



Report of the High Level Group on the Development of the EU Road Haulage Market

June 2012

Chair

B T Bayliss

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Acknowledgements

The High Level Group would like to convey its appreciation of the assistance it received in the preparation of this report from organisations who submitted written representations and to those organisations and their representatives who participated in hearings and follow up enquiries – a list of these 126 organisations is to be found at the end of this Report. The Group would also like to thank the 21 undertakings that participated in case studies. Additionally the High Level Group would wish to acknowledge the very valuable support that it received in a wide range of areas from the services of the European Commission, and particularly the Land Transport Unit of DG MOVE, and from its consultants AECOM.

Report

To Vice-President Kallas

We were appointed by you in June 2011 with the remit to report on the state of the road haulage market and in particular to examine whether and to what extent the necessary circumstances for further opening of the market exist. We were charged specifically to furnish guidance with respect to the Commission's requirement under Regulation 1072/2009/EC to provide *"an analysis of the market situation, including an evaluation of the effectiveness of controls and the evolution of employment conditions in the profession, as well as an assessment as to whether harmonisation of the rules in the fields, inter alia, of enforcement and road user charges, as well as social and safety legislation, has progressed to such an extent that the further opening of domestic road transport markets, including cabotage, could be envisaged"*.

We were further mandated *"to organise a series of stakeholder meetings to better understand the views and concerns of the relevant stakeholder groups"* and our Recommendations reflect in substantial measure the feedback received from 126 stakeholder organisations.

The High Level Group is of the opinion that the creation of a Single European Transport Area will bring substantial benefits to Member States in terms of market efficiency, thereby enhancing industrial growth. However, in the course of its work the High Level Group identified a number of key obstacles to the achievement of this aim and consequently our Recommendations are for a continuous and gradual opening of the road haulage market.

Our proposals seek to achieve an acceptable balance between the different views and concerns of stakeholders in such a manner and to such an extent as to allow continual progress in market opening and the eventual achievement of a Single European Transport Area. The proposal is for a system that is entirely flexible with respect to the speed of change thus allowing the process to be accelerated or not according to circumstances at any particular time.

This view was not shared by one of the research advisors you appointed to assist us in our work in that in her opinion the market, given adequate warning, should be immediately fully opened with a minimum of regulation. Consequently this research advisor wished to disassociate herself from this Report.

We now have the honour to submit our Report.

<i>Chair</i>	B T Bayliss
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SUMMARY OF RECOMMENDATIONS

The High Level Group was mandated to examine **“the extent to which the necessary framework conditions for the full opening and integration of the EU market have been achieved and, if relevant, what remaining obstacles needed to be tackled”**.

The High Level Group is of the opinion that the creation of a Single European Transport Area will bring substantial benefits to Member States in terms of market efficiency, thereby enhancing industrial growth. The enhancement of such industrial growth through improved efficiency in the logistics chain is considered vital to meet both the present needs of the Union with respect to the current downturn in economic activity and the continuing and long term needs of the Union with respect to its economic development and competitiveness in the face of fast increasing global competition.

Following 88 written submissions, inter-action and dialogue with 70 organisations, 21 case studies in eight Member States and extensive literature searches the High Level Group identified and researched four key obstacles to the creation of a Single European Transport Area, namely:

- **Driver Shortage**
- **Enforcement Practices**
- **Cabotage Practices**
- **Lack of Innovations and Applications of Good Practice**

The Report recommends a gradual and continuous opening up of the road haulage market with appropriate regulatory measures. We were asked specifically to take into account the views and concerns of the different stakeholders and our proposals seek to achieve an acceptable balance between the different views and concerns in such a manner and to such an extent as to allow continual progress in market opening and the eventual achievement of a Single European Transport Area. The proposal is for a system that is entirely flexible with respect to the speed of change thus allowing the process to be accelerated or not according to circumstances at any particular time.

A summary of the Report's recommendations is given below with respect to the four areas identified above.

Driver Shortages

Although the shortage of drivers is not perceived as acute in the current economic situation, it is expected to become a severe handicap in the future when growth returns and when a proportionately large number of drivers is set to retire. A change in image of the sector is indispensable if new recruits are to be attracted to the workforce.

The image of the sector has evolved considerably in recent years. Although in the past driving was seen as an attractive profession, allowing workers to organise their work independently and to travel internationally, both expectations and the reality of the sector have changed. Younger generations have different career requirements, including a lifestyle which will allow a better balance between

private and professional life and the possibility to return home on a regular basis. With the availability of international travel, the profession has lost some of its appeal for younger generations.

The road transport market depends on a qualified and available workforce. In recent years the supply in the 15 old Member States has been augmented by drivers from the 12 new Member States but such a continuing augmentation will not be available to meet any economic upturn in the future in the face of likely driver shortages in the 12 new Member States. In spite of the current high unemployment rate, particularly amongst younger workers, an increase in wages alone is not seen as sufficient to attract adequate numbers of recruits to the profession. The image of which is perceived as one of low qualifications and low wages combined with a poor work environment.

The High Level Group is of the opinion that:

- The image of the profession should be improved so as to make it more attractive to a broader pool of workers. Awareness of freight vehicle driving as a profession should be raised, particularly among potential women drivers who have recently successfully entered the urban passenger sector.
- Career progression should be encouraged through measures such as those facilitating access to vocational training and internal mobility towards office and management positions.
- Access to the profession of driver should be made easier. The current cost of qualifications is a substantial entry barrier and there must be adequate support, on the side of both industry and public bodies, in both financial terms and training opportunities for those intent on entering the profession.

Enforcement

Enforcement has been a long-standing area of concern in road transport policy. Different enforcement practices lead to distortions in competition between hauliers who can be treated differently according to the countries in which they are operating. Discrimination may also occur in the carrying out of controls.

Although the framework for access to and operations in the road transport market is set out at European level, enforcement remains the responsibility of individual Member States for reasons related to cultural practices and approaches, and historical factors relating to administrative structures. Although the EU has started harmonising enforcement practices in the areas of working and driving times, such practices remain overall very heterogeneous.

Enforcement in road freight transport has proved to be particularly challenging due to the intrinsic characteristics of the sector. It is a service sector and less easy to control than other sectors such as manufacturing, it is also highly mobile in space and time. Cabotage is by its nature even less predictable in terms of its operations than international transport, depending as it does on the matching of empty returns and local demand, and the information linking these two components. The limit of three cabotage operations permissible following an international trip is seen as particularly difficult to enforce.

It is recommended that the Commission continues to promote a uniform interpretation of rules in relation to the most serious infringements and sanctions. This will assist greatly in breaking down differential practices which are frequently perceived as discrimination. The High Level Group considers it important, therefore, that the Commission extend its current target of achieving common definitions of infringements and penalties in the areas of working and driving time to other areas of regulation.

The targeting of controls to take account of the risk of non-compliance of any particular operator to be introduced under Directive 2006/22/EC¹ on enforcement of social rules in road transport with respect to driving and working times should also be extended to other areas of regulation.

Mutual co-operation, currently regulated under Directive 2006/22/EC, needs to be extended to remove concerns of operators with respect to discrimination, and operators themselves must appreciate that if they wish to operate in international or cabotage markets that a sharing of information is a *sine qua non* of such operations. Finally, development of joint liability regimes involving shippers and freight forwarders would encourage compliance throughout the logistics chain. The co-responsibility of transport undertakings and drivers for infringements of driving time regulations are an example of how joint liability can work in practice.

Cabotage

Although opening up of cabotage is seen as one of the means through which the vision of a Single European Transport Area will eventually be achieved it is not regarded by the High Level Group as suitable for this purpose in its present form. It is currently tied to international transport operations on the basis that it is a means by which a reduction in empty running can be achieved, but this is done in such a manner as to limit its efficiency both with respect to reducing empty running in relation to international operations and as a vehicle to open up markets.

The High Level Group therefore proposes that these twin aims be separated and that a distinction be made between **linked** (i.e. linked to international movements) and **non-linked cabotage**.

Linked cabotage would be regarded as an international operation and have as its sole aim the reduction of empty running in such operations. Subsequently, it would not be subject to pre-registration nor to Directive 96/71/EC (the 'Posted Workers' Directive')², although the High Level Group appreciates that this would mean revising the Directive to amend its scope. Cabotage operations would be restricted to four days from the time of crossing the border of the country where cabotage is to be conducted but there would be no restriction on the number of cabotage operations that can be conducted during this period, nor would there be any requirement to have fully or partially unloaded the vehicle prior to cabotage operations commencing i.e. such operations

¹ Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC, OJ L 102, 11.04.2006 p. 35 – 44, as amended by Directives 2009/4/EC and 2009/5/EC.

² 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 services, OJ L 18, 21.1.1997, p. 1–6

could commence immediately on crossing the border. It is considered that this will give maximum flexibility with respect to reducing empty running.

Non-linked cabotage could take place after an international movement *per se* or after an international movement plus linked cabotage or entirely independent of these two types of operation. Thus it should be free for a road haulage undertaking to enter another Member State with an empty vehicle and participate in the domestic market of that Member State. For such operations, and in line with the Posted Workers' Directive³ which covers road transport cabotage, the core conditions of the Posted Workers' Directive must effectively apply to all cabotage operations, and without regard to the current requirement under that Directive for a contractual relationship between the operator and the final recipient of the goods. In other words, no matter what contractual form the operation takes (e.g. through freight forwarders, sub-contractor or neither) the core conditions of the Posted Workers' Directive will apply. This is already the case under Regulation 1214/2011/EU on professional cross-border transport of euro cash by road between euro-area Member States ('Euro-Cash Regulation')³, although certain notable differences between the sectors and legal frameworks involved exist.

Such operations would be restricted in the first instance to 50 days per year per driver in any Member State provided Euro V vehicles are employed. In the case where the vehicles are less than Euro V the number of days would be restricted to 30. This linking of the number of days to vehicle type follows the principle of the International Transport Forum's (ITF) ECMT multi-lateral quota system in encouraging the use of environmentally friendly vehicles.

This form of cabotage would be conducted as of right but would be subject to pre-registration and severe sanctions in the case of infringements. The proposed 50 day limit could be increased according to circumstances thereby allowing complete flexibility with respect to the speed of market opening. It is anticipated that subsequently this non-linked cabotage will be known solely as cabotage.⁴

Innovation

Action is required in a number of areas in order to achieve high quality, sustainable and energy efficient road freight transport. Innovation can be a critical driver in attaining these objectives in that it can lead to significant efficiency improvements in the sector through both technical and process-related change. Nevertheless stakeholder feedback indicated that the drive for innovation in the sector is limited. This is seen as being due in part to the lack of available funding in undertakings where margins are traditionally low, as well as some lack of awareness of the importance of innovation in the sector.

The Report considers a range of innovations that would contribute greatly to the general advancement of the sector. Nevertheless, these proposed measures that could also impact

³ Regulation 1214/2011 of the European Parliament and of the Council of 16 November 2011 on the professional cross-border transport of euro cash by road between euro-area Member States - OJ L 316, 29.11.2011, p. 1–20

⁴ Operators wishing to be active in domestic markets for longer periods have the right of establishment.

favourably on the key obstacles identified in relation to the further opening up of the market cannot work in isolation. The right combination of these is required to bring value added and improve quality of services and efficiency in road haulage.

The High Level Group therefore recommends in relation to these proposed innovations that the available instruments of the European Union be used to promote such innovation. In particular, the proposal for a Regulation on guidelines for the trans-European transport network⁵ which was recently adopted by the European Commission includes in Art. 38 a reference to projects aimed at reducing fuel consumption and CO₂ emissions and promoting resource-efficient practices throughout the sector. This proposal should allow for appropriately targeted EU financial support for innovations in the sector.

⁵ Proposal for a Regulation of the European Parliament and of the Council on Union guidelines for the development of the trans-European transport network, COM/2011/0650- 2011/0294 (COD)

PREAMBLE

The Establishment and Remit of the High Level Group

Article 17(3) of Regulation 1072/2009/EC⁶ on common rules for access to the international road haulage market requires the Commission to draw up a report on the state of the EU road haulage market by the end of 2013.

The report required under Regulation 1072/2009/EC will have to provide *“an analysis of the market situation, including an evaluation of the effectiveness of controls and the evolution of employment conditions in the profession, as well as an assessment as to whether harmonisation of the rules in the fields, inter alia, of enforcement and road user charges, as well as social and safety legislation, has progressed to such an extent that the further opening of domestic road transport markets, including cabotage, could be envisaged”*.

The new White Paper on Transport⁷ that was adopted on 28 March 2011 states that the elimination of the remaining restrictions on cabotage in road freight transport should be pursued as part of the creation of a Single European Transport Area and the White Paper also specifically refers to the necessity to review the market situation in EU road freight transport as well as the degree of convergence in related fields.

In June 2011 Vice-President Siim Kallas, the Commissioner responsible for transport, established a High Level Group charged with reporting to him on the state of the road haulage market. In particular the High Level Group was to examine the extent to which the necessary framework conditions for the full opening and integration of the EU internal market have been achieved and, if relevant, what remaining obstacles needed to be tackled. The High Level Group was mandated to organise a series of stakeholder hearings to better understand the views and concerns of the relevant stakeholder groups. Following presentation of its recommendations to Vice-President Kallas the Commission will draw up its own report on the situation of the EU road haulage market as required under Regulation 1072/2009/EC which may be followed where appropriate by proposals for new legislative initiatives in 2013.

Working Methods

Official statistics give a broad overview of the sector but little or no indication of how the sector operates in practice. Although such statistics suggest a fragmented sector dominated by small operators in reality a complex system of inter-relationships between the various actors (e.g. shippers, freight forwarders, large and small haulage operators) exists (see 'The Market Situation' below).

⁶ Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market, OJ L 300 , 14.11.2009 P. 72 - 87

⁷ WHITE PAPER Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system, COM/2011/0144 final

In order to obtain an understanding of sector operations the High Level Group considered that this could best be elicited through discourse with the sector players and subsequent follow-up case studies. This approach was also in conformity with the Group's mandate to explore the views and concerns of the relevant stakeholder groups.

After initial meetings with stakeholders and officials of the European Commission four key topics were developed with respect to the necessary framework conditions for the full opening and integration of the EU internal transport market. These four framework topics were:

- Quality in the road haulage sector;
- Social issues and enforcement of road transport rules;
- Road user charges and driving restrictions;
- Cabotage.

A questionnaire was developed around these four topics and placed on the European Commission's website for transport. Following extensive advertising 88 responses were received.

Following analysis of questionnaire responses a series of meetings was held with individual stakeholder groups to explore specific issues in greater detail. Six such meetings were held encompassing shippers and shipper organisations, freight forwarders and freight forwarder associations, road haulage operators and associations, and social partners (trade unions, environmental groups, work safety organisations and small operators). A total of 16 organisations was involved.

These stakeholder meetings enabled four key obstacles to market opening to be identified within the general framework. These were:

- Driver shortages;
- Enforcement Practices;
- Cabotage Practices;
- Lack of innovations and applications of good practice.

These four key obstacles were the subject of a Public Hearing attended by participants representing 70 organisations. The area of driver shortages also formed the basis of a special meeting held with officials from the European Commission Directorate General of Employment.

Consultants were also engaged and provided the following services:

- Secretarial services
- Literature and data searches
- Questionnaire analysis
- Follow-up investigations and enquiries (frequently with stakeholders)
- Conducting of 21 case studies in eight Member States geared to issues raised by the High Level Group

The High Level Group met on nine occasions for a total of 15 days.

The Market Situation

In terms of tonne.kms road freight transport accounts for some three-quarters of all inland freight transport (see Diagram 1 below).

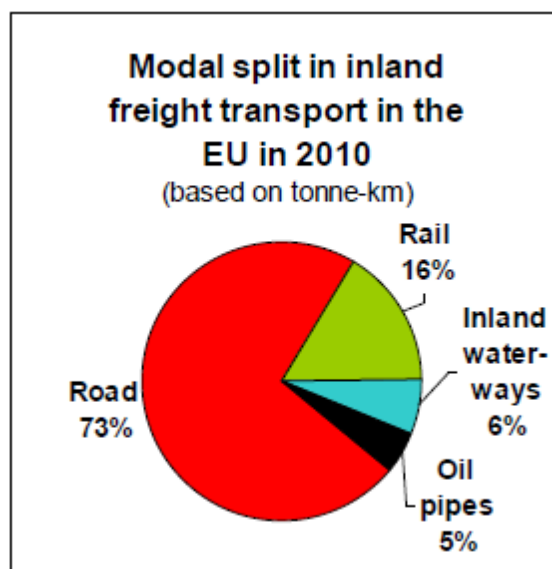


Diagram 1⁸

It should however be noted that aggregating tonne.kms can lead to the aggregation of very heterogeneous units and great care must be exercised in their interpretation. Thus across the EU as a whole according to these tonne.kms measures rail has an 18 % share of the combined rail and road freight market, yet in both turnover and value-added (at factor cost) terms its share is only 5 %.

Of these total tonne.kms flows some two-thirds across the EU are national traffics carried by domestic operators but this proportion falls to one-third in the case of the 12 new Member States with their much greater emphasis on international traffics (see Diagram 2 below).

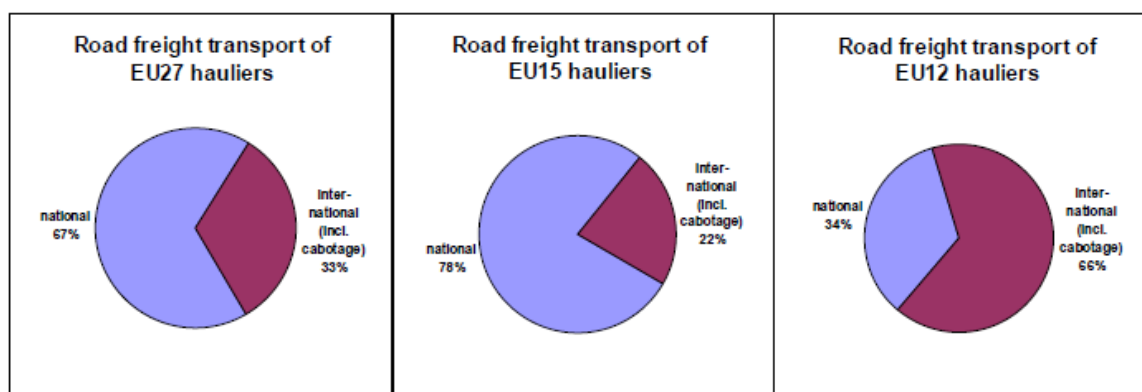


Diagram2: Share of national and international road freight transport in the EU⁹

⁸ Source: Eurostat, as found in the European Commission Road Freight Transport Vademecum, 2010 report

⁹ Source: as above

In terms of international movements vehicles registered in the new Member States as a general rule dominate almost entirely flows to and from their countries of registration, whereas in the old Member States domestically registered vehicles carry only a small share of international movements (see Diagrams 3a and 3b below)

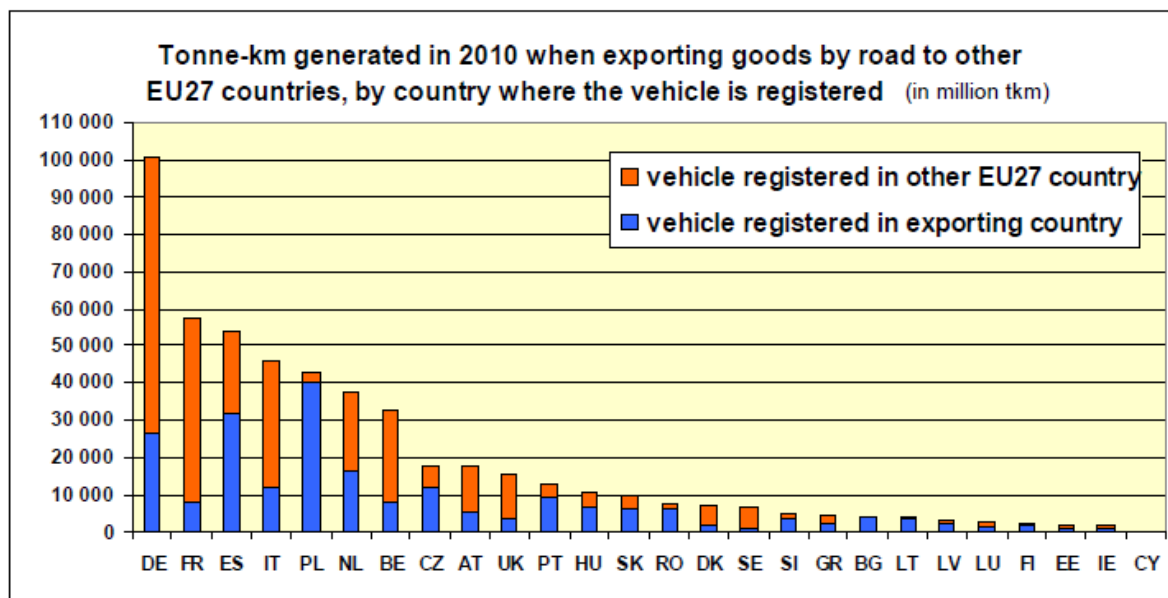


Diagram 3a¹⁰

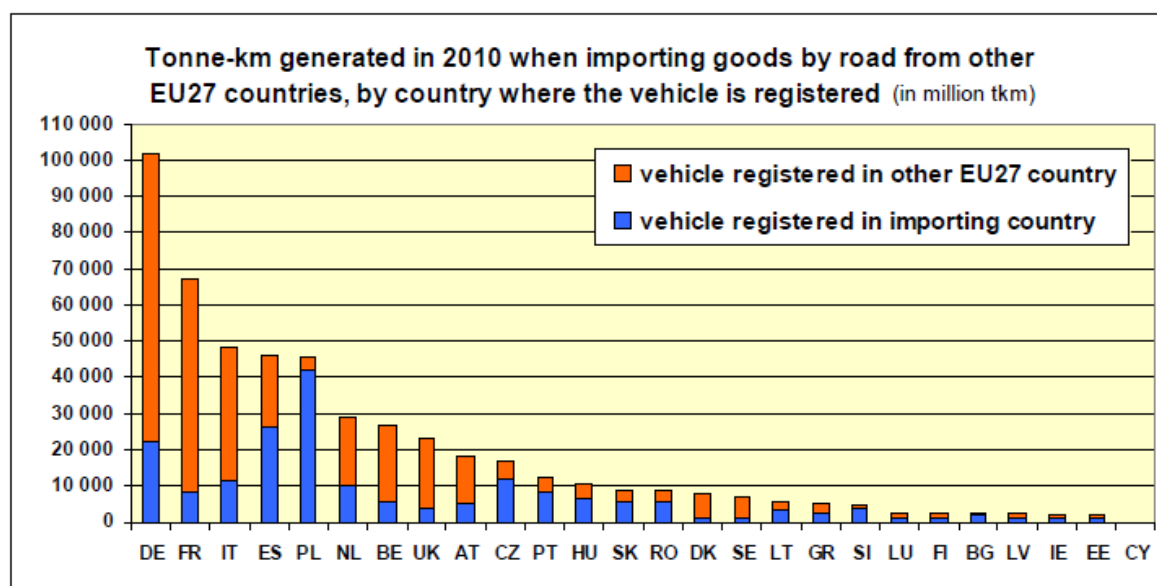


Diagram 3b¹¹

¹⁰ Source: as above

¹¹ Source: as above

However, it should be noted that these figures of international flows relate to a vehicle's country of registration which does not necessarily correspond to the operations of hauliers registered in any particular country.

It has become common practice in recent years for hauliers to 'outflag' and use vehicles registered in another Member State, including drivers and personnel employed under conditions of the other Member State. The activities of domestically registered vehicles and domestically registered hauliers, therefore, no longer correspond.

It is interesting to note in this respect that in terms of movements amongst the 15 old Member States vehicles registered in those countries account for over four-fifths of the total tonne.kms generated (see Diagram 4 below).

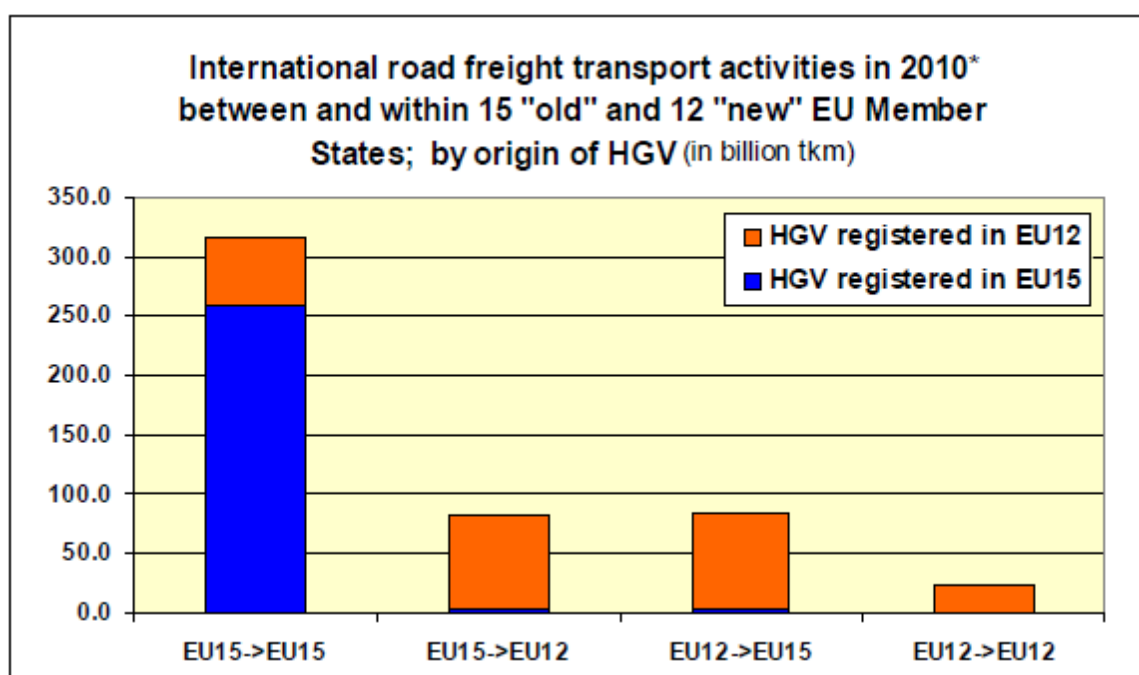


Diagram 4¹²

In terms of cross-trade (where loading and unloading take place in different countries and where such countries differ from that where the vehicle is registered) and cabotage (where loading and unloading take place in the same country but where that country is other than the one where the vehicle is registered), the former accounts for some one-fifths of international flows whilst the latter accounts for only about 1 % of total road freight activities.

Three-quarters of cross-trade is carried in vehicles from the 12 new Member States and accounts for some three-tenths of their total international activities. These 12 new Member States account for just over one-third of all cabotage activities and have ended the dominant positions previously held in this activity by Germany and the Benelux countries (see Diagram 5 below). Flagging out, mentioned earlier, could however be an important factor here. Almost two-thirds of cabotage takes place in Germany and France in identical proportions (see Diagram 5 below).

¹² Source: as above

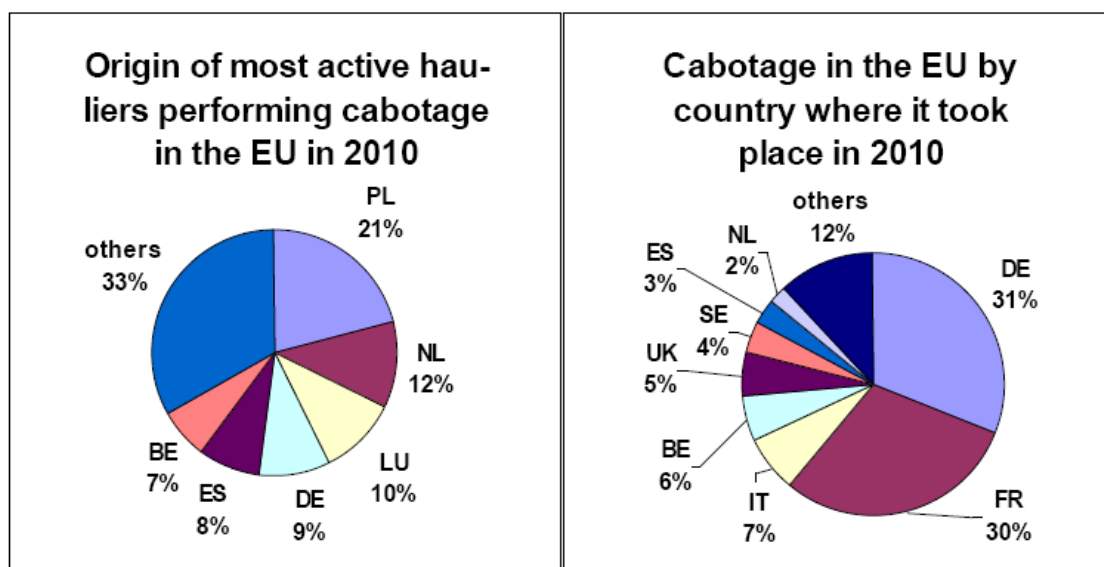


Diagram 5¹³

The Market Structure

Official statistics indicate a sector dominated by small operators. However, there has been a continuing trend over many years for freight forwarding and sub-contracting to play an increasingly dominant role. According to the European Association for Forwarding, Transport, Logistics and Customs Services (CLECAT), which represent 20 national organisations of European freight forwarders and customs agents, its members handle two-thirds of all cargoes transported by road¹⁴. The rise in the size and importance of pan-European logistics 'integrators' has led to a current position where the top ten land transport (road and rail) integrators¹⁵ alone are responsible for some 13 % of total road freight turnover across the EU¹⁶.

French statistics show that whilst the share of non-vehicle investment in total investment by haulage companies is uniformly at 20 per cent for all size groups of operator employing up to 250 employees, over 250 employees the average rises to double that figure¹⁷. This is an indication of their movement from pure carrier operations to combined freight forwarder/3 PL and carrier operations. For these large French firms (i.e. those employing more than 250 employees) almost a quarter of their

¹³ Source: as above

¹⁴ www.CLECAT.org

¹⁵ In order of size: DB Schenker, SNCF, DHL Freight, DSV A/S-, Dachser, Kuehne+Nagel, GEFCO SA, Norbert Dentressangle, LKW Walter Group, Rhenus AG. These 10 had a combined turnover of some €42 billion in 2009 according to figures from Transport Intelligence & Booz & Company quoted in the European Commission's Road Freight Transport Vademecum 2010.

¹⁶ The figures for the ten integrators include rail freight revenues, but these are a very small proportion (see text above on rail turnover).

¹⁷ Source: Enquête annuelle d'entreprise 2007, Ministère de l'écologie, du développement durable, des transports et du logement.

turnover relates to sub-contracting compared with less than 5% for those with less than ten employees¹⁸.

Similarly on the demand side shippers are forming consortia and alliances which are increasing supply-chain concentration¹⁹

Operating Costs

Diagrams 6, 7a and 7b below provide details of hauliers' operating costs. Although differences exist between the two sources of data the outstanding feature of both data sets is the importance of driver costs in total operating costs and the substantial divergences between States and in particular between the old and new Member States in driver costs.

NERA Estimates of Truck Operating Costs Across Europe, December 2009

	United Kingdom	Belgium	Czech Republic	France	Germany	Hungary	Ireland	Italy	Netherlands	Poland	Romania	Spain
	FTA	FEBETRA	CESMAD BOHEMIA	CNR	BGL	MIKFE	IRHA	Confetra	EVO	ZMPD	ARTRI	
Assumptions												
Fuel Price (£ per litre ex. VAT)	0.92	0.73	0.78	0.77	0.86	0.75	0.8	0.82	0.77	0.65	0.63	0.73
Diesel multiplier ⁽¹⁾	100	79.1	85	83.5	93	81.5	87.4	89.6	83.6	70.6	68.7	79.5
Domestic driver cost multiplier ⁽¹⁾	100	107.9	66.4	115.2	108.9	43.8	140.3	151.5	145.7		23.1	
Workshop staff cost multiplier ⁽¹⁾	100	130.6	54.9	101	152	33.1	122.2	99.9	151.1		17.6	
Employer social contributions-drivers (%)	12.8%	35.1%	21.9%	36.7%	24.0%	17.0%	10.8%	30.9%	28.8%	21.0%	10.5%	
Employment cost multiplier ^(1,2)	100	119.8	108	121.2	109.9	103.7	98.2	116	114.2	107.3	98	
Costs (£)												
VED	1,850	1,667 ⁽²⁾	1,102	473	1,180 ⁽⁷⁾	1,132	4,123	930 ⁽⁸⁾	1,001	1,040	494	
Vignette ⁽⁵⁾	0	1,146	0	0	0	679	0	0	1,146	567	1,107	
Insurance	3,880	3,880	3,880	3,880	3,880	3,880	3,880	3,880	3,880	3,880	3,880	
Depreciation	11,261	11,261	11,261	11,261	11,261	11,261	11,261	11,261	11,261	11,261	11,261	
Financing costs	4,104	4,197	4,884	4,099	3,957	6,434	4,747	4,399	4,148	5,375	7,680	
Fuel ⁽⁶⁾	38,540	30,467	32,775	32,172	35,851	31,412	33,691	34,534	32,237	27,215	26,488	
Tyres	2,815	2,815	2,815	2,815	2,815	2,815	2,815	2,815	2,815	2,815	2,815	
Maintenance ⁽³⁾	8,953	10,325	6,936	8,999	11,282	5,959	9,946	8,946	11,242		5,266	
Drivers wages	30,812	33,243	20,473	35,505	33,549	13,504	43,225	46,690	44,899		7,103	
Overheads ⁽⁴⁾	16,482	18,111	17,145	18,228	17,300	16,789	16,332	17,803	17,651	17,081	16,314	
Total cost (£)	118,696	117,112	101,271	117,433	121,077	93,866	130,021	131,257	130,282		82,408	
Total cost index⁽¹⁾	100	99	85	99	102	79	110	111	110		69	

¹⁸ The corresponding figures for operators with 10-49 employees and 50-249 employees are ca. 14 per cent and 18 per cent.

¹⁹ Freight Transport Research Summary, May 2010, European Commission Directorate General for Energy and Transport, Transport Research Knowledge Centre.

Notes

1. Compared to UK (i.e. UK = 100)
2. Index applied to the estimated labour element of overhead costs
3. Assumes costs are split 50 per cent labour/ 50 per cent parts and establishment costs
4. Assumes costs are split 50 per cent labour/ 50 per cent establishment costs
5. Excludes road tolls
6. Based on 70,000 miles and 7.6 miles per gallon
7. Value based on a EURO 1 vehicle
8. Value applies to Lombardia (regional tax)
9. Value based on vehicle category EURO II or more

Sources

- * NERA international survey
- * FTA Manager's Guide to Distribution Costs: October 2009 Vehicle Operating Cost Tables
- * FTA International Road Transport Guide, 14th Edition, 2009
- * Statistisches Bundesamt (2009) Verdienste und Arbeitskosten - Verdienste nach Berufen
- * EU Oil Bulletin, 05/10/09
- * Salaires a partir du 01/04/09, provided by FEBETRA for Belgium
- * Charges Patronales, Trimestre 2009/1, provided by FEBETRA for Belgium
- * Bloomberg

Diagram 6²⁰

	Driver			Total		
	2006	2007	2008	2006	2007	2008
France	29.43	30.29	31.16	73.7	77.11	80.1
Germany	25.3	25.91	26.36	70.94	76.23	79.06
Italy	24.69	25.21	25.74	72.92	75.79	76.94
Austria	24.43	24.97	25.54	61.51	67.7	74.38
Slovenia	16.97	17.61	18.34	56.64	58.37	60.14
Spain	16.98	18.7	20.42	53.99	55.97	58.87
Poland	11.36	11.65	11.98	44.17	47.69	52.05
Hungary	12.17	13.13	14.15	47.74	48.8	51.44
Romania	10.05	10.54	11.09	34.8	39.55	44.6

Diagram 7a: Level of Operating Costs (Euro per hour)²¹

	IT	DE	FR	ES	PL	AT	HU	SI	RO
Driver	34	33	39	34	23	35	28	31	25
Vehicle purchase	18	15	16	19	22	14	26	21	24
Fuel	21	23	21	23	26	19	28	22	37
Insurances	6	4	5	4	4	3	3	5	2
Taxes on vehicle	0	2	0	1	1	3	1	3	0
Pneumatic tyre	8	7	5	8	6	6	7	6	6
Maintenance	6	5	6	6	5	5	6	5	5
Toll charges	7	11	8	5	13	15	1	7	1

Diagram 7b: Percentage of Operating Costs per Hour²²

²⁰ Source: Freight Truck Operating Costs in Europe – A study for the UK Freight Transport Association, NERA, 2010.

²¹ Source: Centro Studi Sistemi di Trasporto, 2008.

²² Source: as above

REPORT

INTRODUCTION

In acknowledging the economic benefits that can stem from a Single European Market, the High Level Group interpreted its remit in terms of assessing the efficiency of the road haulage market from the economic, social and environmental aspects and the appropriate balance between them.

The dialogue with stakeholders showed that they viewed 'efficiency' as the most important quality aspect they wished to see in the sector. All stakeholder groups mentioned the environment in this respect and there was also a common view that regulations must be clear, enforceable and non-discriminatory. However, in other respects stakeholder groups placed emphasis on different aspects of efficiency according to their orientation. Thus social partners placed emphasis on social and working conditions in the sector, whereas shippers placed emphasis on low prices.

In making its proposals, therefore, the High Level Group has sought to optimise the balance between the economic, social and environmental aspects of efficiency within the constraints of achieving an acceptable balance between the differing points of view of stakeholders. At the same time the High Level Group has sought with respect to regulations to make proposals that are clear, monitorable and enforceable.

As noted in the Preamble four obstacles (driver shortages, enforcement practices, cabotage practices, lack of innovations and applications of good practice) were identified as key factors in relation to the opening up of the road haulage market. These four as well as being key factors in their own right also impact upon each other and are inextricably linked.

Thus views on the opening up of cabotage vary between those who would like it unrestricted, those who would like to maintain the status quo and those who would like to see it abolished, with such views being influenced at least in part by manpower, enforcement and innovation considerations.

Cabotage, and its extension, is viewed by the EU as one of the means to open up road haulage markets with the eventual aim of achieving a Single European Transport Area. Easing current restrictions on cabotage²³ would increase both flexibility of operations and competition in national markets. It is therefore favoured by some stakeholder groups in terms of improving market efficiency. However, although there is a general acceptance across stakeholder groupings that trade in goods is both beneficial and acceptable for the importing country, in the area of services and particularly transport there is no such general acceptance.

In the case of imported transport services, in contrast to imported goods, the actual 'production' process takes place in the importing country. This raises such matters as the safety of equipment and operations, drivers' welfare and concerns over what opponents to such importing of services call 'social dumping'. Moreover, because transport services are provided in a public place there is

²³ The current Regulation allows three trips in a seven day period following completion of a loaded international haul.

not only the question of the safety and well-being of operatives but also those of the general public. Consequently there are international, EU and national regulations with respect to drivers and vehicles.

When goods are imported the wage element of their costs is determined by wage levels pertaining in the exporting country. In the case of some imported services (e.g. technical support) the persons providing the service can be located abroad and be remunerated according to the norms of their home country. In the case of international transport operations (i.e. where no cabotage element is involved) stakeholders regard these as analogous to the importing of goods or those types of services where the provider remains in and operates from his/her home country. Consequently they recognise that lower wage levels can form part of a country's competitive advantage. However, in the case of cabotage this is regarded by many stakeholders as analogous to the production of goods by a foreign company in a domestic market other than its own. In such circumstances a manufacturing company would have to abide by the labour laws and conditions pertaining in the host country, and it is considered by such stakeholders, that cabotage should be regulated in a similar manner as a matter of course.

Under the Posted Worker Directive workers posted abroad for a limited period must be subject to the same conditions of employment as those pertaining in the host country provided the host country conditions are at a higher level than in the posted worker's country of origin. Otherwise the conditions of the country of origin pertain. Cabotage is covered by the Directive; however, the contractual conditions between the provider and the receiver of services required under the Directive for it to be applicable frequently do not pertain in cabotage on account of freight forwarding and sub-contracting operations.²⁴ The Directive does not apply to self-employed²⁵ and problems can arise through the re-designation of employees as self-employed drivers (as was the case with Directive 2002/15/EC on the working time of mobile workers²⁶ - [the 'Working Time Directive'] – the so called 'false self-employed').

Therefore legally although cabotage is covered by the Directive, in practice it may not apply to certain operations not meeting the conditions for application of the Directive, thereby creating lack of clarity and divergences in interpretation between regulators with respect to both the contract of shipment and the contract of employment. Thus in the absence of a universally applicable regulation it is considered by certain stakeholder groups that the opening up of cabotage could lead to "a race to the bottom", leading in turn to a breakdown in the host country's social norms.

The inter-relationship between cabotage, manpower, legislation and its enforcement is well demonstrated by the argument above, and innovations and applications of good practice are similarly relevant to all these three areas. Driver shortages, enforcement and cabotage are the

²⁴ According to Art. 1 of Directive 96/71/EC, one of several transnational measures must be met for the Directive to apply, including the existence of "a contract concluded between the undertaking making the posting and the party for whom the services are intended".

²⁵ According to the impact assessment carried out before the proposed review of Directive 2002/15, 31% of the workforce in the road haulage sector across the EU is self-employed, of which around 50% are thought to be so-called 'false' self-employed.

²⁶ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities, OJ L 80, 23.3.2002, p. 35–39

subject of the next three Sections with a final Section dedicated to innovations and applications of good practice and their relevance to the previous Sections.

I DRIVER SHORTAGES

In road freight transport as in many other sectors manpower is a key element. However, in the case of road haulage it takes on a special significance on two counts. First, it is argued, there is lack of an adequate workforce both in terms of numbers and qualifications thereby leaving the provision of transport and modern logistic systems dependent on unsatisfactory short term solutions. Secondly, from the social perspective transport does not play the role it should in creating permanent skilled jobs thereby reducing the current very high levels of unemployment in the Union particularly amongst young people. Increasing the attractiveness of road transport jobs is therefore a goal that goes beyond purely transport issues.

Job Attractiveness

A shortage of drivers has been a frequent problem raised by stakeholders from across practically all Member States. Although during the present economic downturn firms are able to 'get by' as soon as the downturn is over the same problem of driver shortages will arise as in the past. This is a structural problem which bears on any long-term analysis of the road freight transport sector in Europe. This is a concern which is also recognised by European Institutions as witnessed by the recent report on this issue for the European Parliament.²⁷

There is a range of reasons for this lack of attractiveness of jobs in road freight transport. Although their mobility can give rise to feelings of independence it can also create feelings of loneliness. In the case of long distance haulage this can mean spending nights away from home in less than comfortable circumstances. Such problems do not arise in urban and short distance operations but here the high incidence of collections and deliveries can be physically demanding. The European Agency for Safety and Health at Work highlights a range of issues in the context of hazards and risks to road transport drivers. These include just-in-time management leading to high work pressures, client pressures, increasing use of remote monitoring and complex technology, work place design, accessibility of facilities and services (sanitary, sustenance and medical), infectious diseases, violence and assault.²⁸

Although accidents has also been mentioned as a possible deterrent factor fatalities at the wheel are in fact much lower per thousand employed than the average workplace fatality rate across all other sectors.

In spite of the skills, responsibility and flexibility required in this profession the hourly wage rate tends to be low and in some instances is set at the national guaranteed minimum wage. An adequate level of remuneration is frequently only achieved through overtime and non or little use of subsistence allowances. Career prospects are also limited with few drivers being promoted to office jobs within their organisations. Amongst transport employees there is a predominance of male

²⁷ See: Shortage of Qualified Personnel in Road Freight Transport, European Parliament, Directorate General for Internal Policies, Policy Department B: Structural and Cohesion Policies, Transport and Tourism, 2009

²⁸ Source: OSH in figures: Occupational safety and health in the transport sector – An overview. European Agency for Safety and Health at Work, 2011

http://osha.europa.eu/en/publications/reports/transport-sector_TERO10001ENC

personnel (mainly drivers) with low skills and qualifications. Clerical and middle management positions are limited in number.²⁹

An international enquiry in 2002 concluded that in terms of job satisfaction transport ranked alongside domestic service at the bottom of the rankings.³⁰

Although recognising the principle of subsidiarity the European Council and Parliament have gradually begun to establish European social regulations for road transport which should move some way to improving working conditions in the sector. As noted in the Introduction, because road transport takes place in a public area safety considerations have resulted in a common working time directive (Directive 2002/15/EC) which acts as a framework for the regulation of operations. With respect to professional qualifications a mandatory training programme has been established in which all drivers must participate at stipulated intervals subsequent to their having obtained a driving licence.³¹

Industry Response

The free movement of workers is a fundamental European principle and in recent years the shortage of manpower in the road haulage sector was solved in part by drivers from the new Member States moving on a temporary basis to old Member States. For example many Polish drivers moved to the United Kingdom where the wage levels were higher. Drivers moving temporarily to other Member State are not necessarily covered by the Posted Workers' Directive as they are not being posted on a temporary basis from an undertaking in their home country. They do however enjoy fuller protection in the host country than that under the Posted Workers' Directive as the labour laws of the host country apply to them in full. This means that over and above the conditions stipulated in the Directive other benefits such as social security, which are excluded from the Directive, must be part of the employment package. Nevertheless it is still the case that foreign drivers can be paid quite legally at lower levels than host country drivers even within the same firm. This can happen where there is either no minimum wage legislation and no collective agreement or when there is minimum wage legislation but no collective agreement.

This movement of workers has had an equalising effect, both upwards and downwards, on wage levels across the EU as a whole.

However, it became clear from the stakeholder meetings that the new Member States are now themselves faced with driver shortages which will increase in the wake of an upturn in economic activity. Stakeholders have indicated that increasing salaries on its own will not solve the problem of recruitment and there are indications that countries will be looking beyond the EU in the future to meet shortages.

²⁹ Source: Employment by occupation and economic activity, NACE Rev. 2, Eurostat, 2008

³⁰ Source: "Un enjeu: la qualité de l'emploi" Francois Brunet, in *Données sociales*, INSEE, 2002

³¹ Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC, OJ L 226, 10.9.2003, p. 4–17

Possible Solutions

A modern economy relies on efficient logistics management, a key element of which is a cost-effective and high quality transport system. In spite of manpower shortages road freight transport, which is by far the most important form of inland freight transport, must meet these expectations if European industry is to compete in global markets. A number of possible solutions are considered below some of which are further developed in the final Section on innovations and applications of good practice.

As noted earlier there has been reliance upon imported labour in the old Member States to fill the manpower gaps and there are indications that in future some of the New Member States who previously provided drivers will now be looking outside the EU to fill their own manpower shortages. It is considered that the presence of such short term labour in the economy will make no contribution to raising the status of the profession which is a *sine qua non* for a long term solution to the problem of driver shortages. On the contrary it will help preserve the image of an unattractive profession.

Road freight transport is a key element in the efficiency of European industry and it must be recognised as such with the necessary conditions created for its long term development. The profile of the sector must be raised and the labour force enhanced through higher levels of training. A modular system of professional training could be established whereby transport workers have access to a range of qualifications in various aspects of the business. Such areas could include the transport of dangerous goods, safe and energy saving driving techniques and applications of new information technologies. Language training for drivers employed in international road haulage could also be an aspect of such a modular programme.

Working conditions which were considered acceptable or even attractive a generation ago must be radically updated through organisational schemes such as stage coach relays, thereby reducing nights spent away from home. Inadequate and unsafe parking facilities are an obstacle which should be tackled through national and European initiatives, beginning with major highways. Also, as proposed by the European Agency for Safety and Health at Work, the question of occupational risks must be tackled through concrete actions in the areas of general management, driving, vehicles, drivers and co-ordination with clients.³²

Access to the profession of driver must be made easier. The current costs of obtaining a heavy goods vehicle licence are about € 3,000 which as a rule have to be met by the 'would be' driver prior to obtaining employment in the sector. This is a considerable barrier to entry which is rarely if ever encountered in other manual professions. Stakeholders are aware of such problems but look to government support to solve them. This is however not just a question of government subsidies but recognition by the sector that it has to provide adequate support both financially and in terms of training for those intent on entering the profession.

The transport sector offers a wide range of opportunities requiring different skills and qualifications and these opportunities need to be exploited through improved information and marketing campaigns.

³² See: Managing risks to drivers in road transport. European Agency for Safety and Health at Work, 2011 http://osha.europa.eu/en/publications/reports/managing-risks-drivers_TWE11002ENN

24.8 million men and women were unemployed in March 2012 in the European Union with an average unemployment rate of 10.2%.³³ Further, amongst people under the age of 25 the rate of unemployment was 22.6%. Road haulage offers a wide range of opportunities of which both job-seekers and the public at large are generally unaware. In particular the profession can be made much more attractive to female workers through improvements in working conditions as has already successfully occurred in urban passenger transport.

Recent solutions to the problem of driver shortages are exacerbating the long term problems of the sector as they tend to reinforce its branding as an unattractive profession. The long term solution relies on improving the standing of, and career prospects in, the profession. This issue is a key element in the European Commission's recent White Paper on transport where it highlights the need to "address quality of work in all transport modes, with respect to, notably, training, certification, working conditions and career development, with a view to creating quality jobs, developing the necessary skills and strengthening the competitiveness of EU transport operators".³⁴

³³ Source: Eurostatistics - Data for short-term economic analysis, Issue number 05/2012, Eurostat, 2012

³⁴ WHITE PAPER Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system, COM/2011/0144 final, Annex I – List of initiatives (11).

II ENFORCEMENT

This Section sets out the main principles that should inform regulatory practice and enforcement and their applicability to road freight transport.

Principles of Regulation and Enforcement

Appropriate levels of enforcement were seen by all stakeholder groups as of major concern. With many of the opinion that any future opening up of road haulage markets could only be viable if, amongst other considerations, an adequate enforcement systems were in place.

Enforcement, very much on account of cultural differences, is the responsibility of each individual Member State. There are, nevertheless, basic principles of regulation and enforcement that are universally applicable.

Any successfully implemented regulation needs to recognise the limits of regulatory drafting and the limits of monitoring and enforceability. These in turn depend on public acceptance of the regulation. These limits with respect to both regulation and enforcement are considered below.

Regulation Limits

- Regulation should only occur where it will improve efficiency (in the economic, social and environmental senses) in the market, and where this cannot be achieved through market mechanisms alone.
- The intentions of any regulation should be clear and unambiguous. This will allow a subsequent judgement to be made as to whether the aims have been achieved. This creates respect for the regulation and hence acceptance.
- Any regulation should not be in conflict with the aims and intentions of other legislation.
- All players involved in a particular area of regulated activity must be included.

Enforcement Limits

- Legislators should only establish regulations that they can and are willing to enforce. Respecting this limit lessens the discretionary decisions of enforcement agencies and makes them less prone to capture.
- The cost of enforcement should be commensurate with potential net benefits. This means including the costs of any market inefficiencies created by the legislation and its enforcement.
- Enforcement agencies can best enforce those regulations which are supported by a critical mass of the regulated population.
- Enforcement agencies should monitor and collect information of only those activities it regulates. Limiting the scope of monitored activities helps to prevent breaches of individual privacy rights.

However, stakeholder feedback suggested that:

- Regulation is not clear and unambiguous so that differences in interpretation and application occur between enforcement agencies and can result in discrimination.

- Regulations are seen by market participants as not efficiently and consistently enforced, due to either lack of willingness to enforce or lack of ability to enforce.
- Enforcement is seen by market participants as arbitrary and causing economic inefficiencies. This leads to lack of community support.
- Monitoring of compliance is considered by market participants somewhat invasive and bureaucratic, and at the same time lacking in consistency.
- Responsibility for compliance does not flow across the operational chain from shipper to road haulier. Moreover, some players may be free of regulation in certain respects e.g. freight forwarders are not subject to the same 'access to market' regulations as hauliers. These factors can place pressure on the weaker players e.g. small sub-contractors, in the chain.
- Certain players or operations are excluded. This may occur either through difficulties in including certain players and operations or through the intentional exclusion of certain players or operations.
- Enforcement capacity is limited in Member States. Availability of staff, training capacity and control tools vary from one Member State to another.

Noting this stakeholder feedback the High Level Group is of the opinion that the most appropriate ways to start putting the above principles into practice are:

- To identify and modify as far as feasible regulations that are not clear or unambiguous;
- To identify and modify regulations that are not enforceable;
- To introduce enforcement procedures that encourage compliance;
- To establish and follow best practice;
- To establish systems of mutual co-operation of enforcement agencies across borders.

These five guidelines for putting principles into practice are central to the following discussion on enforcement practices and to the proposals in the next Section on cabotage.

Enforcement Practice

Road freight transport is subject to numerous rules at the EU level in such areas as driver training, working and driving times, access to the profession, vehicle inspections and the transport of dangerous goods. These rules can have a major impact on transport costs and their uniform application is thus essential in ensuring fair competition.

Enforcement of European norms and regulations presents substantial problems in international transport. There being three principal reasons for this:

- It is a service sector and less easy to control than other sectors such as manufacturing;
- It is highly mobile in space and time;
- Enforcement lies with individual Member States with their different standards, constraints, capabilities, cultures and objectives.

These problems are themselves further compounded in the case of cabotage operations. Cabotage is a subsector of international transport and by its nature even less predictable in terms of its

operations, depending as it does on the casual matching of empty returns trips and local demand and the information linking these two components.

To promote a uniform approach in overcoming these difficulties, the European Commission and the European Union have started harmonising the enforcement rules and coordinating controls where the impact on competitiveness is considered to be highest, namely in the areas of working and driving times. The main legislative instruments relating to the harmonisation of national enforcement and control practices are: Directive 2006/22/EC, which sets common rules on roadside controls and controls at the premises of the undertaking, and places an obligation on Member States to cooperate in the field enforcement; and Regulation 3821/85/EEC³⁵ which makes the tachograph the central instrument for enforcing social legislation. Within this framework, the European Union has defined a common list of serious infringements.³⁶

Stakeholder feedback suggests however that even where there is legislation, for example with respect to driving times there is insufficient harmonisation, and in other areas specific legislation is lacking. The High Level Group is of the opinion in this respect that action should be taken particularly in the areas of **Targeted Controls**, **Mutual Co-operation**, **Joint Liability** and **Sanctions**.

Targeted Controls

Article 9 of Directive 2006/22/EC commits Member States to introducing a risk rating system for individual undertakings based on the relative number and severity of infringements of social rules, with the implication that undertakings with a high risk rating should be controlled more closely and with greater frequency.

All Member States have notified the Commission of their creation of such a system. However, progress towards targeted enforcements (more frequent controls for high offenders) has not been uniform across Member States. The United Kingdom is amongst the Member States that are most advanced in developing such targeting in this field and two UK practices in particular can be considered as best practice in the area of effective and transparent enforcement controls:

- VOSA is the Vehicle and Operator Services Agency in the UK and it performs a systematic control of freight vehicles publishing yearly extensive statistics which are effective both from the point of view of transparency and as a source to improve enforcement policies.
- OCRS (Operator Compliance Risk Score) is a mechanism used by VOSA to calculate the likelihood of an operator being non-compliant. The OCRS operates through a mobile compliance Device (MCD) that is linked to a central server via GPRS. The objective of the OCRS is to reduce the burden on the compliant operators and direct limited VOSA resources towards the non-compliant. Data used are mainly derived from VOSA on-road surveys. There are two distinct types of OCRS scores calculated:
 - Historic OCRS uses known data relevant to a particular operator to calculate an Index Score for that operator
 - The Relative Score, that compares, through a system of 'points', the position of each operator in relation to others.

³⁵ Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport, OJ L 370, 31.12.1985, p.8, as amended by later Regulations.

³⁶ Directive 2006/22/EC as amended by Directive 2009/5/EC, Annex III.

The High Level Group is very supportive of such practices and recommends that the potential of targeted controls for enhancing enforcement is exploited across the Union for all types of infringements and not just for social legislation as is the case today. The European Register for Road Transport Undertakings (ERRU), which as from 2013 will allow electronic exchange of information between Member States on undertakings with respect to compliance, will be an important vehicle in this respect.

It is also recommended that common definitions should be developed for all infringements to legislation relating to road freight transport, and not only for those concerning social rules. The Group welcomes the European Commission's intention to create a working group for that purpose.

Mutual Co-operation

Cross-border co-operation in enforcement is actively encouraged by the European Commission, including in Directive 2006/22 on enforcement of social rules whereby Member States are obligated to carry out 'concerted controls' with authorities from two or more Member States at least six times a year.

Art. 7 of the Directive established an intra-Union liaison body on enforcement. This means in practice that each national authority (Ministry or enforcement authority) must appoint a person responsible for cross-border cooperation. This person is the contact for all other Member States in case of questions relating to the application of social rules in his/her country and sits on the Committee on social rules (also called Tachograph Committee since it was first established in the Regulation on the tachograph). Under Art. 11 of the Directive this Committee puts together guidance notes on the application of social rules which are published on the Commission's website.

Art. 7 also contains a provision explicitly promoting cross-border cooperation: "3. The exchange of data, of experience and of intelligence between Member States shall be actively promoted, primarily but not exclusively through the Committee referred to in Article 12(1) and any such body as the Commission may designate in accordance with the procedure referred to in Article 12(2)."

The High Level Group whilst being favourably disposed to these measures is at the same time aware of the concerns of stakeholders with respect to differing national practices. Whilst fully supportive of the concept of subsidiarity and the privacy rights of individuals the Group considers in particular that information should be made more readily available between national authorities and that operators participating in international operations and cabotage must acknowledge that such operations involve such a sharing of information.

Joint Liability

With so many players now participating in complex logistics chains the High Level Group considers that ways must be developed to achieve joint responsibilities and liabilities. This will encourage compliance and at the same time encourage more meaningful co-operation and dialogue between parties thereby stimulating efficiency gains. The Group notes that a certain degree of joint responsibility and liability already exists in the field of driving time in that under Article 10 of Regulation 561/2006/EC³⁷ transport undertakings, including the "consignors, freight forwarders, tour

³⁷ Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC)

operators, principal contractors, subcontractors and driver employment agencies shall ensure that contractually agreed transport time schedules respect this Regulation", and recommends that this practice be extended to other areas of legislation.

Sanctions

To achieve a more uniform and effective enforcement of road transport legislation it is recommended that the adoption of common definitions of infringements and the harmonisation of controls should be complemented by corresponding action in the area of sanctions. To this end the High Level Group recommends that sanctions are harmonised to an extent that guarantees uniform signals on the gravity of infringements being sent to drivers and undertakings.

In summary enforcement problems, arising in substantial part from the nature of the service provisions, are very much to the forefront of Stakeholders' concerns about the further opening up of the road haulage market. These concerns, although going much wider, are nevertheless well reflected in the 2007 Communication on the workings of the Posted Workers' Directive³⁸.

"To sum up, notwithstanding improvements in terms of access to information, there are justified concerns as to the way Member States implement and/or apply the rules on administrative co-operation as provided for by the Directive. Successful implementation and application of the Directive does not seem possible unless this situation is corrected. Access to advance information about the terms and conditions of employment applicable in the host country is a prerequisite for interested parties to be able to perform the services required in compliance with the provisions resulting from the Directive and its transposition in national law. The proper functioning of administrative cooperation among Member States is an essential instrument for compliance control; its virtual absence may explain why Member States revert to control measures, which appear unnecessary and/or disproportionate in the light of the interpretation by the ECJ of Article 49 EC."

No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, OJ L 102, 11.4.2006, p.1, as amended by Regulation 1073/2009/EC.

³⁸ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Posting of workers in the framework of the provision of services: maximising its benefits and potential while guaranteeing the protection of workers- COM(2007) 304 final.

III CABOTAGE

Cabotage relates to the movement of goods from loading to unloading which takes place in a Member State where the vehicle is not registered. Such operations are subject to Regulation 1072/2009/EC under which the holder of a Community licence may, following the delivery of goods carried in the course of an incoming international carriage, use the same vehicle for up to three cabotage operations. The last cabotage unloading must take place within seven days following the last unloading in the host country of the goods carried in the course of the incoming international carriage.

Cabotage as currently regulated is tied to international movements with the key aim of reducing the empty running involved in such movements. The ultimate aim of the Common Transport Policy is however to achieve a market where registration in any one Member State will allow unrestricted operations throughout the Union. The gradual development of cabotage is seen as the instrument through which this is achieved, i.e. it is not a question of a 'big bang' but rather of a gradual development in line with harmonisation.

Although as noted earlier cabotage only comprises some 1 % of the total road haulage market in tonne.kms terms this figure rises to 2 % if cabotage is calculated as a percentage of national road haulage for hire or reward³⁹. There are, however, only certain types of transport that are as a rule appropriate for cabotage operations. These so called 'contestable markets' are determined by the types of good carried and the form of road haulage itself. As a general rule the 'contestable markets' relate to goods carried in large and other types of container and to palletised and pre-slung goods. Across the EU cabotage comprises almost 5% of these 'contestable markets'. This figure varies substantially between Member States with Eurostat figures suggesting a range between 14 % and 0.2 % even when the single highest and single lowest country figures are excluded. But these disaggregated figures prompt questions of robustness as the cabotage rates can change substantially in both directions from year to year at country level.

Across the range of policy issues related to road freight transport in the EU cabotage is one of the most contentious. The difficulties of reaching agreement on Regulation (EC) No 1072/2009 as well as the inclusion of the Article 10 ("Safeguard procedure") relating to the risk of "serious disturbance of the national transport market in a given geographical area due to, or aggravated by, cabotage" are a clear reflection of the position. The Regulation emphasises the "incomplete harmonisation of the road haulage market" as a key factor to be tackled with respect to any further opening up of the market.

This 'incomplete harmonisation' can be broken down into three elements namely: **Vehicle**, **Manpower** and **Enforcement**.

³⁹ Source: Eurostat

Vehicle

This includes:

- The technical conditions of vehicles (safety conditions and emissions);
- Vehicle costs (procurement and operations).

Minimum standards for the technical condition of vehicles are the subject of several regulations relating to type approval of vehicles, their components and separate technical units. Harmonisation relates in the main therefore to enforcement.

With respect to the vehicle and its operations three aspects are of particular importance with respect to harmonisation:

- Taxation of fuel;
- Other taxes and charges relating to road vehicles;
- Safety and pollution with respect to vehicles.

In the case of fuel taxation there is already a certain level of harmonisation (Directive 2003/96/EC⁴⁰) which was considered at the time to mitigate the risks of unfair competition. More recently (23 April 2011) the Commission presented a proposal⁴¹ to overhaul this Directive aimed at a more accurate accounting of energy content and CO₂ emissions, without questioning the need for the said harmonisation.

A certain level of harmonisation is already in place with respect to safety and pollution with vehicle type standardisation (a range of Regulations covering wide aspects of vehicles, their components and separate technical units) and in the minimum requirements for verification of road worthiness through road inspections (Directive 96/96/EC⁴²). As the same standards apply across the EU in these respects harmonisation is a question of enforcement.

With respect to taxation on the purchase of vehicles and annual circulation charges the High Level Group recognises that the best solution to ending differentiation would be to replace all these fiscal instruments with direct road pricing. This would by definition apply in identical terms to all identical vehicles on the road at the same time. However, for the present the Group considers that the levels of disparity in competitive conditions do not in themselves justify restricting cabotage.

Overall it is the opinion of the Group that the vehicle element contribution to competitive distortions is at a very much lower level of magnitude than the labour element, as seen in the earlier tables on operating costs, and as such should not be considered as a major problem with respect to the further opening up of the road haulage market.

⁴⁰ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, OJ L 283, 31.10.2003, p.51, as amended by Directives 2004/74/EC and 2004/75/EC.

⁴¹ Proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity - COM(2011) 169/3

⁴² Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers, OJ L 046, 17.2.1997, p.1, as amended by later Directives and Regulation 1882/2003/EC.

Manpower

This includes:

- The working hours and driving hours of drivers
- Other working conditions of drivers and associated rights (e.g. health, safety and holidays)
- The labour costs (remuneration of drivers and associated social charges)

The rules relating to working times and driving times of mobile workers in the road sector are regulated at European level, (Directive 2002/15/EC with respect to working times and Regulation 561/2006/EC with respect to driving times, breaks and rest periods). Thus problems in these areas relate in the main to enforcement.

Enforcement

This topic covers issues related to enforcement of rules relating to drivers, vehicles and loads. As indicated in the previous Section the question of enforcement harmonisation is one that needs to be addressed.

Manpower (working conditions and associated rights, remuneration and social security) and **enforcement** are therefore the key elements of harmonisation considered in the proposals on cabotage below.

The High Level Group has sought to address in these proposals both the immediate aims of the current cabotage system (i.e. to reduce empty running in international movements) and the long term aims of the EU with respect to a Common Transport Policy (i.e. the creation of a Single Market where operators licensed in one Member State can operate free of restrictions in any Member State).

With respect to the current operations of the cabotage system the Group noted in particular from stakeholder contributions that:

- The seven day period during which cabotage operations are allowed following completion of an international journey is more than is required to reduce empty running in international movements.
- The current three trip rule is both unenforceable and subject to different interpretations in different administrations.
- Although the Posted Workers' Directive applies to all cabotage operations, for the reasons elaborated in the Introduction loopholes exist and some operations may be covered and not others. This creates problems of enforcement and complaints of discrimination.
- The requirement that the vehicle is fully unloaded prior to commencing cabotage restricts flexibility thereby reducing an operator's ability to reduce empty running.

In light of these points the High Level Group considers that cabotage tied to international movements, with its aim of reducing empty running, should be treated as part of international transport and not as cabotage *per se*. This is referred to subsequently as **linked cabotage** (i.e. linked to international movements) However, recognising the benefits that can ensue from a Single European Market the High Level Group is of the opinion that non-domestic competition in domestic

markets should not be dependent on having undertaken an international movement or on creating and registering establishments in other Member States. Currently the Directorate General for Employment estimates that within the Union workers employed in one Member State but posted to another on a temporary basis is some 1 million, and the Group is of the opinion that road haulage operators should be similarly treated so that corresponding benefits can be achieved in this sector. This we refer to as **non-linked cabotage**.

Linked Cabotage

For purposes of consistency between Regulations, linked cabotage would not be subject to pre-registration nor to the Posted Workers' Directive, although the High Level Group appreciates that this would mean revising the Directive to amend its scope⁴³. On the basis of its unenforceability, the three trip rule should be eliminated and an unlimited number of cabotage operations be permitted within a four day period following crossing the border into the country of cabotage. This four day period would be controllable through the tachograph. This four day period is to replace the current seven day period which is considered excessive in relation to the aim of reducing empty running during international operations. The requirement that the vehicle should be fully unloaded prior to commencing cabotage operations should be dropped and cabotage operations be permitted immediately on crossing the border irrespective of any unloading either partial or full. The current restriction reduces flexibility with respect to minimising empty running.

No pre-registration of such operations would be required, but the same conditions relating to documentation would apply as in the current Regulation.

Non-Linked Cabotage

It is proposed that non-linked cabotage can take place after an international movement *per se* or after an international movement plus linked cabotage or entirely independent of these two types of operation. Thus it should be free for a road haulage undertaking to enter another Member State with an empty vehicle and participate in the domestic market of that Member State. For such operations the core conditions of the Posted Workers' Directive, which are intended to apply to all cabotage operations, must apply regardless of whether the requirements in Art. 1.3 of the Directive are met, including the need for a contractual relationship between the operator and the final recipient of the goods. In other words, no matter what contractual form the operation takes (e.g. through freight forwarders, sub-contractor or neither) the core conditions (paid annual holidays, minimum rates of pay, conditions of health, safety and hygiene at work, etc.) of the Posted Workers' Directive will apply. This is already the case under the Euro-Cash Regulation, although certain notable differences between the sectors and legal frameworks involved exist.

Such operations would, in the first instance, be restricted to 50 days per year per driver in any Member State provided Euro V vehicles are employed. In the case where the vehicles are less than Euro V the number of days would be restricted to 30. This linking of the number of days to vehicle type follows the principle of the ITF's ECMT multi-lateral quota system in encouraging the use of environmentally friendly vehicles.

⁴³ As an immediate measure Member States may choose to apply the derogations possible under Art. 3(3), 3(4) and 3(5) of the current Directive to postings shorter than one month or when the amount of work to be carried out is considered as "not significant".

Pre-registration of this type of cabotage would be required and this would have two elements:

- i. The haulier and driver would be required to register in a web-based database held by the relevant authorities in the host country indicating that they are active in non-linked cabotage.
- ii. Before the start of non-linked cabotage operations on any given day an online check-in procedure would have to be carried out, either by the operator's office or by the driver, registering the services being undertaken for that day.

The following points need to be made with respect to this registration so that it is applied in a fair and non-discriminatory manner:

- The same database design must be adopted across all EU countries, offering choice of language of user interface, and thus allowing the hauliers to use the same software whatever the country in which they want to access the non-linked cabotage market. The database of each country will be held and maintained by the authorities of that country, but access to that database by the hauliers should not constitute a barrier to entry in the domestic freight haulage services market of any member country;
- These one-off registrations and daily check-in procedures are to be understood as declarations of intent and not as requests for permission, i.e. there is free access for any operator complying with the rules;
- The relevant enforcement authorities in each country must have real time (road-side) access to their national extended cabotage database, and severe sanctions should apply in case of detection by authorities of the exercise of non-linked cabotage contrary to the conditions for such operations (this would include appropriate action with respect to so-called 'false' self-employed).
- According to Art. 3.1 of the Posted Workers' Directive the terms and conditions of employment for those carrying out non-linked cabotage are those applicable in the host country. In this case they would be the conditions applying to domestic road haulage operators.

Reference must also be made to carriers' liability. In all EU countries the CMR convention for international transport applies, but there is no equivalent for domestic transport. This can create difficulties for cabotage operators who would be subject to host country regulations in this respect. Stakeholders have indicated that this can form a barrier to operations. It is therefore recommended that whilst maintaining the freedom for parties to establish their own liability regimes for cabotage operations in any given country the default option for the liability regime for such operations would be the same as that pertaining in the CMR conventions for international operations, subject to this not being in conflict with the national rules of the host country.

The High Level Group is of the opinion that these modifications to cabotage regulations would permit increased load factors and improve economic efficiency whilst respecting working conditions and providing for environmental gains through lower CO₂ and pollutant emissions.

IV INNOVATIONS AND APPLICATIONS OF GOOD PRACTICE

Action is required in a number of areas in order to achieve high quality, sustainable and energy efficient road freight transport. Innovations can be a critical driver with respect to this objective, which is also recognized in the proposal for a Regulation on guidelines for the trans-European transport network (TEN-T). On the other hand, several innovations are contributing to the opening of the road haulage market by increasing the opportunities for road hauliers to conduct their business operations. The aim of this Section is to provide a compendium of available innovations and good practices that could assist in achieving not only improved efficiency in road haulage which the industry wants, but also in providing the means to address the three issues of driver shortages, problems with enforcement and cabotage.

Currently, a very complex system of regulations, policies and enforcement practices in the 27 Member States hinders the smooth operation of supply chains, increases costs and adds to the negative environmental impact. At the same time, there is growing awareness of the need for breakthrough innovations in freight transport, whether technological, organisational or both.

In order to contribute to an energy-efficient operating network and reduce adverse impacts on the environment, road freight-related innovations⁴⁴ can encompass on-vehicle solutions in truck design and ancillary equipment, fleet management, the external planning and control of vehicle fleets, as well as personnel management.

Traffic fluidity can be increased by the development of intelligent infrastructure communicating with the trucks encompassing technologies such as advanced traffic management (ATM) and automated vehicle control (AVC). Efforts should, therefore, focus on standardising the interfaces of such systems in the vehicle platform and, ideally, building architecture that would enable the parallel operation of different applications (safety, tolling, information, etc.) on a single one-stop-shop platform.

Another important area for innovation is service quality. Whilst opportunities for increasing vehicle speeds are clearly constrained by speed limits and traffic conditions, door-to-door transit times could still be reduced by better vehicle routing. Improved maintenance regimes and telematics can minimise deviations from schedules, whilst a range of technologies can be used to offer customers a track-and-trace service for road consignments.

Cities in Europe are beginning to develop the concept of Urban Consolidation Centres which constitute links between long distance and urban transport. Cargo arriving by large lorries designed for highway movements is transferred onto smaller trucks and vans more adapted for urban deliveries. This alleviates congestion problems in city centers and optimises the use of long distance lorries through avoidance of their use in urban traffic. In the UK, the success of the Heathrow

⁴⁴Alan McKinnon, Innovation in Road Freight Transport: Achievements and Challenges paper prepared for the International Transport Forum / IMTT Seminar on 'Innovation in Road Transport: Opportunities for Improving Efficiency' Lisbon 2009

Consolidation Centre led to the creation of another centre for the distribution of construction materials throughout the whole London area.

With regard to the issue of driver shortages, technical and other types of innovation could increase job attractiveness by potentially improving working conditions, safety and security. An indicative example is the “stage coach relays”, that is the change of drivers’ shifts at specific points (relays) so that the driver can spend the night at home. Similarly, “freight exchange” is a practice that enables freight ‘owners’ and empty vehicle ‘owners’ to meet at a common platform either physically or through electronic online media providing them with the opportunity for spot freight and empty vehicle exchange. Already widely used in Europe mostly to reduce empty running, in the United States this concept is used for a substantial share of the market of transport for hire and reward.

Another option to tackle driver’s shortage is the use of longer and heavier vehicles (LHVs). The European Modular System (EMS) which combines standard tractor units and trailers into road trains of up to 25.25m and 60 tonnes is already used and tested in a number of Member States. LHVs allow for increased transport capacities for a small extra financial outlay. Moreover, the same freight volumes can be moved using fewer road vehicles with resulting benefits for CO₂ emissions, congestion and road safety. Despite the above, critics strongly claim that this is a simplistic way of looking at the issue, and that the use of LHVs would long term have adverse impacts on cabotage, induce road transport demand and cause freight to be shifted back from rail to road.

Whilst opinions are divided on the positive impact of LHVs, there is consensus among the main stakeholders on the benefits of increasing the aerodynamics of trucks at constant loading capacity. A number of solutions are available under the current legislative framework, but not universally used: spoilers behind the cabin and side-skirts covering the wheels of the truck and the trailer. A change in the legislation which would allow increasing the length of the truck-trailer combinations for aerodynamic purposes would additionally allow moving away from the box shape of truck cabins and reducing the aerodynamic drag behind the trailer with (removable) tails. The fuel saving potential of such devices is non-negligible and can reach 5-10% in long-distance high-speed traffic.

The deployment of such innovations can be accelerated with grants and subsidies, while tax deductions can be granted for environmentally conscious hauliers who use cleaner vehicles and increase transport efficiency through innovative logistics solutions. Opportunities for increasing the efficiency of the logistics chains lie particularly in the interface between the road transport mode operation and transshipment points, warehousing and inventory management. Transshipment nodes can constitute the weakest links of the logistics chain. Delays observed at logistics centres constitute a disincentive to multimodal transport and considerably increase total delivery times. Investment in adequate physical facilities (cranes, etc.) and IT tools (software for inventory management, RFID tracking and tracing) can increase the efficiency of storage and transshipment and reduce prices and time losses. Furthermore, the application of ITS and global positioning systems will facilitate the location of potential cargo for transport thereby reducing empty runs, as well as improving vehicle routing with respect to collection and delivery.

Combined transport can be an efficient solution for crossing environmentally threatened areas (such as the Alp crossings) and to bypassing the most congested network links. Although growing the

exploitation of combined transport is very limited despite the incentives offered by Directive 92/106/EEC⁴⁵ which regulates combined transport at European level.

Further to the above, logistical collaboration is a practice that shares transport resources by companies with complementary transport requirements (e.g Kelloggs and Kimberly-Clark in UK) and even direct competitors in the same market (e.g Nestle and United Biscuits). Another form of collaboration, which relies on advanced informatics systems, is related to data sharing between producers and retailers. This enables the road haulage companies to plan their road operations ahead of time and, thus, increase the utilisation of their road fleets. Finally, an additional good practice for cabotage is the vendor managed inventory. This enables the producers/suppliers to control the replenishment process and thus schedule the movement of products in a way that makes more efficient use of trucks capacity. A necessary condition for this is to increase storage capacity at the customer's premises to accommodate the delivery of supplies in full truck-loads.

With regard to enforcement, innovations in information and communication technology can also yield benefits, with applications such as the registration of the vehicle location by the tachograph, or the use by enforcement officers of devices to remotely access data relevant for compliance of checks from vehicles in movement. Real-time access by inspectors to databases such as the European Register of Road Transport Undertakings (ERRU) is crucial for the effectiveness of such controls.

Each of the promising innovations that have been described in the above would indeed contribute greatly to the general advancement of the sector. Nevertheless, proposed measures cannot work in isolation; the right combination of these is required to bring value added and improve quality of services and efficiency in road haulage.

With regard to the improvement of the road haulage sector efficiency, there are three key recommendations⁴⁶ proposed:

- Promote – through available financial and fiscal incentives (including the support to innovative freight operations available under Art. 38 of the proposal for a Regulation on guidelines for the trans-European transport network, when adopted) – innovation in the road freight transport sector;
- Increase the awareness of the innovations available in freight transport and surrounding areas (logistics nodes, infrastructure, etc.) through pilot projects and exchange of best practice;
- The parallel development of road infrastructure and freight vehicles, since in certain cases productivity benefits outweigh the investment costs of adjusting infrastructure to accommodate them.

For the promotion of innovation and good practices, the right environment for such operations is required. It would be beneficial if the responsible authority promotes innovation by creating the

⁴⁵ Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States, OJ L 368, 17.12.1992, p.38, as amended by Council Directive 2006/103/EC

⁴⁶ International Transport Forum, "Moving Freight with Better Trucks" OECD/ITF 2010

appropriate supportive conditions. In addition, interaction between the industry, R&D and academia is strongly recommended to ensure translation of research into concrete applications.

ANNEX

List of organisations involved in the stakeholder consultations and hearings:

- 3F
- Access EU!
- ACEA (European Automotive Manufacturers Association)
- ADAC
- AFTRI
- Air Liquide
- ANITA
- ASECAP
- ASFA
- Asociación de Transporte Internacional por Carretera (ASTIC)
- Association of Estonian International Road Carriers (ERAA)
- Associazione Italiana fra gli Industriali della carta, cartoni e paste per carta
- ASTIC
- Austrian Economic Chamber (WKÖ)
- Bundesministerium für Verkehr, Bau und Stadtentwicklung, Bonn
- Bundesverband Güterkraftverkehr Logistik und Entsorgung (BGL)e.V.
- Bundesverband Güterkraftverkehr Logistik und Entsorgung (BGL)e.V.
- cabinet DN
- CEFIC
- CELSA
- CEOE
- CEPI - Confederation of European Paper Industries
- CER
- CESMAD Bohemia
- Chamber of Commerce and Industry of Slovenia Transport Association
- Chamber of Craft and Small Business of Slovenia
- CLECAT
- CNA-FITA
- CNV Vakmensen
- Confartigianato Trasporti
- Confcommercio International
- Confederacion Española de Transporte de Mercancías (CETM)
- Confederation of Danish Industries
- Confederation of Finnish Industries EK
- Confindustria
- Confindustria Genova
- Daimler
- Danish Transport & Logistics
- Danish Transport and Logistics Association (DTL)
- DB Schenker Rail

- Deutsche Post DHL
- DTL
- Dutch transport ministry
- ECM (Vehicle Delivery service) Ltd
- ETF (European Transport Workers' Federation), particularly to Mick Johnson
- ETSC
- EURALIA
- EuroCommerce
- European Association of Vehicles Logistics
- European Express Association
- European Shippers' Council
- European Transport Training Association
- EVO The Dutch Shippers Council
- EVONIK
- Fachverband Güterkraftverkehr und Logistik Hessen e.V
- FEBETRA
- Federal Public Service Transport and Mobility, DG Landtransport (Belgium)
- Fédération Inter-Environnement Wallonie
- FENADISMER, Federación Nacional de Asociaciones de Transporte de España
- FEPORTS - FUNDACIÓN COMUNIDAD VALENCIANA RE
- Ferrovie dello Stato
- Finnish Transport and Logistics SKAL
- FNTR
- Focus, association for sustainable development
- French Ministry for Ecology, Sustainable Development and Transports
- FTA
- FTL & Intermodal Business Development - DHL Freight
- Gebroeders Van Aerde Transport & Logistics
- Geodis
- Hellenic Federation of International Road Transporters (OFAE)
- Hellenic Syndicate of Land Goods transport
- International Road Transport Union (IRU)
- Irish Department of Transport
- Irish Road Haulage Association
- Bundesverband Wirtschaft, Verkehr und Logistik (BWVL)
- ITD - International Transport Denmark
- ITENE
- ITS United Kingdom
- Karlovy Vary Region
- Kaufland
- La Poste S.A
- Landesverband Verkehrsgewerbe Saarland (LVS)
- Lithuanian National Road Carriers Association "LINAVAL"
- Magnus Nilsson Produktion
- MAN SE

- Ministry of Economic Affairs and Communications of the Republic of Estonia
- Ministry of Transport of the Czech Republic
- Ministry of Transport of Malta
- MKFE
- Nordic Logistics Association
- Norwegian Hauliers' Association (NLF)
- OFAE
- OTM, Belgian Shippers' Council
- Pirelli
- Quercus - Associação Nacional de Conservação da Natureza
- Ravintrans LTD Freight Forwarding Agency, Athens Greece
- Road Haulage Association
- Road Transport Administration of the Republic of Latvia
- Samskip Multimodal Container Logistics
- Scania EU Affairs
- SDA Express Courier SpA
- Service public fédéral mobilité et transport, Belgique
- Streng Holding BV
- Sveriges Åkeriföretag
- Swedish Forest Industries Federation (SFIF)
- Swedish Shippers' Council
- The National Union of Road Hauliers from Romania - UNTRR
- Toyota Motor Europe
- Transport & Environment
- Transport & Logistiek Vlaanderen
- Transport en Logistiek Nederland (TLN)
- Transport for London
- Transport News
- TUSIAD-Turkish Industry & Business Association
- UEAPME
- UETR European Road Haulers Association
- UIRR, International Union of Combined Road-Rail Transport Companies
- UK Department for Transport
- Union of Veneto Chambers of Commerce
- Union Professionnelle du Transport et de la Logistique
- Unite the Union
- UPS
- Verband des Württembergischen Verkehrsgewerbes e. V.
- Volkswagen AG
- Volvo Truck Operations, Logistics Services
- ZMPD in Poland