COUNCIL REGULATION (EEC) No 3118/93 of 25 October 1993 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, pursuant to Article 75 (1) (b) of the Treaty, the establishment of a common transport policy entails, inter alia, laying down the conditions under which non-resident carriers may operate transport services within a Member State;

Whereas this provision implies the removal of all restrictions against the person providing the services in question on the grounds of his nationality or the fact that he is established in a different Member State from the one in which the service is to be provided;

Whereas, in order for this provision to be implemented smoothly and flexibly, provision should be made for a transitional cabotage system prior to the implementation of the definitive system;

Whereas only carriers who are holders of Community authorizations provided for in Council Regulation (EEC) No 881/92 of 26 March 1992 on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing through the territory of one or more Member States (4) or carriers authorized to operate certain categories of international haulage services may be permitted to carry out cabotage;

Whereas such a transitional system should entail the introduction of a progressive quota of Community cabotage authorizations;

Whereas the conditions for the issue and use of the said cabotage authorizations should be determined;

Whereas the provisions of the host Member State applicable to cabotage operations should be fixed;

Whereas provisions should be adopted so that action can be taken in the event of serious disturbance of the transport markets affected; whereas for that purpose it is necessary to introduce a suitable decision-making procedure and for the required statistical data to be collected;

Whereas it is desirable that Member States should grant each other mutual assistance with a view to the sound application on the system introduced; particularly in respect of penalties applicable in the event of infringements; whereas penalties should be non-discriminatory and in proportion to the seriousness of the infringements; whereas there is a need to provide for the possibility of lodging an appeal;

Whereas the Commission should periodically submit a report on the application of this Regulation;

Whereas in order to meet the obligations devolving upon the Council, it is necessary to fix the date of entry into force of a definitive system enabling cabotage operations to be effected without quantitative restrictions,

HAS ADOPTED THIS REGULATION:

Article 1

1. Any road haulage carrier for hire or reward who is a holder of the Community authorization provided for in Regulation (EEC) No 881/92 shall be entitled, under the conditions laid down in this Regulation, to operate on a temporary basis national road haulage services for hire and reward in another Member State, hereinafter referred to respectively as 'cabotage' and as the 'host Member State', without having a registered office or other establishment therein.
2. In addition, any carrier entitled in the Member State of establishment, in accordance with that Member State's legislation, to carry out the road haulage operations for hire or reward mentioned in points 1, 2 and 3 of the Annex to the First Directive (1) shall be permitted, under the conditions set out in this Regulation, to carry out, as the case may be, cabotage operations of the same kind or cabotage operations with vehicles in the same category.

3. Permission to carry out cabotage operations, within the framework of the types of carriage referred to in point 5 of the Annex to the First Directive, shall be unrestricted.

4. Any undertaking entitled in the Member State of establishment, in accordance with that Member State's legislation, to carry out road haulage operations for own account shall be permitted to carry out cabotage operations on own account as defined in point 4 of the Annex to the First Directive.

The Commission shall adopt the detailed rules for implementing this paragraph.

Article 2

1. With a view to the progressive introduction of the definitive system defined in Article 12, cabotage operations shall be carried out from 1 January 1994 to 30 June 1998 within the framework of Community cabotage quotas, without prejudice to Article 1 (3).

Cabotage authorizations shall correspond to the model in Annex I.

A Community cabotage quota shall consist of 30 000 cabotage authorizations, each valid for two months; it shall be increased annually by 30 % starting on 1 January 1995.

2. At the request of a Member State, to be submitted before 1 November of each year, one cabotage authorization may be converted into two short-duration authorizations, each valid for one month.

The short-duration cabotage authorizations shall correspond to the model in Annex II.

3. The quota shall be allocated amongst the Member States as follows:

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Article 3

1. The cabotage authorizations referred to in Article 2 shall allow the recipient to carry out the cabotage operations.

2. Cabotage authorizations shall be distributed by the Commission to the Member States of establishment and issued to carriers applying for them by the competent authority or body of the Member State of establishment.

They shall bear the distinctive sign of the Member State of establishment.

3. A cabotage authorization shall be made out in the name of the carrier. That carrier may not transfer it to a third party. Each cabotage authorization may be used by only one vehicle at a time.

'Vehicle' means a motor vehicle registered in the Member State of establishment or a coupled combination of vehicles of which at least the motor vehicle is registered in the Member State of establishment and which are used exclusively for the carriage of goods.

The non-resident carrier shall have the vehicle at his disposal either under full ownership or an another basis, inter alia, a hire-purchase, hire or leasing contract.

In the case of hiring, the vehicle shall be hired by the carrier in the Member State of establishment to carry out cabotage operations. However, the non-resident carrier may, in order to complete a cabotage operation interrupted because of a breakdown or an accident, hire a vehicle in the host Member State under the same conditions as resident carriers.

The cabotage authorization and the hiring contract, if any, shall accompany the motor vehicle.

4. The cabotage authorization must be produced whenever requested by inspecting officers.

5. The date from which a cabotage authorization is valid must be entered on the authorization before it is used by the competent authority or body of the Member State of establishment.

Article 4

Transport operations effected under a cabotage authorization shall be entered in a book of record sheets and the sheets shall be returned with the authorization to the competent authority or body of the Member State of establishment which issued the authorization within eight days of the expiry of the validity of the authorization.

The book of record sheets shall correspond to the model in Annex III.

Article 5

1. At the end of each quarter and within three months, which may be reduced by the Commission to one month in the case referred to in Article 7, the competent authority or body of each Member State shall communicate to the Commission the data concerning the cabotage operations carried out during that quarter by resident carriers, such data being expressed in tonnes carried and in tonnes/kilometres.

The communication shall be effected by means of a table, the model for which is set out in Annex IV.

2. The Commission shall send the Member States as soon as possible summary statements drawn up on the basis of the data submitted under paragraph 1.

Article 6

1. The performance of cabotage transport operations shall be subject, save as otherwise provided in Community Regulations, to the laws, regulations and administrative provisions in force in the host Member State in the following areas:

(a) rates and conditions governing the transport contract;

(b) weights and dimensions of road vehicles; such weights and dimensions may, where appropriate, exceed those applicable in the carrier's Member State of establishment, but they may under no circumstances exceed the technical standards certified by the proof of compliance referred to in Article 1 (1) of Council Directive 86/364/EEC (1);

(c) requirements relating to the carriage of certain categories of goods, in particular dangerous goods, perishable foodstuffs, live animals;

(d) driving and rest time;

(e) value added tax (VAT) on transport services. In this area Article 21 (1) (a) of Directive 77/388/EEC (2) shall apply to the services referred to in Article 1 of this Regulation.

2. The technical standards of construction and equipment which vehicles used to carry out cabotage operations must meet shall be those laid down for vehicles put into circulation in international transport.

3. The provisions referred to in paragraph 1 shall be applied to non-resident transport operators on the same conditions as those which that Member State imposes on its own nationals, so as to prevent any open or hidden discrimination on grounds of nationality or place of establishment.

4. If it is established that, in the light of experience, the list of areas covered by the host Member State's laws, regulations and administrative provisions referred to in paragraph 1 needs to be adapted, the Council shall amend that list, acting by a qualified majority on a proposal from the Commission.

Article 7

1. In the event of serious disturbance of the national transport market in a given geographical area due to or aggravated by cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures and shall provide the Commission with the necessary information and notify it of the measures it intends to take as regards resident carriers.

2. For the purposes of paragraph 1:

— 'serious disturbance of the national transport market in a given geographical area' 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 road haulage undertakings,

— '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.

3. The Commission shall examine the situation, on the basis in particular of the latest quarterly data referred to in Article 5 and, after consulting the Advisory Committee set up by Article 5 of Regulation (EEC) No 3916/90 (3), shall decide within one month of receipt of the relevant Member State's request whether or not safeguard measures are necessary and shall adopt them if they are necessary.


(2) OJ No L 221, 7. 8. 1986, p. 48.

Such measures may involve the temporary exclusion of the area concerned from the scope of this Regulation.

The measures introduced in accordance with this Article shall remain in force for a period not exceeding six months, renewable once within the same limits of validity.

The Commission shall without delay notify the Member States and the Council of any decision taken pursuant to this paragraph.

4. If the Commission decides to take safeguard measures concerning one or more Member States, the competent authorities of the Member States involved shall be required to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof.

These measures shall be applied at the latest as from the same date as the safeguard measures decided on by the Commission.

5. Any Member State may submit a Commission decision as referred to in paragraph 3 to the Community within 30 days of its notification.

The Council, acting by a qualified majority within 30 days of referral by a Member State or, if there are referrals by several Member States, of the first referral, may take a different decision.

The limits of validity laid down in the third subparagraph of paragraph 3 shall apply to the Council’s decision.

The competent authorities of the Member States concerned shall be required to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof.

If the Council takes no decision with in the period referred to in the second subparagraph, the Commission decision shall become final.

6. Where the Commission considers that the measures referred to in paragraph 3 need to be prolonged, it shall submit a proposal to the Council, which shall take a decision by qualified majority.

Article 8

1. Member States shall assist one another in applying this Regulation.

2. Without prejudice to any criminal proceedings the competent authorities of the host Member State shall be empowered to impose penalties on a non-resident carrier who has committed infringements of this Regulation or of Community or national transport legislation in their territory during a cabotage operation. They shall impose such penalties on a non-discriminatory basis and in accordance with paragraph 3.

3. The penalties referred to in paragraph 2 may, inter alia, consist of a warning, or, in the event of serious or repeated infringements, a temporary ban on cabotage transport within the territory of the host Member State where the infringement was committed.

Where a falsified cabotage authorization is produced, the false document shall be confiscated immediately and forwarded as soon as possible to the competent authority of the carrier’s Member State of establishment.

4. The competent authority of the host Member State shall inform that of the Member State of establishment of the infringements recorded and any penalties imposed on the carrier and may, in the event of serious or repeated infringements, at the same time transmit a request that a penalty be imposed.

In the event of serious or repeated infringements, the competent authority of the Member State of establishment shall decide whether an appropriate penalty should be imposed on the carrier concerned; the authority shall take into account any penalty imposed in the host Member State and ensure that the penalties imposed on the carrier concerned are, as a whole, proportional to the infringement or infringements which gave rise to such penalties.

The penalty imposed by the competent authority of the Member State of establishment, after consulting the competent authorities of the host Member State, may extend to withdrawal of authorization to pursue the activity of road haulage operator.

The competent authority of the Member State of establishment may also, pursuant to its national law, arraign the carrier concerned before a competent national court or tribunal.

It shall inform the competent authority of the host Member State of the decisions taken pursuant to the preceding paragraphs.

Article 9

Member States shall ensure that any applicant for, or holder of, an authorization may appeal against a decision refusing or withdrawing that authorization and against any other administrative penalty taken against him by the competent authority of the Member State of establishment or of the host Member State.

Article 10

Member States shall adopt in good time and communicate to the Commission the laws, regulations and administrative provisions relating to the implementation of this Regulation.

Article 11

Every two years and, for the first time by 30 June 1996, the Commission shall submit a report to the Community on the application of this Regulation.
Article 12

1. This Regulation shall enter into force on 1 January 1994.

2. The Community authorization and quota system for cabotage operations provided for in Article 2 shall cease to apply on 1 July 1998.

3. From that date any non-resident carrier meeting the conditions laid down in Article 1 shall be entitled to operate, on a temporary basis and without quantitative restrictions, national road haulage services in another Member State, without having a registered office or other establishment in that State.

The Commission shall submit to the Council, where appropriate, taking account of experience acquired, of developments in the transport market and of progress made towards harmonization in the transport sector, a proposal on the detailed rules accompanying the definitive system as regards on appropriate system for observing the market in cabotage operations and the adjustment of the safeguard measures provided for in Article 7.

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


For the Council
The President
Ph. MAYSTADT
ANNEX I

(a)

(Thick green paper — format DIN A4)

(First page of cabotage authorization)

(Deadlines of periods of validity)

(Text to be worded in the official language or languages of the Member State issuing the authorization; translations in the other official languages of the Community to be given on pages (e) and (f))

COMMISSION OF THE EUROPEAN COMMUNITIES (Impressed stamp of the Commission of the European Communities) State issuing the authorization/international distinguishing sign (*) Competent authority or agency

CABOTAGE AUTHORIZATION No ...

for the national carriage of goods by road in a Member State of the European Economic Community performed by a non-resident carrier (cabotage)

This authorization entitles .................................................................

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to carry goods by road by means of a motor vehicle or a coupled combination of vehicles, within a Member State of the European Economic Community other than that in which the holder of this authorization is established, and to move such vehicle or combination unladen over any part of the territory of the aforesaid Community.

This authorization is valid for a period of two months

from .................................................. to ..................................................

issued at .................................................. date ..................................................

(*) International distinguishing signs of Member States:
Belgium (B), Denmark (DK), Germany (D), France (F), Greece (GR), Ireland (IRL), Italy (I), Luxembourg (L), Netherlands (NL), Portugal (P), Spain (E), United Kingdom (GB).
(*) Name, or registered business name, and full address of carrier.
(*) Signature and stamp of the competent authority or agency issuing the authorization.
(Second page of cabotage authorization)

(Text to be worded in the official language or languages of the Member State issuing the authorization; translations in the other official languages of the Community to be given on pages (c) and (d))

General provisions

This authorization permits the national carriage of goods by road in any Member State other than that in which the holder of the authorization is established (cabotage).

It is personal to the holder and non-transferable.

It may be withdrawn by the competent authority of the Member State which issued it or, where the authorization is a forgery, by the Member State in which the cabotage transport operations are carried out.

It may be used for only one vehicle at a time. Vehicle means a motor vehicle registered in the Member State of establishment or a coupled combination of vehicles of which at least the motor vehicle is registered in the Member State of establishment and which are used exclusively for the carriage of goods.

In the case of a coupled combination of vehicles, it shall accompany the motor vehicle.

It must be carried in the vehicle and must be accompanied by a book of record sheets for all national cabotage operations effected under it.

The cabotage authorization and the book of record sheets must be filled in before the cabotage operations begin.

The authorization and the book of record sheets for national cabotage operations must be produced together whenever required by an authorized inspecting officer.

Save as otherwise provided in Community regulations, the performance of cabotage transport operations shall be subject to the laws, regulations and administrative provisions in force in the host Member State in the following areas:

(a) rates and conditions governing the transport contract;
(b) weights and dimensions of road vehicles; such weights and dimensions may, where appropriate, exceed those applicable in the carrier's Member State of establishment but they may under no circumstances exceed the technical standards set out in the certificate of conformity;
(c) requirements relating to the carriage of certain categories of goods, in particular dangerous goods, perishable foodstuffs, live animals;
(d) driving and rest time;
(e) VAT on transport services.

The technical standards of construction and equipment which vehicles used to carry out cabotage operations must meet those laid down for vehicles put into circulation in international transport.

This authorization must be returned to the competent issuing authority or agency within eight days following its date of expiry.
(c) and (d)

(Third, fourth and fifth pages of Community cabotage authorization)

(Translations in the other official languages of the Community of the text on page (b))

(c) and (f)

(Sixth, seventh and eighth pages of the cabotage authorization)

(Translations in the other official languages of the Community of the text on page (a))
ANNEX II

(a)

(Thick pink paper — format DIN A4)

(First page of short-term cabotage authorization)

(Deadlines of periods of validity)

(Text to be worded in the official language or languages of the Member State issuing the authorization; translations in the other official languages of the Community to be given on pages (e) and (f))

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CABOTAGE AUTHORIZATION No...

for the national carriage of goods by road in a Member State of the European Economic Community performed by a non-resident carrier (cabotage)

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(Second page of cabotage authorization)

(Text to be worded in the official language or languages of the Member State issuing the authorization; translations in the other official languages of the Community to be given on pages (c) and (d))

General provisions

This authorization permits the national carriage of goods by road in any Member State other than that in which the holder of the authorization is established (cabotage).

It is personal to the holder and non-transferable.

It may be withdrawn by the competent authority of the Member State which issued it or, where the authorization is a forgery, by the Member State in which the cabotage transport operations are carried out.

It may be used for only one vehicle at a time. Vehicle means a motor vehicle registered in the Member State of establishment or a coupled combination of vehicles of which at least the motor vehicle is registered in the Member State of establishment and which are used exclusively for the carriage of goods.

In the case of a coupled combination of vehicles, it shall accompany the motor vehicle.

It must be carried in the vehicle and must be accompanied by a book of record sheets for all national cabotage operations effected under it.

The cabotage authorization and the book of record sheets must be filled in before the cabotage operations begin.

The authorization and the book of record sheets for national cabotage operations must be produced together whenever required by an authorized inspecting officer.

Save as otherwise provided in Community regulations, the performance of cabotage transport operations shall be subject to the laws, regulations and administrative provisions in force in the host Member State in the following areas:

(a) rates and conditions governing the transport contract;

(b) weights and dimensions of road vehicles; such weights and dimensions may, where appropriate, exceed those applicable in the carrier's Member State of establishment but they may under no circumstances exceed the technical standards set out in the certificate of conformity;

(c) requirements relating to the carriage of certain categories of goods, in particular dangerous goods, perishable foodstuffs, live animals;

(d) driving and rest time;

(e) VAT on transport services.

The technical standards of construction and equipment which vehicles used to carry out cabotage operations must meet shall be those laid down for vehicles put into circulation in international transport.

This authorization must be returned to the competent issuing authority or agency within eight days following its date of expiry.
(c) and (d)

(Third, fourth and fifth pages of Community cabotage authorization)

(Translations in the other official languages of the Community of the text on page (b))

(e) and (f)

(Sixth, seventh and eighth pages of the cabotage authorization)

(Translations in the other official languages of the Community of the text on page (a))
ANNEX III

(a)

(Format DIN A4)

(Front cover of book of record sheets)

(Text in the official language or languages of the Member State issuing the book of record sheets — translations in the other official languages of the Community to be given overleaf)

State issuing the book of record sheets

Competent authority or agency

International distinguishing sign of Member State (¹)

Book No ...

BOOK OF RECORD SHEETS FOR NATIONAL CABOTAGE TRANSPORT OPERATIONS CARRIED OUT UNDER CABOTAGE AUTHORIZATION

No ...

This book is valid until ................................................................. (²).

Issued at ................................................................. date .................................................................

(¹)

(²) The period of validity may not exceed that of the cabotage authorization.

(³) Stamp of the competent authority or agency issuing the book.

(¹) International distinguishing signs of Member States:

Belgium (B), Denmark (DK), Germany (D), Greece (GR), Spain (E), France (F), Ireland (IRL), Italy (I), Luxembourg (L), Netherlands (NL), Portugal (P), United Kingdom (GB).

(³)
(b)

(Inside front cover of book of record sheets)

1. (Translation in the other official languages of the Community of text overleaf)

2. (Text in the official language or languages of issuing Member State)

General provisions

1. This book of record sheets contains 25 detachable sheets, numbered 1 to 25, on which details must be given, at the time of loading, of all goods transported under the cabotage authorization to which they relate. Each book is numbered and that number is marked on every page of the book.

2. The carrier is responsible for the proper completion of the records of national cabotage operations.

3. The book must accompany the cabotage authorization to which it relates and be kept on board the vehicle travelling laden or unladen under the said authorization. It must be produced whenever required by an authorized inspecting officer.

4. Record sheets must be used in numerical order and the successive loading operations must be entered in chronological order.

5. Each item in the record sheet must be completed accurately and legibly by printing in indelible ink.

6. Not later than eight days after the end of the month to which the sheet relates, each completed record sheet must be returned to the competent authority or agency of the Member State which issued this book. Where an operation spans two census periods, the date of loading determines the period which the record must cover (e.g. an operation beginning towards the end of January and ending in the early part of February should be included in the January return).
Explanatory notes

The information to be given on the following sheets relates to all goods transported under the cabotage authorization to which this record book relates.

A separate line on this sheet must be completed for each consignment of goods loaded.

**Column 2:** give, where appropriate, the information requested by the issuing Member State;

**Column 3:** give the day (01, 02 ... 31) of the month indicated at the top of the sheet during which the vehicle departed under load;

**Column 4 and 5:** specify the place and, if necessary to make this clear, the department, province, 'Land', etc.;

**Column 6:** use the following distinguishing signs:

- Belgium : B,
- Denmark : DK,
- Germany : D,
- Greece : GR,
- France : F,
- Ireland : IRL,
- Spain : E,
- Italy : I,
- Luxembourg L,
- Netherlands : NL,
- United Kingdom : GB,
- Portugal : P;

**Column 7:** state the distance travelled between the place of loading and the place of unloading;

**Column 8:** give the weight in tonnes to one decimal point (e.g. 10.0 t) of the consignment of goods in the same way as for the customs declaration; do not include the weight of containers or pallets;

**Column 9:** in addition, describe as accurately as possible the goods in the consignment;

**Column 10:** for official use only.
<table>
<thead>
<tr>
<th>Code</th>
<th>Description of goods</th>
<th>Tonnage (...km)</th>
<th>Distance</th>
<th>Place of unloading</th>
<th>Place of loading</th>
<th>Date of departure</th>
<th>Date of departure</th>
<th>Date of departure</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td></td>
<td>8</td>
<td>7</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>9</td>
<td></td>
<td>8</td>
<td>7</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td>8</td>
<td>7</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
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<tr>
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<td></td>
<td>8</td>
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<td>5</td>
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<td>3</td>
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<td>8</td>
<td>7</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>
ANNEX IV

TRANSPORT OPERATIONS CARRIED OUT IN ….. (QUARTER) ….. (YEAR) UNDER COVER OF COMMUNITY CABOTAGE AUTHORIZATIONS ISSUED BY ….. (INTERNATIONAL DISTINGUISHING SIGN OF THE COUNTRY)

<table>
<thead>
<tr>
<th>Member State of loading and unloading</th>
<th>Number of</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Tonnes carried</td>
</tr>
<tr>
<td>D</td>
<td></td>
</tr>
<tr>
<td>F</td>
<td></td>
</tr>
<tr>
<td>I</td>
<td></td>
</tr>
<tr>
<td>NL</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td></td>
</tr>
<tr>
<td>L</td>
<td></td>
</tr>
<tr>
<td>GB</td>
<td></td>
</tr>
<tr>
<td>IRL</td>
<td></td>
</tr>
<tr>
<td>DK</td>
<td></td>
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<tr>
<td>GR</td>
<td></td>
</tr>
<tr>
<td>E</td>
<td></td>
</tr>
<tr>
<td>P</td>
<td></td>
</tr>
</tbody>
</table>

Total cabotage: