

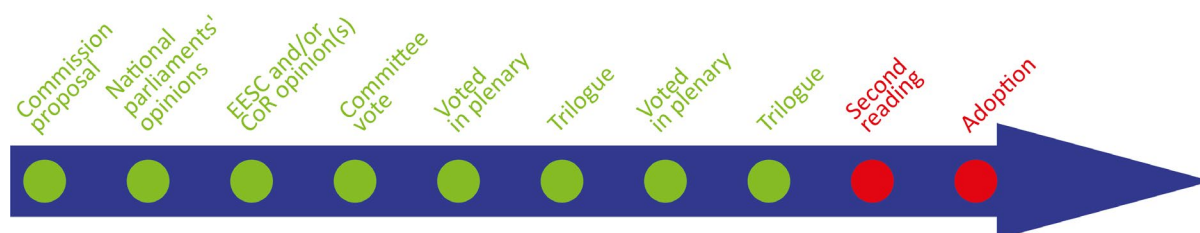
Access to the occupation of road transport operator and to the international road haulage market

OVERVIEW

The regulations on admission to the occupation of road transport operator and on access to the international road transport market have been contributing to the functioning of EU road transport and fairer competition between resident and non-resident hauliers since December 2011. Despite the improvements they have brought to the sector, persistent shortcomings such as diverging national application of the rules and uneven enforcement called for a revision of both acts. On 31 May 2017, as part of a 'mobility package', the European Commission adopted a new proposal to address the main shortcomings affecting the sector, and improve its competitiveness and efficiency. In June 2018, Parliament's Committee on Transport and Tourism (TRAN) adopted its report. After further debates and procedural developments, Parliament adopted its first-reading position on 4 April 2019. The Council, on its side, reached a general approach on this proposal in December 2018, under the Austrian Presidency. After four negotiating rounds, the Council and Parliament reached a provisional agreement on the proposal on 12 December 2019, which was approved by Coreper on 20 December. The Council formally adopted its first-reading position on 7 April 2020, and the TRAN committee recommended on 8 June that Parliament approve it at second reading. The agreed text is thus due to be voted in plenary in July at second reading. If adopted, this would put an end to three years of debate on a complex and controversial proposal.

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

<i>Committee responsible:</i>	Transport and Tourism (TRAN)	COM(2017) 281
<i>Rapporteur:</i>	Ismail Ertug (S&D, Germany)	31.5.2017
<i>Shadow rapporteurs:</i>	Elżbieta Katarzyna Łukacijewska (EPP, Poland); Søren Gade (Renew, Denmark); Marco Campomenosi (ID, Italy); Karima Delli (Greens/EFA, France); Kosma Złotowski (ECR, Poland); Kateřina Konečná (GUE/NGL, Czechia)	2017/0123(COD) Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Second-reading vote in plenary	



Introduction

Since the 1990s, the liberalisation of the road transport sector (RTS) has been one of the major objectives of EU transport policy. It has been accompanied by measures aimed at harmonising rules across the EU, including those on social, safety and market issues, in order to enable fair competition and to set up the internal market of the RTS. This commitment was already partially present in the 2001 European Commission [white paper](#) on transport, and was reiterated in the [2011 Roadmap](#) to a Single European Transport Area. In line with these objectives, Regulations (EC) [1071/2009](#) on access to the occupation of road transport operator and (EC) [1072/2009](#) on access to the international haulage market were adopted to complete the internal RTS market and to ensure a level playing field between resident and non-resident hauliers. Both regulations have applied since 4 December 2011.¹

Nevertheless, the 2014 Commission [Road transport market report](#) highlighted that different national interpretations and application of both regulations mean 'a costly and confusing patchwork' for road transport operators. An [external report](#) accompanying an ex-post evaluation of the two regulations, published in December 2015, concluded that the objectives pursued by these acts had been only partially achieved. It underlined diverging national interpretations of the rules, in particular on cabotage,² uneven enforcement and high administrative burdens. Moreover, in its regulatory fitness and performance (REFIT) programme, the Commission expressed the need to enhance some provisions of the two regulations. The revision of the two acts was part of the Commission [2017 work programme](#).

The Commission's [new proposal](#), adopted on 31 May 2017, is an element of the '[Europe on the move](#)' package for clean, competitive and connected mobility, and aims thereby to remedy these weaknesses.

Context

The RTS holds a dominant position in the transport economy. Being relatively stable over the past 15 years, in 2017 road transport accounted for [roughly 50 %](#) of the freight market (corresponding to over three quarters ([76.3%](#)) of total inland freight transport), while water transport and rail had respectively around 36 % and 11 % shares of the market. Across the EU-28, around [two thirds](#) of road freight is national, and one third transnational. Nevertheless, [significant disparities](#) exist between the EU-15, where national traffic represents almost 80 % of volume, and the EU-13,³ where national traffic is half of the international share. In the passenger transport market, bus and coaches carried slightly more than [7.4 %](#) of passengers in 2017, with air accounting for 11.2 and rail 6.8 %.

The road haulage sector in the EU employs about 3 [million](#) people. According to Eurostat, in 2016, there were roughly [589 000](#) registered road freight and removal companies and 390 000 road passenger transport companies in the EU. Freight companies are [predominantly small](#); roughly 90 % of them have fewer than 10 employees and they account for around 30 % of the sector's turnover. Generally owned by the drivers themselves, individually or in consortia, these companies tend to compete mainly on price of services, with labour costs being a key factor in their competitiveness. The road freight market is also witnessing the increasing importance of [large logistics providers](#), offering reliable, door-to-door and just-in-time delivery. Truck drivers are mainly [employees](#), with a substantial proportion self-employed. The road passenger transport sector is highly fragmented in terms of companies' size and range of services. The latter include, for instance, long-distance, school transport or shuttle services. As a whole, it is estimated that the RTS directly employs [5 million people](#) in the EU.

Cabotage operations are intended to increase the efficiency of road transport, as they reduce empty running of trucks in a host Member State. In 2017, they represented a penetration rate for hire and reward transport in the EU of [4.3%](#), to be compared with a 2.9% rate in 2013. In 2017, the highest

penetration rates were recorded by Belgium (13.8 %), Luxembourg (10.0 %), followed by France (8.6 %), Austria (8.2 %) and Germany (8.0 %).

Existing situation

Regulation (EC) 1071/2009, repealing Council [Directive 96/26/EC](#), was adopted to modernise rules governing admission to and the pursuit of the occupation of road transport operator and to implement them in a more uniform and effective way. It applies to both road haulage and passenger transport. To carry out road transport operations, companies have to comply with a set of standards. They must designate a transport manager, complying with professional requirements and effectively managing the transport activities of the company. Undertakings must have an effective and stable establishment in a Member State, a provision meant to fight against the phenomenon of 'letterbox companies'.⁴ Additionally, companies must be of good repute: they must not have been convicted of a serious criminal offence or incurred a penalty for a serious infringement of the rules. To prove their appropriate financial standing, companies must have at their disposal every year capital and reserves amounting to €9 000 when one vehicle is used, plus €5 000 for each additional vehicle. Road transport companies must possess high-quality professional knowledge, which is specified in Annex I to the regulation. To prove their competence, companies must possess a certificate, issued by a national authority or body.

To monitor compliance with the regulation's requirements described above, Member States can carry out checks of companies. In cases of prolonged violation of requirements, the national competent authority may suspend or withdraw its authorisation. Lastly, the regulation requires each Member State to keep a national electronic register of authorised road transport operators. This register must be interconnected and accessible across the EU through national contact points.

Regulation 1072/2009 was adopted to merge Regulations (EC) [881/92](#), (EC) [3118/93](#) and [Directive 2006/94/EC](#) relating to access to the RTS. It lays down the rules governing access to the international road haulage market within the EU and the conditions applicable to non-resident hauliers operating within a Member State (cabotage). The regulation establishes that to carry out international transport operations, the driver must possess a Community licence issued by the national competent authority. Non-EU national drivers must additionally have a driver attestation, issued by the authorities of the country of establishment of the haulier.

The regulation clarifies the temporary nature of cabotage operations and limits them to a maximum of three operations within a seven-day period, which follows an international carriage operation from another Member State or third country. Cabotage can be performed in one or more Member States; in the latter case, it is limited to one operation within three days in each Member State. In the event of serious disturbances in the national RTS, such as an excess of supply over demand, due to or aggravated by cabotage, Member States are allowed to adopt safeguard measures. In cases of serious infringements of the rules by a haulier, the regulation provides Member States of establishment or host Member States with sanctions, such as temporary or permanent withdrawal of the Community licence or driving attestation. Infringements and penalties have to be registered in the national electronic register.

Parliament's starting position

In its [resolution](#) of 17 December 2014 on the classification of serious infringements in road transport, the Parliament asked the Commission to present a new list of serious infringements to rules leading to the loss of good repute by road transport operators. On 14 September 2016, the Parliament adopted a [resolution](#) on social dumping in the EU, across all sectors. To fight against social dumping, it called on Member States to improve cross-border cooperation between inspection services and information exchange. It also proposed to draw up an EU-wide list of enterprises not complying with labour and social rules in RTS and to deny these enterprises access to public contracts and subsidies for a period prescribed by law.

On 18 May 2017, in a [resolution](#) on road transport in the EU, the Parliament underlined the need to ensure a level playing field between operators and to tackle fraud on cabotage. It underlined the fact that unlawful business practices, mainly related to letterbox companies and cabotage, led to unfair competition, undermined road safety and violated workers' rights. Therefore, it asked the Commission to review the requirements on the right of establishment to eradicate letterbox companies, and to clarify the rules on cabotage and access to road transport occupation to tackle fraud and abuse. It also rejected any further liberalisation of cabotage, in particular unlimited cabotage operations within a certain number of days.

Preparation of the proposal

In its 2014 [State of the Union road transport market report](#), the Commission noted that the impact of Regulations 1071 and 1072/2009 was mixed. On one side, they provide RTS operators and enforcers with common standards and criteria but, on the other, certain provisions appeared to be difficult to apply, in particular those relating to cabotage and the stable establishment of RTS companies. The report underlined that the practice of letterbox companies continued to exist. It suggested clarifying the rules to ensure the uniform application of market access rules and to remove the restrictions on cabotage gradually. The Commission also published two reports on the implementation of certain provisions concerning access to the occupation of road operator. The [first](#), for the period from December 2011 until December 2012, could not be comprehensive in scope, due to gaps in the data provided by Member States or delays in submitting them. The [second](#) report (January 2013–December 2014) encountered similar difficulties. It highlighted the diversity of methods used to check compliance with the requirements on access to the occupation of road operator. It also noted that, despite some improvements, it was still necessary to reinforce administrative cooperation between Member States.

A [REFIT ex-post evaluation](#) of both regulations was carried out by the Commission from 2014 to 2015 and complemented by an [external study](#), published in December 2015. The Commission evaluation concluded that the regulations were partly effective in achieving a level playing field in the market, the main obstacles being different interpretations of some provisions, inconsistencies in enforcement practices and a lack of cooperation between Member States. The evaluation noted that delays in establishing the European Register of Road Transport Undertakings (ERRU) and interconnecting national electronic registers to it, coupled with insufficient administrative cooperation, limited the regulations' efficiency. Costs reductions were lower than expected, and the additional compliance costs due to the adoption of the regulations were estimated at €15-34 million per year, broadly comparable to the €20 million estimates. The evaluation did not report any inconsistencies with other road transport legislation, whereas the external study mentioned them, for instance, with regard to the Posted Workers Directive 96/71/EC and with Regulation 561/2006 and Directive 2002/15/EC on driving and rest times. Finally, the evaluation underlined the EU added value of the regulations. The external study made some recommendations to combat letterbox companies more efficiently and to clarify further cabotage rules. It recommended additional guidance and sharing of best practice in areas such as developing methods to check the effective establishment of a company or its financial standing and better defining infringements leading to the loss of good repute. Lastly, the study suggested accelerating the use of digital tachographs to improve cabotage enforcement and working on the harmonisation of sanctions.

In its 2015 REFIT programme, the Commission proposed to [amend](#) Regulations 1071/2009 and 1072/2009, to simplify them and improve their application. The modifications would also aim at reducing the administrative burden and at facilitating enforcement by control authorities.

In November 2016, the Commission published its [inception impact assessment](#) to inform stakeholders about its intended initiative and allow them to provide feedback. In this assessment, the Commission identified two main issues: the different national interpretations and implementation of rules, and the inconsistent and ineffective enforcement of provisions. The new Commission proposal was accompanied by an [impact assessment](#). Of four policy packages

considered, the preferred option consisted of substantive changes to the rules, in particular on cabotage and establishment of RTS companies, and a partial extension of Regulation 1071/2009 to light commercial vehicles (LCVs).⁵ The measures proposed could generate savings for companies in the range of €5.2-7 billion in the 2020-2035 period, reduce infringements to cabotage by up to 60 % and the risk of letterbox companies being set up by about 10 %, with a positive impact on working conditions. At the same time, it could entail additional enforcement costs of about €55-170 million in the 2020-2035 period. EPRS published an [initial appraisal](#) of the Commission's impact assessment.

The changes the proposal would bring

To harmonise competitive conditions between operators, the new proposed regulation extends certain rules that did not apply to LCVs to this category of vehicle, which is expected to grow. The rules concern effective establishment and appropriate financial standing of road operators. The proposal rules out the possibility for Member States to impose additional conditions on access to the occupation of road haulier, to avoid national divergence in this respect. It also clarifies the requirements of establishment and of good repute. On the former, it proposes to add a requirement for companies to hold assets and employ staff in their place of establishment, proportionate to their activity. Concerning the latter, it extends the infringements that may lead to the loss of good repute, adding, for instance, infringements of national tax rules or EU rules on the posting of workers. Moreover, a transport manager could not be rehabilitated earlier than one year from the date of loss of good repute. Lastly, to improve enforcement of the rules regarding effective establishment, the proposal further specifies the administrative cooperation between Member States and sets a 25 working day deadline to reply to information requests from competent authorities and to carry out the necessary checks.

As for changes to Regulation 1072/2009, the main modifications concern cabotage. Its new definition states that cabotage can involve one or several loading points and one or several delivery points. The maximum number of cabotage operations that can be carried out in a host Member State after an incoming international carriage operation is removed and, in parallel, the maximum timeframe for carrying out these operations is reduced from seven to five days. Lastly, the proposal requires Member States to carry out a minimum amount of checks of cabotage (2 % of all cabotage operations from January 2020 and 3 % from January 2022).

Advisory committees

Consultation of the European Economic and Social Committee (EESC) and of the European Committee of the Regions (CoR) is mandatory, as the proposal is based on [Article 91\(1\)](#) of the Treaty on the Functioning of the European Union (TFEU).

On 18 January 2018, the EESC adopted its opinion ([TEN 636](#), Rapporteurs: P. Moisisio, Group III/Finland and S. Back, Group I/Sweden) on this file. It welcomed the aim of ensuring a level playing field in international RTS, avoiding administrative burdens and improving clarity and enforcement of the rules, and addressing abuse. It also supported the establishment requirements, to fight against letterbox companies as well as improved rules on infringement procedures and cabotage. On this last point, it stressed that the proposed amendments could be effective only if the temporary nature of cabotage services were clearly defined and assessed. Lastly, the EESC proposed to include information regarding drivers in national electronic registers, to determine compliance with social and labour rules.

On 1 February 2018, the CoR adopted its opinion ([COTER-VI/033](#); Rapporteur: S. Spyridon, Greece/EEP) on 'Europe on the Move: labour aspects of road transport'. While congratulating the Commission for its efforts to deepen the single market in the international RTS, the CoR welcomed the attempts to introduce clearer rules on cabotage, to counter letterbox companies and to clarify conditions for entering the transport profession. To avoid increasing red tape for small companies

undertaking national or own-account operations, the Committee suggested extending the four criteria of access to the occupation only to LCVs performing international transport operations.

Concerning the new cabotage rules, the CoR considered that they would facilitate controls and reduce the environmental footprint of the RTS, since they would avoid a number of empty runs. At the same time, they could lead to increased compliance costs for road transport companies. Lastly, it suggested including illegal cabotage in the list of infringements leading to loss of good repute.

National parliaments

The subsidiarity [deadline](#) was 7 September 2017. No reasoned opinion was submitted by national parliaments by that date, but the Austrian, Czech, Dutch, French, Italian, Romanian and Polish parliaments submitted comments for political dialogue. National parliaments expressed their views in particular on cabotage. For instance, the Czech and Polish Senates welcomed the removal of limits on cabotage operations, while the Austrian Federal Council and some parliamentary groups in the House of Representatives of the Netherlands were of the opposite view. The Austrian Federal Council insisted also on the necessity to improve the possibilities for roadside checks. The Czech Senate expressed its disapproval regarding the reduction in the number of days of cabotage as well as some reservations about the mandatory checks. Lastly, the Polish Senate disapproved of some new provisions entailing additional administrative burdens, such as conditions of good repute.

Stakeholders' views⁶

In preparing its proposal, the European Commission carried out extensive public consultations on the revision of both regulations. [The consultations](#) took place between June and September 2016: 175 responses were received, mainly from representatives of RTS companies, national authorities, road workers and operators' associations. The vast majority of respondents confirmed that cabotage rules lacked clarity and were difficult to enforce. The parties consulted disagreed in general with the proposed restrictions on cabotage, especially in the EU-13 Member States. 43 % of respondents viewed letterbox companies as a widespread practice, and 70 % of them considered that the varying application of the good repute criterion was a major problem. Adopting measures to strengthen the criterion of stable and effective establishment received a mixed response, the EU-15 being more supportive of this measure. Lastly, the possible inclusion of LCVs in the scope of both regulations was seen positively by a majority of parties consulted.

In view of the publication of new proposals by the European Commission, many stakeholders made their opinions known in position papers. The vast majority of them shared the view that it would be useful to revise both regulations to clarify existing rules and to ensure more homogeneous implementation and enforcement across the EU. The confederation of EU business, BusinessEurope, in its 2016 [position paper](#), insisted on the need to harmonise the criteria for control and sanctions in case of non-compliance with the rules and on the extension of ERRU to national roadside control agents. A year later, BusinessEurope published [comments](#) on the 2017 Mobility package. It was pleased with the mandatory cooperation between Member States concerning enforcement, and with the strengthening of rules of establishment to make it harder for letterbox companies to operate. Moreover, it welcomed the Commission proposal on cabotage operations and moving towards a time-based cabotage right (five days), making it easier to enforce the rules. It also underlined that for road checks, the introduction of proof in electronic format was a step in the right direction, not only for road operators but also for public authorities.

In 2017, the International Road Transport Union (IRU) published its [observations](#) on the revision of the EU road transport legislative framework. It called for full implementation of ERRU, integration of LCVs in the EU rules on access to the profession, and alignment of good-repute evaluation procedures. In its [position paper](#) on the mobility package and subsequent [technical analysis and recommendations](#) on this specific legislative proposal, it welcomed the clarifications of the rules on access to the profession of road operator but considered that more efforts could have been made. According to the IRU, stricter rules on establishment may not suffice to reduce the creation of

letterbox companies without a strong commitment from Member States to enforce these rules. The IRU considered that compliance with the rules on posting of workers, taxation or contractual obligations should not be taken into account to assess a company's good repute. Concerning access to the road haulage market, the IRU called for a broader use of electronic consignment notes, such as [e-CMR](#), to control cabotage and facilitate the exchange of information for enforcement purposes.

In its February 2018 [position paper](#), the European Association of Craft, Small and medium-sized Enterprises (UEAPME) highlighted the importance of rehabilitation measures to enable EU road companies, in particular small business or individual entrepreneurs, to re-establish good repute in a homogenous manner. UEAPME supported the extension of the provisions on access to the profession to LCVs and the introduction of stricter rules to counteract letterbox companies. On cabotage, however, it stated that it preferred to keep the existing system of three operations in seven days as the Commission proposal would lead to a complete liberalisation of cabotage operations.

[CLECAT](#), the organisation of freight forwarders and logistics service providers, welcomed the Commission proposals on cabotage and the measures to fight letterbox companies, and suggested enhanced administrative cooperation between Member States. It published its views in a [consolidated opinion](#) in September 2017. Lastly, the European Transport Workers' Federation ([ETF](#)) recommended amending the definition of cabotage to better sustain its temporary nature, limit its operations to one in a seven-day period, and include it among the serious infringements leading to loss of good repute. To improve enforcement of Regulation 1071/2009, it proposed a set of actions such as pooling enforcement intelligence and technology (digital tachographs) and allowing Member States' enforcement agencies real-time access to national electronic registers and the ERRU.

A few weeks before the publication of the Commission proposal, the ETF and 27 of its member organisations from 20 European countries (including North Macedonia and Norway) adopted on 5 April the [Warsaw declaration](#). The signatories called on the Commission to include the ETF proposals in the road initiatives to ensure better enforcement, safety of drivers and a level playing field between companies. They called on Member States 'to clamp down on letterbox companies' and combat bogus self-employment. In April 2018, ETF put forward a [report](#) with concrete solutions regarding the Commission mobility package as a whole, and particularly on cabotage and access to the occupation. On 31 October 2018, the ETF and its affiliated European trade unions signed the [Vienna Declaration](#) for a fair mobility package. The signatories called on the European Parliament and the Member States to adopt clear, enforceable and effective measures meant to eliminate abuse, promote road safety and restore fair competition.

Prior to the TRAN committee vote on the legislative proposal in January 2019, representatives of international road hauliers from Bulgaria, Croatia, Hungary, Lithuania, Poland, Romania and Slovenia issued a [joint declaration](#). They protested against the posting of workers proposal and the other two linked proposals on driving times and cabotage, describing them as being discriminatory, raising barriers in RTS, and causing administrative, organisational and financial burdens, and fragmentation of the EU transport service market.

After the provisional agreement reached between the Parliament and Council in December 2019, ETF published a [statement](#) in which it welcomed the extension of rules to LCVs and the introduction of a 'cooling-off period' to get a new right to cabotage operations. It also supported the compulsory regular return of the vehicle to the country of establishment as a key measure to fight against letterbox companies.

Legislative process

In the 2014-2019 legislative term, the file was allocated to the European Parliament's Committee on Transport and Tourism (TRAN) and Jens Nilsson (S&D, Sweden) was appointed rapporteur. The TRAN [draft report](#) was published on 18 December 2017. During its presentation on 23 January 2018,

Members raised in particular the issue of illegal cabotage and the administrative burden for small and medium-sized transport enterprises.

After his death on 12 March 2018, Jens Nilsson was replaced as rapporteur by Ismail Ertug (S&D, Germany).

The EMPL committee adopted its [opinion](#) on 25 April 2018 (Rapporteur: Verónica Lope Fontagné, EPP, Spain). It expressed agreement with the general objectives of the Commission proposal but observed that some measures may result in an excessive burden for companies in the RTS, especially small and medium-sized transport enterprises. The opinion underlined the need to fight letterbox companies and false self-employment and to introduce tighter, effective and dissuasive penalties for infringements.

On 4 June 2018, the TRAN committee put the draft report with its amendments to the vote. The resulting report clarified the rules on establishment, included LCVs between 2.4 and 3.5 tonnes, and strengthened enforcement provisions. The TRAN committee adopted its report by 30 votes in favour and 15 against, with 3 abstentions, as well as the decision to launch trilogue negotiations. However, during the June 2018 plenary session, in accordance with [Rule 69c\(3\)](#) of Parliament's rules of procedure, the mandate was announced in plenary and subsequently challenged. On 14 June 2018, a vote took place in which Members rejected the TRAN committee's mandates to launch negotiations on the mobility package. This was the first time since the new procedure under Rule 69c had come into force (January 2017) that the plenary had rejected a committee mandate.

On 4 July 2018, the plenary rejected the report as amended, and referred it back to the TRAN committee for further consideration. On 10 January 2019, the TRAN committee voted on the rapporteur's new compromise amendments⁷ and adopted them by 27 votes in favour, to 21 against, and with no abstentions. The new amendments provided for unlimited cabotage operations within a three-day period following an international transport operation, and introduced a cooling-off period of 60 hours after the return to the haulier's Member State of establishment. In order to tackle letterbox companies more effectively, they also provided for clearer establishment criteria, more intensive monitoring and also improved administrative cooperation between Member States. Lastly, they required that vehicles carry out a loading/unloading operation at least every four weeks in the Member State of establishment.

During the TRAN vote on 10 January 2019, the other two linked mobility package files (on driving and rest times, and on posting) were rejected. Therefore, discussions continued on how to proceed on the three files and by the end of January 2019, a majority of political groups supported the idea of putting the cabotage proposal and the other mobility package files back on the Parliament's plenary agenda for a new vote.

In March 2019, the Conference of Presidents of the Parliament's political groups decided to include this file, as well as the two other associated proposals on posting and driving times, on the agenda of the March II plenary session. The vote could not be carried out due to the significant number of amendments to the three proposals (more than 1 200), with the TRAN committee requiring to filter the amendments first. Finally, Parliament's position on the cabotage proposal was adopted by a clear majority, with 371 votes in favour, 251 against and 13 abstentions, on 4 April 2019.

Following the elections, on 24 September 2019, the TRAN committee adopted a decision to open interinstitutional negotiations on the basis of the first-reading position.

In the Council, the Working Party on Land Transport started its work on the proposal in [June 2017](#).

At the [Council meeting](#) on transport, telecommunications and energy held on 4-5 December 2017, ministers welcomed the [progress report](#) on the work undertaken by the Estonian Presidency, in particular on the market aspects of the mobility package. Delegations expressed divergent views on possible further liberalisation of cabotage.

The Bulgarian Presidency published a [progress report](#) on 30 May 2018. The presidency compromise proposed to apply the licensing rules to LCVs above 2.5 tonnes operating in international transport. Operators of LCVs would have to fulfil all standard requirements. The compromise reinforced some requirements to show effective and stable presence of a road transport company and allowed for a combined report to the Commission on Regulations 1071/2009 and 1072/2009. At the [Council meeting](#) on transport, telecommunications and energy on 7 June 2018, the Bulgarian Presidency presented its progress report but could not reach a general approach.

The subsequent Austrian Presidency drew up several compromise amendments, which were discussed from October 2018 on.

On 12 November 2018, the 'Road Alliance'⁸ transport ministers met in Brussels to thank the Austrian Presidency for the progress made in the negotiations on the mobility package, and reiterated their unchanged political priorities on the legislative proposals concerning social and market rules in the RTS. In their [statement](#), they underlined, not least, that systematic cabotage and unfair competition were still open issues, and called for the introduction of clear and enforceable rules.

At the Council meeting on transport, telecommunications and energy on 3 December 2018, the Council agreed a [general approach](#) on this proposal and on the two other linked proposals concerning the social reform of road haulage. Concerning cabotage, the general approach maintained the existing rule allowing a maximum of three operations within a seven-day period. To prevent systematic cabotage, the approach introduced a cooling-off period of five days before other cabotage operations can be carried out in the same Member State with the same vehicle. Moreover, monitoring of cabotage would become more efficient. To clarify the concept of effective establishment of a road company, the general approach insisted on the necessary link with the state of establishment, for instance by specifying all the documents to which the company must give access. To prove good financial standing, it added a new threshold for companies using vehicles in international transport with a mass varying between 2.5 and 3.5 tonnes: these companies should have capital and reserves of at least €1 800 for the first vehicle and €900 for each additional one. Lastly, transport managers who have lost their good repute would wait at least one year before being rehabilitated.

Trilogue negotiations on this legislative file began in October 2019. After the fourth negotiating session, on 12 December 2019, the co-legislators reached a [provisional agreement](#). It maintained the current rule on cabotage (three operations within 7 days) but added a 'cooling-off period' of four days before a new cabotage right would be granted to the carrier in the same host country with the same vehicle. This measure is meant to fight against 'systematic cabotage'. Parliament obtained the compulsory return of the truck to the driver employer's country of establishment every eight weeks. The new rules would also apply to LCVs, 21 months after the text's entry into force.

On 20 December 2019, the Member States' ambassadors to the EU (Coreper) [approved](#) by a narrow majority (17 Member States representing roughly 69 % of the EU population) the provisional agreement on cabotage and on the two connected files on driving, rest times and posting. Some Member States from central and eastern Europe such as Bulgaria, Hungary, Latvia, Lithuania, Poland, Romania, but also Belgium, Cyprus and Malta, opposed this text, in particular the obligation for the truck to return to the company's country of establishment every eight weeks. They considered that this measure would lead to a major increase of empty runs of trucks and consequently of CO₂ emissions, and would undermine UE climate ambitions.

A further step towards the adoption of this legislative proposal was taken by the TRAN committee on 21 January 2020, with the [approval](#) of the provisional agreement by 32 votes in favour, 17 against and no abstentions.

The Council formally adopted its [first-reading position](#), by written procedure, on [7 April 2020](#). It was published in the [Official Journal](#) on 7 May. On 17 April 2020, the [reception](#) of Council's position on this proposal was announced in plenary and it was referred to the TRAN committee for second reading. On 28 April 2020, during a TRAN committee [meeting](#), the rapporteur recommended

endorsing the Council's first reading position without amendments, but some Members raised concerns on the impact of the proposal on EU climate ambitions and therefore tabled amendments.

On 15 May 2020, the Commission published a [communication](#) on the position adopted by the Council on the three interlinked legislative proposals on social and market rules in the RTS. The Commission accepted Council's position on this legislative proposal and considered that it would provide fairer competition. Nevertheless, the Commission expressed two reservations concerning the obligation for a regular return of the truck to the operators' Member State of establishment and the possibility to apply cabotage restrictions to the national road legs of combined transport operations. The Commission considered that the former would lead to an increase in emissions and congestion, and that the latter would diminish the effectiveness of support for multimodal freight operations. Finally, it noted that after carrying out an impact assessment, it might put forward a targeted legislative proposal before these two provisions enter into force.

The TRAN committee undertook its second-reading vote on the agreed text on 8 June 2020. The committee followed the recommendation of the rapporteur and none of the 29 amendments were adopted. The agreed text was adopted with 33 votes in favour, 16 against and no abstention. During the negotiations, the Parliament managed to incorporate in the text some of its key demands such as tackling systematic cabotage, enhancing enforcement and the level playing-field between big and lighter trucks (less than 3.5 tonnes).

Before it can be formally adopted, the text has to be voted in Parliament at second reading during the July plenary session. New amendments could be tabled but they would need to get an absolute majority.

After their adoption, the amending regulations would apply 18 months after their entry into force, and after 21 months for light vehicles above 2.5 tonnes engaged in international transport.

EP SUPPORTING ANALYSIS

- [Access to the occupation of road transport operator and to the international road haulage market](#), implementation appraisal, EPRS, European Parliament, March 2017.
- [Adapting regulation \(EC\) No 1071/2009 and Regulation \(EC\) No 1072/2009 to developments in the transport sector](#), initial appraisal of the Commission impact assessment, EPRS, European Parliament, October 2017.
- [Development and implementation of EU road cabotage](#), Policy Department for Structural and Cohesion Policies, European Parliament, March 2013.

OTHER SOURCES

[Pursuing the occupation of road transport operator and access to the international road haulage market](#), European Parliament, legislative Observatory (OEIL).

ENDNOTES

- ¹ With the exception of Articles 8 and 9 of Regulation 1072/2009, which have applied since 14 May 2010.
- ² Cabotage is defined as national carriage for hire or reward carried out on a temporary basis in a host Member State.
- ³ The EU-13 are the EU Member States that acceded to the EU in 2004 or later.
- ⁴ Letterbox companies are businesses established in a Member State with lower taxes and remuneration levels, but in which they generally do not carry out any actual activity.
- ⁵ [Light commercial vehicles](#) (N1) are vehicles for the carriage of goods having a mass not exceeding 3.5 tonnes.
- ⁶ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.
- ⁷ Compromise amendments aim at grouping a certain number of amendments or seek to find an alternative to conflicting amendments.
- ⁸ The [Road Alliance](#) was set up on 31 January 2017 in Paris, by transport ministers from eight Member States (Austria, Belgium, Denmark, Germany, France, Italy, Luxembourg and Sweden) and Norway to harmonise national social rules on the RTS upwards and improve controls and enforcement. Switzerland joined the Road Alliance later in 2017 and Greece in 2018.

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