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REPORT

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To:	Permanent Representatives Committee (Part 1)/ Council
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Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road – General approach

I. INTRODUCTION

The Commission's proposal to amend Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road (the 'Hired Vehicles Directive'), was presented by the Commission in May 2017. The proposal is part of the "Europe on the move" mobility package and is linked to the new rules on access to the profession and access to the haulage market.

Directive 2006/1/EC codified earlier rules and provided for a minimum level of market opening for the use of vehicles hired without drivers for the carriage of goods by road. In the context of that Directive, Member States must allow their undertakings to use, for the purpose of carriage of goods by road between Member States, hired vehicles under the same conditions as vehicles owned by them provided that the hired vehicles are registered or put into circulation in compliance with the laws in their countries.

However, the Directive:

- allows Member States to restrict the use of hired goods vehicles with a gross vehicle weight above six tonnes for own-account operations;
- restricts the use of vehicles hired in a Member State different from that in which the undertaking hiring the vehicle is established.

The Commission proposes to amend Directive 2006/1/EC mainly to remove the existing restrictions and establish a clear and uniform regulatory framework, giving transport operators across the EU equal access to the market for hired vehicles.

The European Parliament's Committee on Transport and Tourism (TRAN) appointed Ms Cláudia Monteiro de Aguiar (EPP, PT) as rapporteur. The TRAN Committee discussed the draft report on 23 January 2018 and is expected to vote on it on 24 May 2018.

The European Economic and Social Committee adopted its opinion on 6 December 2017 and the European Committee of the Regions on 1 February 2018.

II. WORK WITHIN THE COUNCIL

The proposal to amend Directive 2006/1/EC, and its accompanying impact assessment, were presented by the Commission to the Working Party on Land Transport in June 2017. After an initial exchange of views on the proposal and the examination of its impact assessment, the Working Party on Land Transport began examining the proposal article by article.

The Working Party on Land Transport met several times to discuss this proposal, namely on 7 July, 11 October and 6 November 2017; 26 February, 20 March and 24 April 2018.

The Presidency compromise proposal is reflected in the Annex to this note.

III. MAIN ISSUES

i) Erosion of vehicle tax income

One of the key issues in negotiations within the Council was the concern of some Member States over the erosion of vehicle tax income. In the initial Commission proposal, while Member States may still limit the use of a vehicle hired in a Member State different from that in which the undertaking hiring is established, they would have to allow it to be used for at least four months. This period would give transport companies enough time to meet peak or seasonal demand and replace defective vehicles. However, vehicle taxation rates differ considerably in the EU and some Member States were concerned at the idea of a hired vehicle circulating in their territories for several months without any registration taxes being paid.

To address this issue, the Presidency proposes a text that allows Member States, within their territories:

- to limit vehicle hire contracts concluded by transport undertakings to a period of 30 consecutive days in a given calendar year,
- to cap the proportion of hired vehicles in overall owned vehicle fleets (25% of vehicles),
- to include in the report that will be submitted to the European Parliament and to the Council five years after the deadline for transposition of the Directive an assessment of the impact of its implementation on tax revenues, among other issues.

Some Member States would prefer to maintain paragraph 1a of Article 2 as it is in the Commission's initial proposal, which allows the total vehicle hire period to be temporarily restricted to 4 months in cases where the vehicle and the undertaking are not from the same Member State. This paragraph was deleted from the compromise text under the Estonian Presidency and the Bulgarian Presidency decided to uphold the deletion, since it was supported by a majority of Member States and by the Commission.

The Presidency's compromise seems to be acceptable to a majority of Member States. It draws a distinction between situations in which a Member State allows within its territory the use of vehicles hired by undertakings established in the territory of another Member State (Article 2(1)(a)), and situations in which a Member State allows the use of a hired vehicle that is registered or put into circulation in compliance with the laws of another Member State by undertakings established in its territory (Article 3(2)).

ii) Own-account operations

Under the new proposed Directive, Member States would no longer have the possibility to restrict the use of hired vehicles with a total mass above six tonnes for own-account operations. The large majority of Member States no longer use this derogation, which is why the Presidency's compromise has endorsed the Commission's proposal in this respect.

iii) Control of illegal cabotage and exchange of information

Several delegations were concerned about an increase in the use of hired vehicles in cabotage operations. To improve enforcement and control illegal cabotage, the Presidency proposes a recital that mirrors the proposed changes to Regulation No 1071/2009, according to which operators should inform the authorities of the Member States in which they are established of the registration plate of each vehicle at their disposal to allow that information to be included in the national electronic register.

IV. CONCLUSION

The Permanent Representatives Committee is therefore invited to endorse the compromise text presented by the Presidency and contained in the Annex to this note with a view to reaching a general approach at the TTE Council meeting on 7 June 2018.

Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of
goods by road

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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Directive 2006/1/EC of the European Parliament and of the Council³ provides for a minimum level of the market opening for the use of vehicles hired without drivers for the carriage of goods by road.

¹ OJ C , , p. .

² OJ C , , p. .

³ 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 (codified version) (OJ L 33, 4.2.2006, p. 82).

- (2) The use of hired vehicles can reduce the costs of undertakings carrying goods on their own account or for hire and reward and at the same time increase their operational flexibility. It can therefore contribute to an increase in the productivity and competitiveness of the undertakings concerned. Moreover, as hired vehicles tend to be younger than the average fleet, they are also safer and less polluting.
- (3) Directive 2006/1/EC does not enable undertakings to fully benefit from the advantages of using hired vehicles. That Directive allows Member States to restrict the use by undertakings **established on their respective territories** of hired vehicles with a maximum permissible laden weight of more than six tonnes for own account operations. Moreover, Member States are not required to allow the use of a hired vehicle on their respective territories if the vehicle has been registered or put into circulation in compliance with the laws in a Member State other than the one of establishment of the undertaking hiring it.
- (4) In order to enable undertakings to benefit to a greater extent from the advantages of using hired vehicles, it should be possible for them to use vehicles hired in any Member State, not only the one of their establishment. That would make it easier for them to meet in particular short-term, seasonal or temporary demand peaks or to replace defective or damaged vehicles.
- (4a) Member States should not be allowed to restrict the use on their respective territories of a vehicle hired by an undertaking established on the territory of another Member State, provided that the vehicle is registered or put into circulation in compliance with the laws of any Member State and, if it is a vehicle requiring a certified true copy of the Community licence in accordance with Regulation (EC) No 1072/2009, authorised to be used by the Member State of establishment of the undertaking by means of this certified true copy.**

(5) The level of road transport taxation still differs considerably within the Union. Therefore, certain restrictions, which also indirectly affect the freedom to provide vehicle hiring services, remain justified in order to avoid fiscal distortions. Consequently, Member States should have the option to limit the length of time **undertakings established on their respective territories may use a hired vehicle registered or put into circulation in another Member State. They should also be allowed to limit the number of such vehicles being hired by an undertaking established on their respective territories.**

(5a) In order to improve the enforcement of a restriction on the use of a hired vehicle that is registered or put into circulation in compliance with the laws of a Member State other than the one where the undertaking hiring it is established, a Member State should be allowed to require that the length of the contract of hire does not exceed the length of the time allowed for using the vehicle concerned. In addition, the validity of certified copies of the Community licence issued in accordance with Regulation (EC) No 1072/2009 may be limited to the period corresponding to the length of the contract of hire. Moreover, the registration number of the hired vehicle may be indicated on these certified copies.

(5b) The circulation of hired vehicles should not hamper the control of the legality of operations carried out by operators in Member States other than their Member State of establishment. In accordance with Regulation (EC) No 1071/2009, operators should inform the authorities of the Member State in which they are established of the registration plate of each vehicle at their disposal, so that this information can be inserted in the national electronic register.□That Regulation provides for the accessibility of data contained in national electronic registers by authorities of other Member States; the national electronic registers should allow for targeted search in respect of vehicles with a number plate other than one issued by the Member State of establishment.

*** Note: Referring to Article 16 of Regulation (No) 1071/2009 taking into account the extension of the information to be recorded as proposed by the Commission.**

- (6) In order to allow own account transport operations to be conducted more efficiently, Member States should no longer be allowed to restrict the possibility to use hired vehicles for such operations.
- (7) The implementation and effects of this Directive should be monitored by the Commission and be documented by it in a report. **The report should pay special attention to whether this Directive has resulted in the usage of older or certain types of vehicles and thereby has had an effect on road safety and whether it has entailed difficulties in relation to enforcement, including the enforcement of cabotage rules.** Any future action in this area should be considered in light of that report.
- (8) Since the objectives of this Directive cannot be sufficiently achieved by the Member States alone but can rather, by reason of the cross-border nature of road transport and of the issues this Directive is intended to address, be better achieved at Union level, the Union may adopt measures, in line with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In line with the principle of proportionality, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (9) Directive 2006/1/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/1/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory sentence is replaced by the following:

"Each Member State shall allow the use within its territory of vehicles hired by undertakings established on the territory of another Member State provided that:";

(ii) point (a) is replaced by the following:

"(a) the vehicle is registered or put into circulation in compliance with the laws of any Member State **and, for vehicles requiring a certified true copy of the Community licence in accordance with Regulation (EC) No 1072/2009, authorised to be used by the Member State of establishment of the undertaking.**"

(2) Article 3 is replaced by the following:

"Article 3

1. Member States shall take the necessary measures to ensure that undertakings **established on their respective territories** may use hired vehicles for the carriage of goods by road under the same conditions as vehicles owned by them, provided that the conditions laid down in Article 2 are satisfied.
2. **Where the hired vehicle is registered or put into circulation in compliance with the laws of another Member State, the Member State of establishment of the undertaking may:**
 - a) **limit the time of use of the hired vehicle on its respective territory provided that it allows the use of the hired vehicle by the same undertaking for a period of 30 consecutive days in any given calendar year; in this case the contract of hire may be required not to last longer than the time limit set by the Member State;**
 - b) **limit the number of hired vehicles that can be used by an undertaking provided that they allow the use of a minimum number of vehicles. This minimum number is at least 25% of the goods vehicle fleet owned by the undertaking on 31 December of the year preceding the request for authorisation to use the hired vehicle. In case of an undertaking having an overall fleet of more than one and less than four vehicles, it shall be allowed to use at least one such hired vehicle."**

- (3) the following Article 5a is inserted:

"Article 5a

By [OP: please insert the date calculated 5 years after the deadline for transposition of the Directive], the Commission shall submit a report to the European Parliament and the Council on the implementation and effects of this Directive. The report shall include information on the use of vehicles hired in a Member State other than the Member State of establishment of the undertaking hiring the vehicle. **The report shall also look into the impacts on road safety, on tax revenues and on the enforcement of the cabotage rules in accordance with Regulation (EC) No 1072/2009.** On the basis of this report, the Commission shall assess whether it is necessary to propose additional measures."

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP: please insert the date calculated 18 months following the entry into force] at the latest. They shall communicate to the Commission the text of those provisions without delay.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President
