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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Agreement between the European Union and Ukraine amending the
Agreement between the European Union and Ukraine on the carriage of
freight by road of 29 June 2022

AGREEMENT
BETWEEN THE EUROPEAN UNION AND UKRAINE
AMENDING THE AGREEMENT
BETWEEN THE EUROPEAN UNION AND UKRAINE
ON THE CARRIAGE OF FREIGHT BY ROAD
OF 29 JUNE 2022

THE EUROPEAN UNION, hereinafter also referred to as "the Union",

of the one part,

and

UKRAINE,

of the other part,

hereinafter referred to individually as a "Party" and collectively as the "Parties",

ACKNOWLEDGING that the Agreement between the European Union and Ukraine on the Carriage of Freight by Road of 29 June 2022 (the "Agreement") has proven to be essential for Ukraine, supporting the Ukrainian society and economy by allowing Union and Ukrainian road haulage operators to carry out freight transport operations to and through the Ukrainian territory to the Union and vice-versa, thereby also supporting the Solidarity Lanes for Ukraine,

TAKING ACCOUNT of the fact that its effects remain positive also for the European Union, in particular for the Union's exports to Ukraine,

RECOGNISING that the conditions justifying the conclusion of the Agreement continue to prevail, notably the important disruptions faced by the transport sector in Ukraine following Russia's war of aggression against Ukraine,

NOTING that at the Joint Committee meeting held on 18 December 2023 it was concluded that the Agreement fulfils its intended purpose and that the underlying conditions justifying the Agreement remain valid,

REAFFIRMING the importance therefore that both Parties uphold the Agreement and take effective measures to ensure its proper functioning including as regards the suppression of obstacles to freedom of movement in particular at border crossing points, in accordance and within the limits of this Agreement; this includes measures necessary to prevent obstructions by actions by private individuals,

NOTING, however, that at the Joint Committee meeting, the Parties also noted several issues arising from the application and implementation of the Agreement and its possible impact at local level on the road transport sector in the European Union,

RECOGNISING accordingly that only limited changes to the Agreement are therefore required to facilitate its enforcement and strengthen its implementation,

ACKNOWLEDGING that all expired driving licences issued in Ukraine that have expired since the entry into force of the Agreement have been prolonged in accordance with the Decree of the Cabinet of Ministers of Ukraine No. 184 adopted on 3 March 2022.

RECOGNISING that in case Ukraine adopts in the future new measures to extend the administrative validity of driver documents, it is important that all competent authorities of the Member States are timely informed,

DETERMINED to make it easy to verify at roadside the authorisations referred to in Article 3(2) of the Agreement,

DETERMINED to make it easier to verify at roadside whether road haulage operators are carrying out road haulage operations allowed under Article 4 of the Agreement,

STRESSING THAT Article 4(d) of the Agreement, in particular, allows unladen journeys if they are undertaken in conjunction with another journey referred to in Article 4(a) to (c) of the Agreement,

STRESSING THAT the objective of any additional requirements should be to facilitate the control, and therefore the enforcement of the Agreement, by national authorities, with the aim to minimise the impact of controls on transport flows,

NOTING, similarly, that applying a sticker on vehicles performing road transport operations under the Agreement will ease the control and therefore the enforcement of the Agreement by national authorities,

RECOGNISING that to allow for the correct implementation of the Agreement and ensure its adequate enforcement, the Parties should monitor compliance by road haulage operators with their obligations under the Agreement, and for that purpose, communicate to each other relevant information on convictions and follow-up measures,

RECOGNISING further that in duly justified cases operators that do not comply with their obligations under the Agreement should be excluded from the possibility to avail themselves of the rights laid down in the Agreement,

RECOGNISING that, since the conditions which made the Agreement necessary still exist, it is necessary to extend its validity until 30 June 2025,

MINDFUL of the need to avoid unnecessary disturbances to trade flows and to avoid additional administrative burdens, it is opportune to allow for a tacit renewal for another period of six months provided that the Agreement does not represent a major disturbance of the road transport market as a whole of one of the Parties, as a result of the Agreement and as defined in this amending Agreement, and that the objectives of the Agreement are still being met,

RECOGNISING the need for the setting up of a specific technical body under the authority of the Joint Committee to facilitate the practical implementation of the Agreement, notably of the new provisions contained in this amending Agreement,

NOTING a possible need to respond to local or regional major difficulties that road transport operators of one of the Parties may face as a consequence of the application of the Agreement,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Amendments to the Agreement

The Agreement is amended as follows:

- (1) in Article 5, paragraph 2 is replaced by the following:

"2. Ukraine shall inform the European Union and its Member States of any measures taken after 23 February 2022 to extend the administrative validity of driving documents issued by Ukraine. Such notification shall be made both through diplomatic channels and by electronic means as defined in Article 5a(6).";

- (2) the following Articles are inserted:

"ARTICLE 5A

Obligation to carry the authorisation in the vehicle

1. Drivers shall carry in the vehicle in paper format a certified copy or extract of the authorisation to carry out international road transport of goods referred to in Article 3(2).

2. A model of the certified copy or extract of the authorisation shall be deposited by each Party with the Joint Committee for the purpose of further transfer to the national competent authorities of the Parties, for its use in roadside control. The authorisation shall contain all relevant information enabling effective roadside control, including the name of the competent authority or body issuing the authorisation, the number of the certified copy or the registration number, the identification of the road haulage operator, including the name or business name and full address, the dates of issuance and of validity, and an authentication process in written or digital form, such as a seal and signature or a QR code. An authorisation without a date of validity shall be considered as having permanent validity. For road haulage operators established in the European Union, the model of the authorisation shall be the one set out in Annex II to Regulation (EC) No 1072/2009 of the European Parliament and of the Council¹.

3. Ukraine and each Member State of the European Union shall keep a national electronic register of road haulage operators.

4. The competent authorities of the Member States of the European Union shall have access to the Ukrainian electronic register of road haulage operators through a publicly available website, allowing the verification that the vehicle being controlled is used by a road haulage operator authorised to carry out international road transport of goods in accordance with Article 3(2). The Joint Committee may adopt, in accordance with Article 7(5), further measures necessary for the implementation of this Article. It may in particular adopt, as necessary, detailed rules on the modalities of the exchange of information relating to the timely verification of the authenticity and validity of the authorisations, in order to further facilitate enforcement, for example through automated checks.

¹ 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 EU L 300, 14.11.2009, p. 72).

5. The exchange of information under paragraph 4 of this Article may be done by establishing the connection of Ukraine to the European Register of Road Transport Undertakings (ERRU), or parts thereof, established under Article 16(5) and (6) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council¹. In this case, the Joint Committee shall take measures to adopt, as appropriate, the technical and procedural specifications of the establishment of the connection and use of ERRU, or parts thereof, by Ukraine.

6. Ukraine and the Member States of the European Union shall designate national contact points and set up electronic mailboxes allowing for the exchange of information between the national authorities of the Parties.

ARTICLE 5B

Control of road transport services

1. Drivers exiting their Party of establishment and entering the territory of the other Party with an unladen vehicle in accordance with Article 4(d) shall only be deemed to comply with that provision if they can produce relevant documents containing information confirming that the journey is undertaken in conjunction with another operation allowed by this Agreement under Article 4(a) to (c). For this purpose, they shall carry in the vehicle documents confirming that a contract or a request of carriage, duly signed by the carrier, already exists.

2. The contract, or the request of carriage duly signed by the carrier, referred to in paragraph 1 shall contain, in particular, the name, address and contact details of the sender.

¹ Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ EU L 300, 14.11.2009, p. 51).

3. Road haulage operations carried out under this Agreement shall only be deemed to comply with Article 4 if, on their way back to their Party of establishment, the road haulage operator can produce clear evidence that the operations and journeys carried out on the territory of the other Party, on the territory of a third country or on the territory of the same Party are limited to bilateral or transit operations authorised under Article 4. In case the nature of the goods to be transported is changed when the road haulage operator arrives at destination, the sender shall confirm it by an appropriate document, to be carried in the vehicle by the road haulage operator. In case of transport of goods originating from another country than the one of the place of loading, that place of loading shall be clearly identifiable by an appropriate document. In case of unladen vehicles returning to the Party of establishment of the road haulage operator, it must be able to prove that the vehicles have exited the territory of its Party of establishment laden.

4. Evidence referred to in paragraph 3 of this Article may include bills of lading, consignment notes, cargo customs declarations, Transport International Routier (TIR) Carnets and tachograph records, any of which should be considered as sufficient evidence. They shall be presented or transmitted to the competent controlling authority of the controlling Party on request and within the duration of the roadside check. They may be presented or transmitted electronically, using a revisable structured format which can be used directly for storage and processing by computers, such as an electronic consignment note (e-CMR) under the Additional Geneva Protocol to the Convention on the Contract for the International Carriage of Goods by Road (CMR) concerning the Electronic Consignment Note of 20 February 2008. During the roadside check, the driver shall be allowed to contact the road haulage operator or any other person or entity in order to provide, before the end of the roadside check, any evidence referred to in paragraph 3 of this Article.

5. The controls made under this Article shall not be systematic, in particular at borders, and shall be organised in such a manner as to minimise the impact on the transport flows, and, in any event, prevent disruptions thereof.

6. The provisions under this Article shall apply exclusively to the operations carried out on the basis of this Agreement. They are without prejudice to rules and requirements applicable to the operations undertaken on the basis of other international road transport instruments, in particular under the rules of the European Conference of Ministers of Transport (ECMT), in which case the driver shall be required to produce the relevant permit.

ARTICLE 5C

Sticker

1. Vehicles performing road transport operations under this Agreement shall bear a visible and clearly identifiable sticker on the windshield. This sticker shall correspond to the model set out in Annex I.

2. Bearing the sticker referred to under paragraph 1 shall indicate, for both road haulage operators established in Ukraine and in the European Union, that they can benefit from the rights granted under this Agreement and perform operations allowed by this Agreement under Article 4. Not bearing the sticker while carrying out road haulage operations under this Agreement shall be considered as non compliant with the provisions of this Agreement.

ARTICLE 5D

Compliance of road haulage operators

1. The competent authorities in each Party shall monitor whether road haulage operators that are authorised to carry out road haulage operations under this Agreement comply with their obligations.

2. The competent authorities in each Party shall take measures to identify the road haulage operators established in the other Party which:
 - (a) are carrying out road haulage operations that are not authorised under Article 4 such as cross-trade or cabotage operations;

 - (b) are involved in fraud or forgery of driver documents, or are using or benefiting from those documents; or

 - (c) whose drivers have committed, repeatedly and persistently, the following serious road-safety-related-traffic offences:
 - (i) driving while impaired by alcohol, as defined in the law of Ukraine or of the Member State of the European Union where the offence was committed;

 - (ii) exceeding speed limits in force in Ukraine or the Member State of the European Union where the offence was committed for the road or type of vehicle concerned;

- (iii) driving while impaired by drugs or other substances having a similar effect, as defined in the law of Ukraine or of the Member State of the European Union where the offence was committed;
- (iv) a conduct which infringes road traffic regulations of Ukraine or of the Member State of the European Union where the offence was committed and which caused death or serious bodily injury.

3. The competent authorities in each Party shall exclude the road haulage operators established in their own territory from the possibility to avail themselves of the rights laid down in this Agreement in duly justified cases relating to infringements under paragraph 2 (a) and (b), in line with the respective laws of each Party.

4. The competent authorities in each Party shall communicate to each other, at least on a monthly basis, information on the identity of the road haulage operators established in the other Party identified under paragraph 2 of this Article as having committed infringements, and on the follow-up measures adopted for the implementation of this Article in relation to the road haulage operators established in their territory which have been identified under paragraph 2 as having committed infringements. The template in Annex II shall be used for this purpose and amended, as necessary, by the Joint Committee in accordance with Article 7(5). It shall be made accessible online as a protected shared document to the competent authorities of each Party.

5. Competent authorities of each Party shall report every six months to the Joint Committee on the follow-up measures adopted in relation to the road haulage operators established in their territory which have been identified under paragraph 2 of this Article as having committed infringements. The Joint Committee may take any further measures necessary for the implementation of this Article in accordance with Article 7(5). It may in particular adopt, as necessary, detailed rules on the modalities for the exchange of information relating to the compliance of road haulage operators under this Article. This exchange of information may be done by the connection of Ukraine to ERRU.

ARTICLE 5E

Mutual Assistance

1. The competent authorities of each Party shall cooperate closely and shall swiftly provide one another with mutual assistance and with any other relevant information in order to facilitate the implementation and enforcement of this Agreement.
2. In particular, the competent authorities of each Party shall take all measures available to them under their respective laws in order to ensure that the sanctions imposed by the competent authority of the other Party related to the infringements mentioned under the second paragraph of Article 5d are fully complied with.";

(3) in Article 6, the following paragraphs are added:

"3. This Agreement shall be prolonged until 30 June 2025. It shall be tacitly renewed for one period of six months unless one of the Parties notifies the other Party, at the latest three months before the expiry of this Agreement, that it does not agree to prolong this Agreement due to solid and clear evidence that there is a major disturbance of its road transport market as a whole as a result of this Agreement or that the objectives of this Agreement are manifestly not met anymore.

4. For the purposes of paragraph 3, 'major disturbance of the road transport market of one of the Parties as a whole' means the existence on the market of problems specific to it, such that there is a serious and potentially enduring excess of supply over demand, implying a threat to the financial stability and survival of a significant number of hauliers in the whole territory of that Party.";

(4) in Article 7, paragraph 1 is replaced by the following:

"1. A Joint Committee is hereby established. It shall supervise and monitor the application and implementation of this Agreement and periodically review the functioning of this Agreement in light of its objectives, and, to this effect, take decisions as provided by this Agreement in accordance with paragraph 5.

The Joint Committee may also recommend to the Parties the temporary suspension of this Agreement, in case there is solid and clear evidence that the objectives of this Agreement are manifestly not met anymore. Based on such recommendation each Party may decide to temporarily suspend the application of this Agreement. The suspension of the application of the Agreement shall be notified to the other Party, and shall take effect 15 days after receipt of the notification.";

(5) the following Article is inserted:

"ARTICLE 7A

Ad hoc working group on the practical implementation of the Agreement

1. A specific ad hoc working group is hereby established in order to facilitate the practical implementation of this Agreement.
2. This working group shall work under the authority of the Joint Committee. It shall not take decisions but may make recommendations to the Joint Committee.
3. The ad hoc working group shall be composed of 16 Members, eight for the Union side and eight for the Ukrainian side.
4. The ad hoc working group shall be chaired in turn by a representative of the European Union and a representative of Ukraine. It shall be convened at the request of either of its co-chairs.
5. The ad hoc working group shall report at least every six months to the Joint Committee.
6. The ad hoc working group shall adopt its terms of reference, which shall be approved and modified, as appropriate, by the Joint Committee in accordance with Article 7(5).”;

(6) the following Article is inserted:

"ARTICLE 9A

Major disturbance of the road transport market of one of the Parties

1. Each Party may entirely or partially suspend, after consultation with the other Party, the application of this Agreement or take appropriate measures in a part of its respective territory in case of a major disturbance of the road transport market in the geographical area concerned resulting from the Agreement. Any suspension of the Agreement under this Article shall be considered to apply both to road transport operations carried out in the geographical area concerned and to road haulage operators established in that geographical area at the time the decision is taken. In case of suspension of the Agreement in a part of the territory of a Party, the right of transit to which road haulage operators of the Parties are entitled shall not be affected.
2. The suspension of the application of the Agreement shall be notified to the other Party, and shall take effect 15 days after receipt of the notification.
3. For the purposes of paragraph 1, in the case of the European Union, 'geographical area' means an area covering all or part of the territory of a Member State or extending to all or part of the territory of other Member States.
4. For the purposes of paragraph 1, 'major disturbance of the road transport market in the geographical area concerned' means the existence on the market of problems specific to it, such that there is a serious and potentially enduring excess of supply over demand, implying a threat to the financial stability and survival of a significant number of hauliers in that geographical area.

5. Measures adopted in accordance with this Article shall remain in force for a period not exceeding three months, during which the Party affected may take measures to address the disturbance. The Party that has suspended the application of this Agreement shall immediately inform the other Party once the reasons for the suspension no longer apply, with a view at resuming the application of the Agreement.";

(7) the following annexes are added:

"ANNEX I

**EU-Ukraine Road
Transport Agreement**



*Bilateral Trade and Transit Permitted
Cross-Trade and Cabotage Prohibited*

Length: 5 cm

Compliance of road haulage operators				
Identity, address and licence number	Country of establishment	Date, number and nature of offences	Controlling authority	Follow-up measures

"

ARTICLE 2

Entry into force and provisional application

1. The Parties shall ratify or approve this amending Agreement in accordance with their own procedures. This amending Agreement shall enter into force on the day on which the Parties have notified each other of the completion of their respective internal legal procedures necessary for this purpose.
2. Notwithstanding paragraph 1, the European Union and Ukraine agree to provisionally apply this amending Agreement as from the date of its signature.
3. For the purposes of the relevant provisions of this amending Agreement, any reference in such provisions to the "date of entry into force of this Agreement" shall be understood to refer to the "date from which this amending Agreement is provisionally applied" in accordance with paragraph 2.

Done in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Ukrainian languages, each of these texts being equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorised to this effect, have signed this amending Agreement.

Done at

For the European Union

For Ukraine