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**PROPOSAL**

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	20 December 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 895 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules ensuring basic road freight connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union

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Delegations will find attached document COM(2018) 895 final.

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Encl.: COM(2018) 895 final



Brussels, 19.12.2018  
COM(2018) 895 final

2018/0436 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on common rules ensuring basic road freight connectivity with regard to the withdrawal  
of the United Kingdom of Great Britain and Northern Ireland from the Union**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, if the Withdrawal Agreement<sup>1</sup> is not ratified, the Unions' primary and secondary law will cease to apply to the United Kingdom from 30 March 2019 ('the withdrawal date'). The United Kingdom will then become a third country.

Within the Union, the freedom for the Member States' road haulage operators (Union road haulage operators) to provide international carriage of goods by road is regulated primarily on the basis of Regulation (EC) No 1072/2009<sup>2</sup>, which lay down the common rules for the access to the occupation of road transport operator and for access to the international road haulage market, respectively.

In the absence of a withdrawal agreement, road freight transport services between the United Kingdom and the Member States would cease to be governed by the said Regulations upon withdrawal. This would result in the loss of validity of Community licences issued by the United Kingdom to road haulage operators until the withdrawal date, and thereby loss of access to the Union's road haulage market for holders of such licences. Similarly, European Union road haulage operators, on the basis of the existing Community licences, would equally lose automatic access to the United Kingdom's road freight transport market.

It follows that, in the absence of a withdrawal agreement, as from 30 March 2019 there would be no basis in Union law for the provision of road freight transport services between the United Kingdom and the Member States by road haulage operators. The multilateral quota system of the European Conference of Ministers of Transport (ECMT) would become the only legal framework on which the continuation of such services could be based, subject to the possession of an ECMT permit. A vehicle equipped with an ECMT permit may carry goods between any of the 43 countries participating in the system, among which are 26 of the EU-27 Member States (all but Cyprus), the United Kingdom, and 16 other countries. Following an international haulage operation from the country of registration of the vehicle to another ECMT country, up to three operations where the country of registration is not involved are possible before the vehicle has to return to the country where it is registered.

The number of ECMT permits is limited for each Member State and they are distributed at national level by the competent authorities of each Member State. Permits for 2019 have already been distributed and their number cannot be increased at short notice. ECMT quotas are set annually and any changes to the number of permits allocated to an ECMT country have to be agreed unanimously by all ECMT countries.

By example, in 2019 there will be annual permits for 23,252 vehicles registered in the EU-27. In addition, there will be 984 annual permits for the United Kingdom and 23,472 annual permits for vehicles from other countries participating in the system. Considering the volumes

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<sup>1</sup> [https://ec.europa.eu/commission/sites/beta-political/files/draft\\_withdrawal\\_agreement\\_0.pdf](https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf).

<sup>2</sup> 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.

of road freight transport services and the goods carried by road between the United Kingdom and the Member States (around 50 million tonnes in 2017; some 30 million tonnes from the EU-27 to the United Kingdom and some 20 million tonnes from the United Kingdom to the EU-27), it is evident that reliance solely on the ECMT quota system does not currently constitute an adequate solution to ensure basic road freight transport connectivity immediately after the withdrawal date in the absence of a withdrawal agreement. The Union and the Member States should work to ensure that an adequate number of permits be available within the ECMT system, so as to ensure basic connectivity.

The carriage of goods by road between the United Kingdom and the Member States is almost entirely in the hands of United Kingdom and Union road haulage operators. The loss by those operators of their right to provide road freight transport between the United Kingdom and the Member States would therefore result in serious disruptions including in respect of public order.

It is therefore appropriate for the Union to adopt temporary and time limited contingency measures to mitigate such potentially disruptive effects for connectivity.

In its Communication ‘Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan’ of 13 November 2018<sup>3</sup> the Commission announced its intention to propose a number of contingency measures to address the possibility that the United Kingdom might withdraw from the Union without a withdrawal agreement. As regards road transport in this communication the Commission pointed out that ECMT permits could allow only for considerably less traffic between the Union and the United Kingdom compared to existing levels.

The European Council (Article 50) reiterated its call, on 13 December 2018, for work on preparedness at all levels for the consequences of the United Kingdom's withdrawal to be intensified, taking into account all possible outcomes. This act is part of a package of measures which the Commission is adopting in response to this call.

The present proposal thus has the objective to lay down temporary measures to govern the carriage of goods by road between the Union and the United Kingdom following the latter's withdrawal from the Union (Article 1). These measures are intended to maintain basic connectivity for a strictly time-limited period (Article 9).

In the first place (Article 3), the proposed Regulation provides for the unilateral granting of rights for bilateral carriage to United Kingdom road haulage operators so that these can continue to carry goods between the respective territories.

The rights granted to United Kingdom road haulage operators are subject to conformity with the relevant Union law applicable to road freight transport (Article 4) and equivalent rights being granted by the United Kingdom to Union road haulage operators. The proposed Regulation lays down a mechanism (Article 5) to ensure that the rights enjoyed by Union road haulage operators in the United Kingdom are equivalent to those granted to UK road haulage operators under the proposed Regulation. If that is not the case, the Commission is empowered to adopt the necessary measures to correct the situation by means of delegated acts, including the limitation to the allowable capacity available to UK road haulage operators or to the number of journeys or to both. The assessment of the level of equivalence and the adoption of corrective measures by the Commission are not solely linked to strict, formal

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<sup>3</sup> COM(2018) 880 final

correspondence between the two legal orders; this is because of the marked differences between the respective markets and in order to avoid a blind mirroring approach - which might in the end prove counter to the Union interest.

The proposed Regulation, even though it aims to temporarily ensure basic connectivity for road freight transport, lays down a flexible mechanism to ensure that Union road haulage operators enjoy fair and equal opportunities to compete with United Kingdom road haulage operators once the United Kingdom will no longer be bound by Union law. A level playing field requires that, even after the withdrawal, the United Kingdom continues to apply sufficiently high and comparable standards in the area of road freight transport as regards: fair competition including the regulation of cartels, abuse of dominant position and mergers; the prohibition of unjustified government subsidies; the protection of workers and a high level of road safety; the protection of the environment; safety and security, or relating to the granting of licences to road haulage operators or to the qualification, training and medical controls for professional drivers. Moreover, it must be ensured that Union carriers are not discriminated against in the United Kingdom, be it *de iure* or *de facto*. The proposed regulation thus charges the Commission (Article 6) with the task to monitor the conditions of competition between Union and United Kingdom road haulage operators and empowers it to adopt the necessary measures, by means of delegated acts, to ensure that those conditions remain level at all times.

The necessary procedures are established so as to enable the Member States and the Commission to verify that road haulage operators carrying goods into the Union under this Regulation are licensed or certified by the United Kingdom in accordance with relevant standards, that all relevant national and Union legislation is complied with and that the allowed rights are not exceeded.

Explicit provision is made to recall that Member States must not negotiate nor enter into any bilateral road freight transport agreements with the United Kingdom on matters falling under the scope of this Regulation and that they must not otherwise grant UK road haulage operators, in connection with road freight transport, any rights other than those granted in this Regulation (Article 3). Nevertheless, the respective competent authorities will be able to cooperate as necessary for the good implementation of the Regulation (Article 7), so that the least possible disturbance is brought to the management of the road freight transport services that will continue to be provided under its aegis after the United Kingdom's withdrawal.

- **Consistency with existing policy provisions in the policy area**

This proposed Regulation is intended as a *lex specialis* that would address some of the consequences ensuing from the fact that Union rules regulating road freight transport, in particular Regulation (EC) No 1072/2009, will no longer apply to the carriage of goods by road between the United Kingdom and the remaining Member States as from the withdrawal of the United Kingdom and in the absence of a withdrawal agreement. The proposed terms are limited to what is necessary in this respect, so as to avoid disproportionate disruptions, including in respect of public order. They are intended to apply only for a limited period of time. This proposal is therefore fully consistent with the existing legislation and notably with Regulation (EC) No 1072/2009.

- **Consistency with other Union policies**

This proposal complements Union rules regulating the carriage of goods by road, in particular Regulation (EC) No 1072/2009. The specific purpose and context of this Regulation, as well

as its unilateral nature, necessarily require a restrictive approach in the grant of rights, as well as specific provisions intended to preserve equality of rights and a level playing field.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis is Article 91(1) of the Treaty on the Functioning of the European Union (TFEU). This Article provides the basis for the adoption of EU legislation laying down notably: (i) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States (Article 91(1)(a) TFEU); and (ii) the conditions under which non-resident carriers may operate transport services within a Member State (Article 91(1)(b) TFEU).

- **Subsidiarity**

Art. 1(2) of Regulation (EC) No 1072/2009 reserves competence to the Union for relevant agreements with third countries. In the absence of such an agreement this proposed act would establish basic connectivity subject to equivalent rights being granted by the United Kingdom. Such connectivity would be ensured in an equal manner for traffic to and from all points in the Union, which avoids distortions in the internal market. Action is therefore indispensable at Union level and the result could not be achieved through action at Member State level.

- **Proportionality**

The proposed Regulation is considered proportionate as it is capable of avoiding disproportionate disruptions in a manner that also ensures equal conditions of competition for Union road haulage operators. It does not go beyond what is necessary to achieve this objective. This is the case, in particular, for the conditions under which the relevant rights are conferred, which *inter alia* pertain to the need that equivalent rights be conferred by the United Kingdom and to fair competition, and for the limitation of the regime in time.

- **Choice of the instrument**

Since the act governs matters closely related to Regulation (EC) No 1072/2009 and is intended, like these Regulations, to ensure fully harmonised conditions of competition, it should take the form of a Regulation. This form also best responds to the urgency of the situation/context, since the time available before the withdrawal (without a withdrawal agreement being concluded) is too short to allow for a transposition of provisions contained in a Directive.

## **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

This is not applicable due to the exceptional, temporary and one-off nature of the event necessitating this proposal which does not relate to the objectives of existing legislation.

- **Stakeholder consultations**

The challenges arising from the United Kingdom's withdrawal from the EU and possible solutions have been raised by various stakeholders and Member States representatives.

A common theme in the presented views was the need for a regulatory intervention in order to maintain a certain degree of connectivity as regards the carriage of goods by road. When it comes to access to the Union road haulage market, stakeholders are not able to take their own contingency measures in order to mitigate the harmful impact of the possible absence of a withdrawal agreement.

On 29 November 2018, the Commission organised an EU-27 workshop on preparedness in the Council's Article 50 Working Party, during which Member States' representatives have in particular stressed the need to adopt EU level contingency measures in order to ensure basic connectivity between the EU-27 and the UK in case of an absence of a withdrawal agreement. In particular it was highlighted that the ECMT multilateral quota system does not represent a sufficient and adequate fall-back option considering its quantitative and qualitative limitations.

These comments have been given due consideration on the preparation of the proposal.

- **Collection and use of expertise**

Several forms of assessment of the consequences of the United Kingdom's withdrawal for the road haulage sector were shared with the Commission by relevant stakeholders. These assessments conclude that the only fall-back available in the road haulage sector, namely the multilateral quota system of the European Conference of Ministers of Transport (ECMT), would be inadequate to cover the needs of the sector. The shortage of permits available for 2019 (see above) would likely cause significant disruptions and the bilateral flow of goods by road (around 50 million tonnes annually) may no longer be fully covered. More than 80% of road haulage operations between the UK and the EU-27 are currently being carried out by hauliers established in the EU-27. It is in the interest of the EU-27 to provide for a framework that does not unduly restrict bilateral road haulage operations.

- **Impact assessment**

An impact assessment is not needed, due to the exceptional nature of the situation and limited needs of the period during which the change of status of the United Kingdom is implemented. No materially and legally different policy options are available other than the one proposed.

- **Fundamental rights**

This proposal has no consequence for the protection of fundamental rights.

#### **4. BUDGETARY IMPLICATIONS**

Not applicable.

**5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

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**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on common rules ensuring basic road freight connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>4</sup>,

Having regard to the opinion of the Committee of the Regions<sup>5</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, that is to say from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.
- (2) The withdrawal of the United Kingdom from the Union would, in the relationship with the remaining twenty-seven Member States and in the absence of any special provisions, end all rights and obligations ensuing from Union law in respect of market access, as established by Regulation (EC) No 1072/2009 of the European Parliament and the Council<sup>6</sup>.

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<sup>4</sup> OJ C , , p. .

<sup>5</sup> OJ C , [...], p. .

<sup>6</sup> 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 (Text with EEA relevance), (OJ L 300, 14.11.2009, p. 72).

- (3) The multilateral quota system of the European Conference of Ministers of Transport (ECMT) is the only other available legal framework that could provide a basis for the carriage of goods by road between the Union and the United Kingdom after the withdrawal date. However, due to the limited number of permits currently available under the ECMT system and its limited scope as regards the covered types of road transport operations, the system is currently inadequate to fully address the road freight transport needs between the Union and the United Kingdom.
- (4) In order to prevent ensuing serious disruptions, including in respect of public order, it is therefore necessary to establish a temporary set of measures enabling road haulage operators licensed in the United Kingdom to carry goods by road between the territory of the latter and the remaining twenty-seven Member States. In order to ensure a proper equilibrium between the United Kingdom and the remaining Member States, the rights thus conferred should be conditional upon the conferral of equivalent rights and be subject to certain conditions ensuring fair competition.
- (5) In order to reflect their temporary character, the set of measures should be limited to a short period of time, so as to allow the necessary arrangements for basic connectivity to be made in the ECMT system, and without prejudice to the possible negotiation and entry into force of a future agreement covering the carriage of goods by road between the Union and the United Kingdom.
- (6) In accordance with the principle of proportionality as set out in Article 5 of the Treaty on European Union, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (7) This Regulation should enter into force as a matter of urgency and apply from the day following that on which the Treaties cease to apply to and in the United Kingdom unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date.
- (8) Where necessary to address market needs, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission, to restore the equivalence of rights granted by the Union to UK road haulage operators with those granted by the UK to Union road haulage operators and to remedy occurrences of unfair competition to the detriment of Union road haulage operators. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. It should be ensured that any such delegated act does not unduly affect the proper functioning of the internal market.

HAVE ADOPTED THIS REGULATION:

### *Article 1*

#### **Scope**

This Regulation lays down temporary measures governing the carriage of goods by road between the Union and the United Kingdom of Great Britain and Northern Ireland (the 'United Kingdom') following its withdrawal from the Union.

### *Article 2*

#### **Definitions**

For the purposes of this Regulation the following definitions apply:

- (1) "vehicle" means a motor vehicle registered in the United Kingdom, or a coupled combination of vehicles the motor vehicle of which at least is registered in the United Kingdom, used exclusively for the carriage of goods. The vehicle may be owned by the undertaking, have been bought by it on deferred terms or have been hired, provided that in the latter case it meets the conditions of Directive 2006/1/EC<sup>7</sup>;
- (2) "bilateral carriage" means:
  - (a) a laden journey undertaken by a vehicle the point of departure and the point of arrival of which are in the territory of the Union and in the territory of the United Kingdom respectively, with or without transit through one or more Member States or third countries;
  - (b) an unladen journey in conjunction with the carriage referred to in point (a);
- (3) "Union road haulage operator" means an undertaking engaged in the carriage of goods by road which holds a valid Community licence in accordance with Article 4 of Regulation (EC) No 1072/2009;
- (4) "UK road haulage operator" means an undertaking established in the United Kingdom which is authorised to engage in the carriage of goods by road and holds a valid UK licence;
- (5) "UK licence" means a licence issued by the United Kingdom for the purposes of international carriage, including bilateral carriage;
- (6) "competition law" means law which addresses the following conduct, where it may affect road freight transport services:
  - (a) Conduct that consists in:

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<sup>7</sup> Directive 2006/1/EC of the European Parliament and of the Council of 18 January 2006 on the use of vehicles hired without drivers for the carriage of goods by road, OJ L 33, 4.2.2006, p. 82.

- (i) agreements between road haulage operators, decisions by associations of road haulage operators and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;
  - (ii) abuses by one or more road haulage operators of a dominant position;
  - (iii) measures taken or maintained in force by the United Kingdom in case of public undertakings and undertakings to which the United Kingdom grants special or exclusive rights and which are contrary to points (i) or (ii); and
- (b) concentrations between road haulage operators which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position;
- (7) "subsidy" means any financial contribution granted to a road haulage operator by the government or any other public body at any level, conferring a benefit, and including:
- (a) the direct transfer of funds, such as grants, loans or equity infusion, the potential direct transfer of funds, the assumption of liabilities, such as loan guarantees, capital injections, ownership, protection against bankruptcy or insurance;
  - (b) the foregoing or non-collection of revenue that is otherwise due;
  - (c) the provision of goods or services other than general infrastructure, or the purchase of goods or services; or
  - (d) the making of payments to a funding mechanism or entrustment or direction to a private body to carry out one or more of the functions mentioned under (a), (b) and (c) which would normally be vested in the government or other public body and the practice in no real sense differs from practices normally followed by governments.
- No benefit is deemed to be conferred by a financial contribution carried out by a government or other public body if a private market operator solely driven by profitability prospects, in the same situation as the public body in question, would have carried out the same financial contribution;
- (8) "independent competition authority" means an authority which is in charge of the application and enforcement of competition law as well as the control of subsidies, and fulfils the following conditions:
- (a) the authority is operationally independent and is appropriately equipped with the resources necessary to carry out its tasks ;
  - (b) in performing its duties and exercising its powers, the authority has the necessary guarantees of independence from political or other external influence and acts impartially; and
  - (c) the decisions of the authority are subject to judicial review;

- (9) "discrimination" means differentiation of any kind without objective justification in respect of the supply of goods or services, including public services, employed for the operation of road freight transport services, or in respect of their treatment by public authorities relevant to such services;
- (10) "territory of the Union" means the territory of the Member States to which the Treaty on European Union and the Treaty on the Functioning of the European Union apply and under the conditions laid down in those Treaties;

### *Article 3*

#### **Right to conduct bilateral carriage**

1. UK road haulage operators may, under the conditions laid down in this Regulation, conduct bilateral carriage.
2. Bilateral carriage of the following kinds may be conducted by natural or legal persons established in the United Kingdom, without a UK licence within the meaning of Article 2(5) being required:
  - (a) carriage of mail as a universal service;
  - (b) carriage of vehicles which have suffered damage or breakdown;
  - (c) carriage of goods in motor vehicles the permissible laden mass of which, including that of trailers, does not exceed 3,5 tonnes;
  - (d) carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters;
  - (e) carriage of goods provided that
    - (i) the goods carried are the property of the undertaking or have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking;
    - (ii) the purpose of the journey is to carry the goods to or from the undertaking or to move them, either inside or outside the undertaking for its own requirements;
    - (iii) motor vehicles used for such carriage are driven by personnel employed by, or put at the disposal of, the undertaking under a contractual obligation;
    - (iv) the vehicles carrying the goods are owned by the undertaking, have been bought by it on deferred terms or have been hired provided that in the latter case they meet the conditions of Directive 2006/1/EC of the European Parliament and of the Council of 18 January 2006 on the use of vehicles hired without drivers for the carriage of goods by road ( 12 ); and

- (v) such carriage is no more than ancillary to the overall activities of the undertaking;
3. The Member States shall neither negotiate nor enter into any bilateral agreements or arrangements with the United Kingdom on matters falling within the scope of this Regulation. Without prejudice to existing multilateral agreements, they shall not otherwise grant UK road haulage operators any rights other than those granted in this Regulation.

#### *Article 4*

### **Social and technical rules**

In the course of bilateral carriage in accordance with this Regulation, the following rules shall be complied with:

- (a) in respect of mobile workers and self-employed drivers, the requirements laid down by Member States in accordance with Directive 2002/15/EC of the European Parliament and of the Council<sup>8</sup>;
- (b) in respect of certain social legislation relating to road transport, the requirements of Regulation (EC) No 561/2006 of the European Parliament and of the Council<sup>9</sup>;
- (c) in respect of tachographs in road transport, the requirements of Regulation (EU) No 165/2014 of the European Parliament and of the Council<sup>10</sup>;
- (d) in respect of the maximum authorised dimensions and weights of certain road vehicles, the requirements laid down by Member States in accordance with Council Directive 96/53/EC<sup>11</sup>;
- (e) in respect of the installation and use of speed limitation devices for certain categories of motor vehicles, the requirements laid down by Member States in accordance with Council Directive 92/6/EEC<sup>12</sup>;

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<sup>8</sup> 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.

<sup>9</sup> 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) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, OJ L 102 11.4.2006, p. 1.

<sup>10</sup> Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport, OJ L 60, 28.2.2014, p. 1.

<sup>11</sup> Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic, OJ L 235 17.9.1996, p. 5.

<sup>12</sup> Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community, OJ L 057, 2.3.1992, p.27.

- (f) in respect of the compulsory use of safety belts and child restraint systems in vehicles, the requirements laid down by Member States in accordance with Council Directive 91/671/EEC<sup>13</sup>;
- (g) in respect of the posting of workers, the requirements laid down by Member States in accordance with Directive 96/71/EC of the European Parliament and of the Council<sup>14</sup>.

## *Article 5*

### **Equivalence of rights**

1. The Commission shall monitor the rights granted by the United Kingdom to Union road haulage operators and the conditions for their exercise.
2. Where it determines that the rights granted by the United Kingdom to Union road haulage operators are not, *de jure or de facto*, equivalent to those granted to UK road haulage operators under this Regulation, or that those rights are not equally available to all Union road haulage operators, the Commission may, in order to restore equivalence, by means of delegated acts:
  - (a) establish limits to the allowable capacity available to UK road haulage operators or to the number of journeys or to both;
  - (b) suspend the application of this Regulation; or
  - (c) adopt other appropriate measures.

## *Article 6*

### **Fair competition**

1. The Commission shall monitor the conditions under which Union road haulage operators compete with UK road haulage operators for the provision of road freight transport services covered by this Regulation.
2. Where it determines that, as a result of any of the situations referred to in paragraph 3, the said conditions are appreciably less favourable than those enjoyed by UK road haulage operators, the Commission may, in order to remedy that situation, by means of delegated acts:
  - (a) establish limits to the allowable capacity available to UK road haulage operators or to the number of journeys or to both;

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<sup>13</sup> Council Directive of 16 December 1991 relating to the compulsory use of safety belts and child-restraint systems in vehicles, OJ L 373, 31.12.1991, p.26.

<sup>14</sup> 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.

- (b) suspend the application of this Regulation; or
  - (c) adopt other appropriate measures.
3. Delegated acts under paragraph 2 may be adopted to remedy the following situations:
- (a) the granting of subsidies by the United Kingdom;
  - (b) failure, by the United Kingdom to have in place or to effectively apply competition law;
  - (c) failure by the United Kingdom to establish or maintain an independent competition authority;
  - (d) the application by the United Kingdom of standards in the protection of workers, safety, security or the environment or relating to the granting of licences to road haulage operators or to the qualification, training and medical controls for professional drivers which are inferior to those laid down in Union law or, in the absence of relevant provisions in Union law, inferior to those applied by all Member States or, in any event, inferior to relevant international standards;
  - (e) the application by the United Kingdom of road charging and taxation rules that diverge from the rules laid down in Directive 1999/62/EC of the European Parliament and of the Council<sup>15</sup>; and
  - (f) any form of discrimination against Union road haulage operators.
4. For the purposes of paragraph 1, the Commission may request information from the competent authorities of the United Kingdom or UK road haulage operators. Where the competent authorities of the United Kingdom or UK road haulage operators do not provide the information requested within the reasonable period prescribed by the Commission, or provide incomplete information, the Commission may proceed in accordance with paragraph 2.

#### *Article 7*

#### **Consultation and cooperation**

1. The competent authorities of the Member States shall consult and cooperate with the competent authorities of the United Kingdom as necessary in order to ensure the implementation of this Regulation.
2. Member States shall, upon request, provide the Commission without undue delay any information obtained pursuant to paragraph 1 or any other information relevant for the implementation of Article 5 and Article 6 of this Regulation.

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<sup>15</sup> Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures, OJ L 187 20.7.1999, p. 42.

## *Article 8*

### **Exercise of the delegation**

1. Before adopting a delegated act under Article 5(2) or Article 6(2), the Commission shall consult experts designated by each Member State in line with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016\*.
2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

## *Article 9*

### **Entry into force and application**

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

It shall apply from the day following that on which the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

However, this Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has entered into force by that date.

This Regulation shall apply until 31 December 2019.

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*