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Working Party on Road Transport
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**HARMONIZATION OF REQUIREMENTS
CONCERNING INTERNATIONAL ROAD TRANSPORT AND
FACILITATION OF ITS OPERATION**

Development of provisions on the facilitation of international road transport (R.E.4)

Transmitted by the European Conference of Ministers of Transport (ECMT)

Attached for the information of the Working Party is the ECMT's consolidated resolution concerning the rules to be applied for international freight transport by road, adopted by the Council of Ministers meeting in Prague, Czech Republic on 30-31 May 2000.

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CONSOLIDATED RESOLUTION CONCERNING THE RULES TO BE APPLIED FOR INTERNATIONAL FREIGHT TRANSPORT BY ROAD

Chapter I -- Scope of application and definitions

1. *Scope of application*

The present Resolution applies to the right to take up and pursue the occupation of international road freight haulier on the territories of ECMT Member countries. It does not prejudice the implementation of other resolutions in the fields of road traffic, particularly in respect of weights and dimensions and of combined transport ^{1/}.

2. *Definitions*

In this Resolution:

- "freight transport undertaking" means any natural person, any legal person, whether profit-making or not, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such personality, which has as object the exercise of the occupation of road freight transport operator;
- "occupation of international road haulage transport operator" means the activity of any undertaking that transports goods by road for hire or reward by means of either a self-contained motor vehicle or a combination of coupled vehicles;
- "competent authority" means the authority in a Member country of ECMT which is competent in the area covered by this Resolution;
- "vehicle" means a motor vehicle registered in a Member country, or a combination of coupled vehicles in which at least the motor vehicle is registered in a Member country, intended for the carriage of goods. The vehicle can be the property of the transport undertaking or can be put at its disposal through a hiring or leasing contract;
- "vehicle hired" means any vehicle which, for remuneration and for a given period, is held by an undertaking that engages in the carriage of goods by road for hire or reward or for its own account by virtue of a hiring or leasing contract with the undertaking that owns the vehicle.

^{1/} Cf. ECMT Resolution CEMT/CM(94)13/Final on the promotion of Combined Transport adopted in Annecy in May 1994.

"international transport operations" means the runs by a vehicle, either loaded or unloaded:

1. with the points of departure and destination in two different Member countries, with or without transit through one or more Member or non-Member countries;
 2. departing from a Member country to a destination in a non-Member country or vice versa, with or without transit through one or more Member or non-Member countries;
 3. between non-Member countries and involving transit through the territory of one or more Member countries.
- "transport on own account" is when the goods carried are the property of the undertaking or have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking. The purpose of the transport must be to carry the goods to or from the undertaking or to move them, either inside the undertaking or outside for its own requirements. The motor vehicles used for such carriage must be driven by employees of the undertaking and must be owned by the undertaking or put at its disposal through a hiring or leasing contract. The transport must be an ancillary activity of the undertaking.

Chapter II -- Admission to the occupation of international transport operator ^{2/}

1. Background

1.1 To engage in the activity of international road haulage, transport undertakings must first be licensed to operate by the competent authority of the country in which they are established.

1.2 Freight transport undertakings that submit an application to engage in the activity of international road haulage shall provide evidence and demonstrate throughout the whole period of their activity that:

- a) they are of good repute;
- b) they have adequate financial standing;
- c) they meet the requirements for professional competence.

Where the applicant is a natural person and does not satisfy requirement c), the competent authorities may nevertheless permit him to engage in the occupation of international road freight operator provided that he designates to the said authorities another person, satisfying requirements a) and c) above, who will effectively and continuously manage the transport operations of the undertaking on an on-going basis.

^{2/} Switzerland entered a reservation on the whole chapter.

Where the applicant is not a natural person, requirements a) and c) shall be met by the person or persons who will effectively manage the transport operations of the undertaking on an on-going basis.

1.3 The "good repute" requirement shall be considered to have been met if the natural person or persons who are deemed to satisfy it under paragraph 1.2:

- have not been convicted of serious criminal offences, including offences of a commercial nature;
- have not been declared unfit to pursue the occupation of transport operator;
- have not been convicted of serious breaches of labour law, transport legislation, and in particular rules governing, driver's driving time and rest periods, or of legislation governing road traffic, vehicle safety and environment protection in particular.

The "good repute" requirement shall also be considered to be met if the person or persons in question have been rehabilitated.

1.4 The "financial standing" requirement shall consist of having available sufficient resources to ensure that the undertaking is properly set up and managed.

In assessing financial standing, the competent authority shall consider: an undertaking's annual accounts; if applicable, its available funds, including bank deposits and overdraft and borrowing capacity; assets, including goods that the undertaking could pledge as security; expenses, including the purchase price or initial installment for the purchase of vehicles; premises; facilities; equipment; and working capital.

An undertaking should have no less than the minimum required within the European Union in capital and reserves per vehicle used ^{2/}. In case an ECMT Member country, not belonging to the European Union is not able to implement such minima, it should communicate to the Secretariat, within 3 months following the adoption of the present Resolution, the time periods necessary for it to implement them gradually. These periods should in any case not exceed 5 years.

The competent authority may accept or require, as proof, confirmation or assurance provided by a bank or other duly qualified establishment. Such confirmation or assurance may be provided in the form of a bank guarantee, if appropriate as collateral or a surety, or by any other similar means.

^{2/} Minima required within the European Union (Directive 98/76/EEC adopted by the Council on 1.10.1998):
-- 1st vehicle: 9 000 euros
-- any supplementary vehicle: 5 000 euros.

1.5 “Professional competence” should consist of possessing sufficient knowledge to engage properly and viably in the occupation of international road haulier, including, as a minimum, knowledge of the following subjects:

- commercial and financial business administration;
- technical standards and operations;
- road safety;
- access to markets;
- elements of company law;
- elements of social and labour law;
- elements of civil law;
- elements of fiscal law.

The professional competence requirement is demonstrated by passing a compulsory written examination, which may be supplemented by an oral examination, organised by the Authority or Body designated for this purpose by the Member country.

In setting the level of training and stipulating the areas of knowledge required to prove professional competence, the competent authorities of ECMT Member countries not belonging to the European Union shall, to the fullest possible extent, be inspired by and take account of the relevant *acquis communautaire*.

However, natural persons furnishing proof that before the introduction of the system, they were licensed in an ECMT Member country to engage in the occupation of international road haulier shall be exempt from the requirement to furnish proof that they satisfy the provisions laid down in paragraph 1.2c). The provision shall apply to natural persons who have managed the transport operations of an undertaking.

2. *Withdrawal of licences to operate as an international road freight haulier*

Member countries shall ensure that the competent authorities withdraw the licence to pursue the occupation of international road haulier if they establish that the provisions of paragraph 1.2 a), b) or c) are no longer satisfied. In the case where 1.2b) is not satisfied, the undertaking will be allowed not more than one year to present a financial plan showing that financial standing will be sustainably fulfilled in the foreseeable future. In the case where 1.2c) is not satisfied, the undertaking will be allowed not more than one year for a replacement to be appointed.

Chapter III -- Access to ECMT Member country market for road freight transport services

1. General Provisions

Without prejudice to the conditions governing the ECMT multilateral quota, Member countries may apply a bilateral regime of permits, with or without quotas.

2. Liberalised Transport

In order to facilitate international transport in the ECMT Member countries and to achieve a better use of vehicles, the following categories of transport are exempted from multilateral and bilateral transport permit requirements:

- 1) The transport of goods by motor vehicles whose Total Permissible Laden Weight (TPLW), including trailers, does not exceed 6 tonnes, or when the permitted payload, including trailers, does not exceed 3.5 tonnes ^{4/}.
- 2) The transport of goods on an occasional basis, to or from airports, in cases where services are diverted.
- 3) The transport of vehicles which are damaged or have broken down and the movement of breakdown repair vehicles.
- 4) Unladen runs by a goods vehicle sent to replace a vehicle, which has broken down in another country, and also the return run, after repair, of the vehicle that had broken down ^{5/}.
- 5) Transport of livestock in vehicles purpose-built or permanently converted for the transport of livestock and recognised as such by the Member countries' Authorities concerned ^{6/}.
- 6) Transport of spare parts and provisions for ocean-going ships and aircraft ^{7/}.
- 7) Transport of medical supplies and equipment needed for emergencies, more particularly in response to natural disasters and humanitarian needs.
- 8) Transport for non-commercial purposes of works and objects of art for fairs and exhibitions.

^{4/} Austria, Finland and Italy entered a reservation under item 1).

^{5/} The Russian Federation entered a reservation under item 4).

^{6/} Austria, the Czech Republic, Estonia, France, Hungary, Poland, the Russian Federation and Switzerland entered a reservation under item 5).

^{7/} The Czech Republic and the Russian Federation entered a reservation under item 6).

- 9) Transport for non-commercial purposes of properties, accessories and animals to or from theatrical, musical, film, sports or circus performances, fairs or fetes, and those intended for radio recordings, or for film or television production.
- 10) The transport of goods on own account ^{8/}.
- 11) Funeral transport.
- 12) Postal transport carried out as a public service ^{2/}.

3. *Permit and Authorisation regimes*

3.1. When a journey is undertaken using a coupled combination of vehicles, the permit is obtained from the competent authority in the country in which the tractor is registered. This permit covers the coupled combination of vehicles, even if the trailer or the semi-trailer is not registered in the name of the holder of the permit, or is registered in another Member country.

3.2. Transport of goods of abnormal weight or dimensions is subject to special authorisations from the competent authorities of the countries where the transport is carried out.

Removals carried out by undertakings with special staff and equipment for this purpose are not subject to quota, but are subject to special authorisation ^{10/}.

Chapter IV -- Social provisions

Member countries will apply the provisions of the European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR) of 1 July 1970 (Geneva), as amended subsequently. The Member countries, which have not yet adhered to the AETR agreement, should apply the equivalent provisions in the interim. Enforcement procedures, in particular as far as controls are concerned, on the road and in enterprises, should aim to conform to the provisions set out in EC Directive 88/599.

Chapter V -- Fiscal provisions

1. Without prevailing on fiscal provisions relating to international road freight transport operations as they exist in ECMT Member countries, especially as far as the nature, the amount or the definition of each fiscal provision is concerned, ECMT Member countries will implement those fiscal provisions in a transparent manner without discrimination towards international road freight hauliers, established in an ECMT Member country.

^{8/} Austria, Belarus, the Czech Republic, Estonia, Finland, France, Hungary, Italy, Lithuania, Poland, Portugal, the Russian Federation and Turkey entered a reservation under item 10).

^{2/} Austria and Germany entered a reservation under item 12).

^{10/} The ECMT model for the authorisation should then be used.

2. Information between ECMT Member countries relating to fiscal provisions applied to international road haulage on their territories will be put in place. The Secretariat will provide every year a comprehensive document informing on fiscal provisions applied to international road haulage in every ECMT Member country. Information about changes to be introduced in a Member country during a year will be provided in separate documents.

Chapter VI -- Mutual assistance

1. Member countries should lend each other mutual assistance for the purpose of implementing the present Resolution.

2. The Member country, in which the offence is committed, shall provide the Member country in which such a transport operator is established, with all the information in its possession concerning the infringements and the penalties that have been imposed, which can lead to suspension of driving in the former country. A request may be made of the competent Authorities in the Member country of establishment, that such measures as may be necessary be taken to ensure that the carrier, once again, complies with the regulations governing access to the markets of the ECMT Member countries, therefore avoiding any repetition of the offence.

3. In the event of any serious or repeated minor breaches of transport regulations in one or more Member countries, the competent Authorities of the Member country in which the carrier having committed those offences is established, may retract bilateral or multilateral transport licences. For the carrier having committed serious infringements of transport regulations, the most stringent penalty consists of the withdrawal of the authorisation to practise as an international road freight operator.

Chapter VII -- Final provisions

1. Member countries reserve the right to withhold certain provisions contained in this Resolution from operators licensed in a Member country, which does not apply the principle of reciprocity.

2. The present Resolution does not affect European Union law, the provisions in the agreement on the European Economic Area or agreements between the European Union and non-EU countries that are Members of the ECMT.

3. This Consolidated Resolution shall replace ECMT Resolutions 44, 47, 53, 90/1 and 94/4.
