

European Community Legislation on Road Transport in Accession Candidate Countries

1. Access to the markets

Road transport services in Europe were traditionally subject to bilateral inter-governmental agreements on the basis of which the governments annually agreed on road permit quotas both for freight and passenger road transport.

These quantitative restrictions started to be an obstacle to trade development due to the customs union of the EEC. Progressive liberalization started in the eighties after long debates over the sequence whether to liberalize first and subsequently harmonize taxes or to harmonize taxation first and only then liberalize. The first step was the introduction of Community quotas in addition to the bilateral arrangements. By now the EU road transport market is fully liberalized, except for transit through Austria. *Admission to profession* is subject to qualitative criteria only (Council Regulation 96/26/EC) and once a Community carrier is established it can enjoy *free access to the road freight transport markets*, i.e. full freedom is granted in transit, bilateral, third country and cabotage traffic (cabotage traffic has been free from authorization since July 1 1998)¹. If Community road freight operators want to transit through Austria they need to have their eco-card, which confirms their payment for the eco-points which is an ecological quota distributed among the Member States. This system was introduced in the course of the European Economic Area negotiations and internalized by the EU during the accession talks of Austria, Finland and Sweden². After 2004 this system to limit the amount of truck transit for ecological reasons is due to be maintained only in the extremely sensitive corridors through the Alps³. Member States are allowed to impose temporary quantitative restrictions on road freight transport in case of crisis only, when there is over-capacity in supply for a long period and it is unequivocal, significant number of carriers suffer from financial imbalances and their survival is endangered, and it is evident that in the short or medium term no market improvement can be expected⁴.

¹ Council Regulations 881/92/EEC, 3118/93/EEC

² Norway is part of this system due to the EEA and Slovenia has joined it when the EU-Slovenia Transit Agreement was concluded.

³ Commission Regulation 3298/94/EC

⁴ Council Regulation 3916/90/EEC

The traditional bilateral arrangements are still characteristic of the CEEC-10. The majority of these countries pursue a rather protectionist policy and limit the road freight quotas on the level of reciprocity. In very justified cases however they were willing to issue additional permits, but only permits, which are subject to taxes (these taxes could be defined as special vehicle taxation in the transit country). While the CEEC-10 suffer from the shortage of road permits in some EU-countries, notably in Austria, they are hesitant to open up their markets towards the East. Another source of tension is in the value of the different permits. Under the existing regime, transit permits could be exchanged for third country permits in a proportion, which is usually decided by the bargaining position of the countries. Owing to the varied interests of the different states, it has been well recognized that an overall liberalization is the only way to satisfy any participants in the European integration. This has also been foreseen in the Europe Agreements and is envisaged for the accession talks. No wonder therefore that any attempts to achieve a partial solution, which might undermine future liberalization, have failed so far. Some of the EU candidate countries have gone even further and, for fear of the more competitive EU transport operators, would like to have temporary safeguards measures and agree on an asymmetrical opening up of the markets. They believe that this would enable their operators to adjust to the progressive liberalization, modernize their vehicle fleet, introduce telematics in their operation etc. On the other hand the EU countries are not in a hurry even for reciprocal liberalization of the road markets and they would prefer gradual liberalization starting with the increase of transit permits only. This arrangement, which had been proposed by the EU in favor of Greece and the Greek truckers in a draft transit agreement to be concluded between the EU and Bulgaria, Romania and Hungary, has been rejected by the candidate countries. While negotiations are taking place on the ways and means, as well as the timetable of the European integration of the road freight sectors, the most burning problems are attacked in the framework of the European Conference of Ministers of Transport (ECMT), as the ECMT multilateral road permits offer additional though not at all enough solutions. Besides, this solution is not only for the CEEC-10, but also for many other CEEC countries, which joined this organization, provided their vehicle fleet consists of environmentally friendly (green and greener) trucks in order to make practical use of the theoretical opportunity.

In bus operations occasional services, special regular services and own account operations do not require additional authorizations. Regular bus services along any Community routes ("domestic" or "international") however are subject to authorization, which can be issued for not more than 5 years⁵.

There are attempts to liberalize at least the shuttle services throughout Europe. A multilateral agreement called INTERBUS has been started and negotiations have been taking place. The merit of the agreement is that it would not limit the liberalization geographically to the CEEC-10. Concerns are stated however over the actual benefit of the agreement if liberalization is tied up with environmental protection and only those operators would be able to enjoy the freedom for operating shuttle services, which have buses and coaches corresponding to strict environmental and safety standards and which have gained access to the profession and acquired their license according to the EU

⁵ Council Regulations 684/92/EEC, 12/98/EC

requirements. In this regard the derogations or waivers the CEEC-10 and the other Eastern countries may seek are on the financial standing criteria (which is 3000 ECU/vehicle and is planned to be increased).

Public Service Obligation in passenger road transport can be imposed if it is necessary for the adequacy of transport services. The carrier has the right however to ask for the termination of PSO⁶. While the CEEC-10 may in principle welcome the more transparent financial relations between the state and the transport operators full-fledged reforms are needed both in order to privatize public transport operators and to cut back subsidies. The time-scale needed and the solutions to be selected are however rather challenging.

2. Fiscal harmonization

The harmonization of vehicle taxes, tolls and fuel excise duties further contributes to the formation of the single road transport market in the EU. Though the procedures are to be decided nationally, the guiding principles identify the minimum level for annual vehicle taxes, the maximum rate of user charges per year (1250 ECU for the Euro-vignette) and the framework for calculating toll rates⁷. According to the European definition user charges must be proportionate to the use of the infrastructure, while tolls should be related to the costs of construction, operation and development. To refine the common road taxation system they plan to differentiate the rates depending on the technical standards of the vehicles (non-Euro vehicles should pay higher annual taxes than the environmentally friendly Euro-I or Euro-II vehicles; in case of user charges 3 categories of emission standards and 3 classes of road damages are to be taken into account; externalities could also be charged in tolls up to 0.03 ECU/km and a special charge of up to 0.5 ECU/km could be levied on sensitive routes)⁸. The approximation of rates as well as the harmonization of the structures of fuel excise duties have been taking place gradually for a long time⁹, but further increase in the rate is expected in the years 2000 and 2002.

Most of the CEEC-10 have lower tax rates than the EU minimum. Therefore one of the results of the accession will be an increase in the taxation level. This would further reduce the competitiveness of the CEEC-10 operators, but would also have an effect on the whole economy as transport costs will increase.

⁶ Council Regulation 1191/69/EEC

⁷ Council Directive 93/89/EEC, which is applied, but is not in force

⁸ COM (96)331

⁹ Council Directives 92/82/EEC, 92/81/EEC

3. Social harmonization

Harmonization obligations for the driving and rest time of the truck and coach drivers have a positive effect on traffic safety, but at the same time they increase the costs of road transport¹⁰. The UN AETR Agreement restricts driving hours only in case of international transport, as the duration of journeys is usually long. The Community legislation however extends the restrictions to all domestic journeys, too. The CEEC-10 operators are obliged to keep these rules when they enter EU territory, since the national traffic rules of the country where the vehicle travels are to be observed. They do not apply them however for their domestic transport. This harmonization will cause the CEEC-10 operators extra costs as more drivers will be employed to offer the same service to the customer as before and as vehicle maintenance will become more frequent. All this should be supported by different organizational structure. In countries where market liberalization has started only recently and, as a result, the market has already become fragmented and dominated by small (one vehicle - one driver) operators, market restructuring owing to bankruptcies can be expected at a high speed. Since the Europe Agreements give freedom for establishing enterprises the CEEC-10 structural changes will favor the EU operators willing and able to expand.

4. Standardization

Though the UN-ECE technical provisions are widely applied, hundreds of pieces of Community legislation have been issued partially to confirm the UN agreements and partially to increase standardization (type approval matters) and to improve safety (issue of driving license, use of safety belts, periodic road-worthiness tests, speed limitation, tread depth of tires) as well as to protect the environment (environmental standards).

The limits on weight (gross weight and axle weight) of vehicles (HGV) are more generous in the EU than in the CEEC-10 countries. The maximum authorized vehicle weight in the EU is 40 tons for road trains and for articulated vehicles with 2-3 axle semi-trailer, and 44 tons for three-axle motor vehicles with 2 or 3-axle semi-trailer carrying a 40 foot ISO container. In most CEEC-10 countries the gross weight limit is 40 tons or less. In the EU the maximum axle weight (both for the driving axle and the tandem axle) is 11.5 tons, while in several CEEC-10 it is 11 or less. The lower limits in the accession countries are due to the under-developed road infrastructure. Should the CEEC-10 increase their limits without improving their road infrastructure and without increasing their efficiency for carrying out maintenance the results would be devastating: they would either step into a fiscal trap of spending huge amounts for more frequent periodic maintenance and repair or the deterioration of their roads would sooner or later hamper their participation in international trade.

¹⁰ Council Regulation 3820/85/EEC, Council Directive 88/599/EEC, Council Regulation 3821/85/EEC