

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 772 final,

Brussels, 31 January 1979

PROPOSAL FOR A COUNCIL DIRECTIVE

on own-account carriage of goods
by road between Member States

(submitted to the Council by the Commission)

Com(78) 772 final.

EXPLANATORY MEMORANDUM

1. The common transport policy to be introduced pursuant to Articles 3 and 74 of the Treaty is intended to satisfy the economy's transport requirements in the best conditions.

2. The achievement of this objective presupposes the user to be free to choose the means and form of transport which best meet his interests and the special nature of his requirements.

This also implies that he should be entitled to conduct his own transport operations in vehicles belonging to him.

3. 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 States¹ exempted, at Community level all goods transport operations for hire and reward or on own account listed in the two Annexes to that Directive.

In addition, most Member States have, by bilateral agreements, exempted all own-account carriage between each other; this carriage remains subject to a quota system only on certain traffic links.

4. A system of capacity monitoring appears inappropriate for own-account carriage; in fact the vehicles used for this purpose are used exclusively to meet the needs of the undertaking concerned and are not affected by the free play of supply and demand on the transport market.

¹ OJ No 70, 6.8.1962, p. 2005.

All requisite steps must be taken to facilitate checks in order to ensure that vehicles used for own-account carriage are not used illicitly for carriage for hire or reward between Member States.

Carriage by own-account carriers using vehicles hired for a certain period, for example one year, may be treated as own-account carriage. The term "hired" should be understood in the broad sense of the word and includes leasing.

5. In short, this proposal aims only at extending throughout the Community a situation which already exists for most links between Member States and which fits in with the objectives of the common transport policy.

To this end, it is proposed, in particular, to establish a common definition of own-account transport and of the means to be used to facilitate the monitoring thereof.

PROPOSAL FOR A COUNCIL DIRECTIVE

on own-account carriage of goods by road between Member States

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 common transport policy envisaged in the Treaty is intended
to satisfy transport requirements under the best conditions for the economy;

Whereas this objective presupposes the user to be free to choose the means
and form of transport which best meet his interests, including own-account
carriage;

Whereas, by its nature, own-account carriage is unlikely as such to disturb
the operation of the transport market; whereas in these circumstances a
system should be established exempting own-account carriage from any system
of quotas and transport authorizations;

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Whereas, however, it is necessary to ensure that carriage of this type is not carriage for hire or reward under a different guise; whereas own-account carriage should be very clearly defined and certain methods of inspection introduced;

Whereas own-account carriage in vehicles belonging to a user can be treated in a manner identical with transport in vehicles made available for his exclusive use for a long period;

Whereas Council Directive 74/149/EEC of 4 March 1974 amending the first Directive on the establishment of certain common rules for international transport⁽¹⁾ made provision under Article 2 that each Member State should liberalize the types of international own-account carriage of goods by road with other Member States mentioned in Annexes I and II to the said Directive where such carriage is performed to or from its territory or crosses its territory in transit; whereas for the reasons set out above all types of own-account carriage should be liberalized; whereas, in addition, that Directive does not, in so far as own-account transport is concerned, contain a definition of this concept; whereas in these circumstances it is necessary for the sake of clarity, to repeal the said Article 2.

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. For the purpose of this Directive

- "own account carriage of goods by road" means carriage by a natural person or undertaking for his or its own requirements, provided that:
 - (a) the vehicle is owned by the person or undertaking concerned, or has been obtained by him or it on deferred terms;
 - (b) the goods carried belong to the natural person or undertaking, or have been sold, bought, lent, borrowed or hired, produced, manufactured, treated, processed or repaired by such person or undertaking.
- "undertaking" means any association or group of persons with or 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.

(1) O.J. No. L 84, 28 March 1974, P.8.

Article 2

The carriage of goods by road by a natural person or an undertaking using a vehicle placed at its exclusive disposal for at least one year shall be treated as own-account carriage of goods by road, provided that it complies with the conditions set out in point (b) of Article 1.

Article 3

1. Each Member State shall exempt from all quota and transport authorization systems the transport operations referred to in Articles 1 and 2 which have a destination or place of origin on its territory or which pass in transit across its territory.

2. Vehicles used for the transport operations referred to in Articles 1 and 2 may, when empty, move freely throughout the territory of the Community.

Article 4

In addition to those prescribed in other Community legislation, the following documents must be carried on the vehicle during own-account carriage of goods between Member States:

- (a) a document certifying that the goods carried comply with the conditions laid down in point (b) of Article 1(1);
- (b) a copy of the contract of hire if a vehicle is being used in the circumstances provided for in Article 2, where this hire is not shown in other documents which should be kept on board the vehicle.

Article 5

If, during a transport operation within the meaning of Articles 1 and 2, a breach of the laws, regulations and administrative provisions governing the carriage of goods in a Member State other than that in which the vehicle is registered is committed on the territory of that State, it shall inform the Member State in which the vehicle is registered.

The Member States shall inform each other of any penalty imposed for any offence.

Article 6

Article 2 of Directive (EEC) No. 74/149 of 4 March 1974 is repealed.

Article 7

1. The Member States, after consultation with the Commission, shall bring into force the measures needed to comply with this Directive before 1 January 1980, and shall forthwith inform the other Member States and the Commission thereof.

2. Member States shall communicate to the Commission the facts of the national laws which they adopt in the field covered by this Directive.

Article 8

This Directive is addressed to the Member States.