

**Proposal for a Council Directive amending Directive 75/130 on the establishment of common rules for certain types of combined carriage of goods between Member States**

*COM(89) 564 final*

*(Submitted by the Commission on 1 December 1989)*

(90/C 34/09)

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,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the application of Council Directive 75/130/EEC <sup>(1)</sup>, as last amended by Directive 86/544/EEC <sup>(2)</sup>, has produced positive results;

Whereas the increasing problems related to road congestion, environment and road safety, call in the public interest for the further development of combined transport as a commercially attractive alternative for long distance intra-Community road haulage;

Whereas the incentive given by present Community legislation on combined transport has faded due to the ongoing liberalization of conventional road haulage and hence this legislation needs to be amended in order to better exploit the possibilities offered by the various techniques;

Whereas on the basis of the principle of equal treatment and the wish to promote all types of combined transport equally, the rules concerning initial and terminal road journeys for combined road/rail inland waterway transport should not be different from those applied to combined road/rail carriage;

Whereas, in order to promote broader use of combined transport, access to road transport operations carried out in the framework of intra-Community combined transport should not be restricted;

Whereas the development of combined transport will facilitate transit across Alpine countries;

Whereas the existing rules on tax reduction or reimbursement for road vehicles used for combined transport should be harmonized to become more effective and to ensure uniform application throughout the Community;

Whereas the access of own-account transporters to combined transport should be facilitated,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 75/130/EEC is hereby amended as follows:

1. the third indent of Article 1 (1) is replaced by the following:

— "Combined transport by inland waterway" means road transport of goods between Member States where the lorry, trailer, semi-trailer with or without tractor unit, swap body and container of 20 feet or more is transported by inland waterway between the nearest suitable river port of loading to the point of loading and the nearest suitable river port of unloading to the point of unloading;

2. Article 6 is replaced by the following:

*Article 6*

1. All hauliers, established in a Member State, who meet the conditions on access to the profession and access to the market for carriage between Member States, shall have the right to carry out initial or terminal road haulage operations in the framework of combined transport. In particular a haulier may temporarily pursue activities in any Member State involving initial or terminal hauls associated with international combined transport without having to set up a registered office, place of business or other establishment in that Member State.

2. Without prejudice to the provisions of Article 2, the carrying out by a non-resident haulier of the

<sup>(1)</sup> OJ No L 48, 22. 2. 1975, p. 31.

<sup>(2)</sup> OJ No L 320, 15. 11. 1986, p. 33.

national transport operations referred to in paragraph 1 shall be governed by the laws, regulations and administrative provisions in force in the Member State in which the transport operations are carried out; such rules must be applied to non-resident hauliers under the conditions imposed by that State on its own nationals and in such a way that there is no discrimination against non-resident hauliers on the grounds of nationality or place of establishment.';

3. paragraph 1 of Article 8 is replaced by the following:

'1. Member States shall take the measures necessary to ensure that, as from 1 January 1985, the taxes listed in paragraph 3 applicable to road vehicles (lorries, tractors, trailers or semi-trailers) when routed in combined transport are reduced or reimbursed either by a standard amount, or in proportion to the journeys that such vehicles undertake by rail or inland waterway, within limits and in accordance with conditions and rules fixed by them after consultation with the Commission.

Such reductions or reimbursements shall be granted by the State in which the vehicles are registered, on the basis of the rail or inland waterway journeys effected in combined transport.

Member States shall reimburse the entire amount due for vehicle excise duties or similar tax, if the vehicle concerned in a period of 12 months has carried out more than 120 trips in the course of which the vehicle was conveyed, over a part of the total distance, by rail or inland waterway in the framework of international combined transport. Member States may require the operator to provide evidence of usage of the basis of the document referred to in Article 3.

If this number of trips is not undertaken the following reduction will apply:

- 91 to 120 trips: 75 % reduction on annual excise duty paid,
- 61 to 90 trips: 50 % reduction on annual excise duty paid,
- 31 to 60 trips: 25 % reduction on annual excise duty paid.

If the distance covered by rail or inland waterway exceeds 400 kilometres the trip shall be counted twice. If the distance exceeds 800 kilometres the trip shall be counted three times.';

4. Article 11 is replaced by the following:

*Article 11*

Initial or terminal road haulage in the framework of combined transport shall be exempted from compulsory tariff regulations.';

5. the following Articles are added:

*Article 12*

The terminal or initial road journey of a combined transport operation shall — by derogation of the definition of the First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States <sup>(1)</sup> — be considered to be an own-account road transport operation if the road journey is carried out by a tractor owned by, bought on deferred terms or hired by and driven by employees of an undertaking which is the recipient or the sender of the goods transported and if the initial or terminal road journey respectively is an own-account transport operation as defined in the said Directive.

*Article 13*

This Directive is addressed to the Member States.

<sup>(1)</sup> OJ No 70, 6. 8. 1962, p. 2005/62.'

*Article 2*

1. Member States shall bring into force, after consultation of the Commission, the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 July 1990.

The provisions adopted pursuant to the first subparagraph shall make express reference to this Directive.

2. Member States shall forthwith inform the Commission thereof and communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive, which provisions shall be communicated by the Commission to the Member States.

*Article 3*

This Directive is addressed to the Member States.