

Article 5

1. The Community authorization referred to in Article 3 shall be issued by the competent authorities of the Member State of establishment.

2. The Member States shall issue the holder with the original of the Community authorization, 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, whether wholly owned or, for example, under hire purchase, hire or leasing contracts.

⁽¹⁾ OJ No L 70, 6. 8. 1962, p. 2005/62. Directive last amended by Directive 84/647/EEC (OJ No L 335, 22. 12. 1984, p. 72).

3. The Community authorization shall correspond to the model set out in of Annex I, which also lays down the conditions governing its use.

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

Article 6

The Community authorization shall be issued for a renewable period of five years.

Article 7

Whenever an application for a Community authorization 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).

Article 8

1. If the conditions laid down in Article 3 (2) 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, by means of a reasoned decision.

2. The competent authorities shall withdraw a Community authorization where the holder:

- no longer satisfies the conditions laid down in Article 3 (2),
- has supplied incorrect information in relation to the data required for the issue of a Community authorization.

3. In the event of serious infringements or repeated minor infringements of carriage regulations, the competent authorities of the Member State of establishment of the haulier who has committed such infringements may *inter alia* temporarily or partially suspend the certified true copies of the Community authorization.

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

Article 9

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.

Article 10

By 31 January each year Member States shall inform the Commission of the number of hauliers possessing

Community authorizations on 31 December of the previous year and of the number of certified true copies corresponding to the vehicles in circulation at that date.

Article 11

1. The Member States shall give each other mutual assistance in ensuring the application and monitoring of this Regulation.

2. Where the competent authorities of a Member State are aware of an infringement of this Regulation attributable to a haulier from another Member State, the Member State within the territory of which the infringement is established shall inform the competent authorities of the Member State in which the haulier is established and may ask the competent authorities of the Member State of establishment to impose sanctions in accordance with this Regulation.

3. In the event of a serious infringement or repeated minor infringements of carriage regulations, the competent authorities of the Member State in which the haulier is established shall examine the ways in which the sanctions provided for in Article 8 (3) are applied and shall communicate their decision to the competent authorities of the Member State in which the infringements were established.

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 States⁽¹⁾,
- 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 States⁽²⁾,
- 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 States⁽³⁾.

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';

⁽¹⁾ OJ No L 48, 22. 2. 1975, p. 31. Directive last amended by Directive 91/224/EEC (OJ No L 103, 23. 4. 1991, p. 1).

⁽²⁾ OJ No 88, 24. 5. 1965, p. 1469/65. Directive as last amended by Directive 85/505/EEC (OJ No L 309, 21. 11. 1985, p. 27).

⁽³⁾ OJ No L 18, 24. 1. 1980, p. 21.

2. Article 1 shall be replaced by:

Article 14

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.

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.

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

Done at Brussels, 26 March 1992.

For the Council

The President

Joaquim FERREIRA DO AMARAL

ANNEX I

ANNEX

EUROPEAN ECONOMIC COMMUNITY

(a)

(Blue card — DIN A4)

(First page of the authorization)

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

State issuing the authorization Distinguishing sign (1)
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Name of the competent authority or body

AUTHORIZATION No

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

This authorization 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 and subject to the general provisions of this authorization.

Particular remarks :

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This authorization shall be valid from to

Issued in, on

(3)

(1) The distinguishing signs are (B) Belgium, (DK) Denmark, (D) Germany, (GR) Greece, (ES) Spain, (F) France, (IRL) Ireland, (I) Italy, (L) Luxembourg, (NL) Netherland, (P) Portugal, (UK) United Kingdom.
 (2) Name or business name and full address of the haulier.
 (3) Signature and stamp of the issuing competent authority or body.

(b)

(SECOND PAGE OF THE AUTHORIZATION)

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

GENERAL PROVISIONS

This authorization 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⁽¹⁾.

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 countries,
 - from a Member State to a non-member country or vice versa, with or without transit through one or more Member States or non-member countries,
 - between non-member 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 country or vice versa, this authorization is valid for that part of the journey effected on the territory of the Member State of loading or unloading upon conclusion of the necessary agreement between the Community and the non-member country in question in accordance with Regulation (EEC) No 881/92.

The authorization 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 haulier has :

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

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

A certified copy of the authorization must be kept in the vehicle⁽²⁾. 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 authorized to use the roads in the name of the authorization holder or if it is registered or authorized to use the roads in another Member State.

The authorization must be produced whenever required by an authorized 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⁾ See page 1 of this Official Journal.

⁽²⁾ '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 road⁽¹⁾.

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 No L 335, 22. 12. 1984, p. 72.