

COMMUNICATION

**from the European Affairs Committee of the Federal Council
to the European Parliament, the Council and the European Commission
pursuant to Article 23f (4) of the Austrian Constitution**

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Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view to adapting them to developments in the sector

On 31 May 2017, the European Commission tabled the so-called Mobility Package consisting of several legislative proposals, one of them regarding Regulation (EC) No 1072/2009, which regulates access to the international road transport market and cabotage activities. This Regulation contains provisions that undertakings intending to operate on the international road haulage market and on national markets other than their own (cabotage) must comply with. It includes provisions relating to the documents to be issued to such undertakings by the Member State of registration (Community license) as well as to drivers from third countries (driver attestation).

The Federal Council welcomes a general European debate on cross-border road transport, but wishes to express its opinion on some of the new provisions introduced in the proposal:

Regulation (EC) No 1072/2009 defines cabotage as road transport on the national market of another Member State in accordance with the provisions of the Regulation. It also states that following an incoming international carriage a maximum of three cabotage operations may be carried out within a period of seven days.

Through the proposed amendment, according to which a “cabotage operation” is defined as involving the carriage from the picking up of the goods at one or several loading points until their delivery at one or several delivery points, cabotage restrictions are being lifted and/or undermined. The Federal Council takes a critical view of this proposed amendment, as this provision alone would, in practice, liberalise cabotage and create additional problems for the checking system.

Moreover, the current maximum number of cabotage carriages is to be lifted and, at the same time, the number of days is to be reduced from 7 to 5. The Federal Council firmly rejects a rule that does not limit the number of carriages to be carried out, but merely focuses on a limitation in time, as this would make quasi-continuous cabotage operation possible through a simple journey out of and a laden re-entry into the national market. The Federal Council is in favour of maintaining the maximum number of cabotage journeys and improving the possibilities for roadside checks.

Moreover, the Federal Council fails to see any added value, neither with regard to a limitation of the number of unladen journeys, nor with regard to the facilitation of roadside checks, in the newly created possibility of carrying out cabotage operations not only in the host Member State, but also in contiguous Member States.

The Federal Council also suggests that the possibility of cabotage after an unladen entry be eliminated, as sufficient checks cannot be performed and the desired effect of reducing the number of unladen journeys is doubtful.

In accordance with the proposed regulation, the requirement to produce evidence of each cabotage operation is to be suppressed for cabotage operations within a Member State and is to apply only to international transport. This provision appears to derive from the fact that the regulation will no longer specify a maximum number of cabotage operations allowed, a circumstance which the Federal Council strictly objects to. Even if the number of cabotage operations were no longer subject to a limit, suppressing the requirement to produce any evidence of the cabotage operations performed is not meaningful, as it would be impossible to check if these operations are carried out within the permissible time limit.

The Federal Council therefore advocates the use of harmonised documents for laden entries, for cabotage operations already carried out or yet to be carried out, and for empty incoming journeys, which are to be carried during every cabotage operation.