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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

(Text with EEA relevance)

{SWD(2017) 194 final}
{SWD(2017) 195 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Regulation (EC) No 1071/2009 on access to the occupation of road transport operator¹ and Regulation (EC) No 1072/2009 on access to the international road transport market² ('Regulation (EC) No 1071/2009', 'Regulation (EC) No 1072/2009' or 'the Regulations') were adopted as part of a package of measures aimed at modernising the rules governing admission to the occupation of road transport operator and access to the road transport market.

As a global objective, the Regulations support the good functioning of the single market in road transport, its efficiency and competitiveness.

Regulation (EC) No 1071/2009 lays down the provisions that undertakings must comply with, in order to access the occupation of road transport operator (passenger and freight). It also lays down certain provisions to regulate and enable enforcement by Member States.

Regulation (EC) No 1072/2009 lays down the 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 related 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).

An *ex-post* evaluation of the Regulations was carried out in 2014-2015³ and concluded that the Regulations were only partly effective in achieving their original objective of creating suitable competitive conditions in the market. The main difficulties encountered were linked to shortcomings of the rules and their enforcement. This proposal, which is a REFIT initiative,⁴ is also intended to correct these shortcomings.

• Consistency with existing policy provisions in the policy area

This proposal is part of a broader ongoing review of the road transport legislation. It is closely linked to other existing legal acts concerning road transport, in particular the social legislation for road transport (Regulation (EC) No 561/2006,⁵ Directive 2002/15/EC,⁶ Directive 2006/22/EC⁷ and Regulation (EU) 165/2014⁸). Better enforcement of "market rules", as suggested in the present proposal, will therefore be made easier through existing synergies while, conversely, contributing to the enforcement of social legislation in an indirect manner.

• Consistency with other Union policies

The proposal contributes directly to one of the priorities of the current Commission, namely to promote a deeper and fairer single market. Its main objective is to further improve the single market for road transport through amendments intended to eliminate causes for disparities and to ensure better enforcement of the rules.

¹ OJ L 300, 14.11.2009, p. 51.

² OJ L 300, 14.11.2009, p. 72.

³ The Commission published a Staff Working Document with the results of this evaluation:
<https://ec.europa.eu/transport/sites/transport/files/swd20160350.pdf>

⁴ Initiative No 10 in annex 2 to the Commission Work Programme 2017.

⁵ OJ L 102, 11.4.2006, p. 1.

⁶ OJ L 80, 23.03.2002, p. 35.

⁷ OJ L 102, 11.4.2006, p. 35.

⁸ OJ L 60, 28.2.2014, p.1.

This proposal meets the REFIT objective by increasing effectiveness and reducing the administrative and regulatory burden for businesses. It also gives the Member States the possibility of reducing certain unnecessary implementation costs relating to enforcement of the rules.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the Regulations and for the proposed amendment is Article 91(1) of the Treaty on the Functioning of the European Union ('TFEU') (formerly Article 71 TEC). This article provides the basis for the adoption of EU legislation laying down notably: (i) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States (Article 91(1)(a) TFEU); and (ii) the conditions under which non-resident carriers may operate transport services within a Member State (Article 91(1)(b) TFEU).

- **Subsidiarity**

The EU shares competence with Member States to regulate in the field of transport pursuant to Article 4(2)(g) TFEU. However, amendments to existing rules can only be made by the EU legislator itself.

Besides, the existing differences in Member States practices and weaknesses in respect of enforcement are detrimental to the operation of the single market, are intrinsically tied to shortcomings in harmonisation and can therefore effectively be addressed only by the Union.

- **Proportionality**

As indicated in Section 6.3 of the impact assessment report, the policy proposal is proportionate to the problems that have been identified and it does not go beyond what is needed to solve them. On SMEs, in particular, the envisaged policy measures would in general have no disproportional impact. The proposal is mainly focused on a simplification and clarification of the existing regulatory framework, together with more robust enforcement requirements, and it does not create additional regulatory requirements for interested parties which would not be proportionate to the identified problems.

- **Choice of the instrument**

Since the legal acts to be amended are Regulations, the act amending them should in principle take the same form.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluation/fitness check of existing legislation**

The Regulations were subject to an *ex-post* evaluation.⁹ This evaluation was complemented by an external study.¹⁰

On enforcement, the main issues identified are the following:

⁹ See Footnote 3.

¹⁰ <http://ec.europa.eu/transport/sites/transport/files/facts-fundings/evaluations/doc/2015-12-ex-post-evaluation-regulations-2009r1071-and-2009r1072.pdf>.

- There are different levels of control by Member States, in particular on the stable establishment and good repute criteria for access to the profession and illegal cabotage operations.
- There is a lack of cooperation between (at least some) Member States, notably on compliance with the stable and effective establishment criterion for access to the profession.

Other shortcomings of the rules concern the fact that some rules are not specific on given questions or leave explicit room for unilateral measures by Member States, all of which has led to differences in practice that are negative for the operation of the single market:

- The definition of stable and effective establishment, including the term operating centre, leaves open many questions. As a consequence, different practices have emerged.
- The period of time before good repute is reinstated is neither defined nor otherwise regulated in Regulation (EC) No 1071/2009, and varies widely between Member States.
- Invoking Article 3(2) of Regulation No 1071/2009, some Member States impose additional conditions on access to the occupation of road haulier.
- The cabotage provisions are not specific on certain points and this has led to differences in Member States practices. Some Member States accept several loading and/or unloading operations within the same cabotage operation, while others do not.

Regulation (EC) No 1071/2009 leaves Member States the faculty to apply its provisions to vehicles the permissible laden mass of which does not exceed 3.5 tonnes ('LCVs'), which leads to different requirements for the same vehicles in different Member States.

• **Consultations of interested parties**

The consultations of interested parties conducted in preparation of this proposal complied with the minimum standards for the consultation of interested parties set out in the Commission Communication of 11 December 2002 (COM(2002) 704 final).

The consultation process included two types of actions – opinion gathering and data collection. Open and targeted consultation methods and various consultation tools were used.

As for the ***open consultation***, an online public consultation took place between 15 June and 15 September 2016. The main objectives were (i) to gather additional information on the existence of the problems identified during the *ex-post* evaluation, as well as information allowing the quantification of the problems found to exist, (ii) to seek the opinion of interested parties on possible policy measures, and (iii) to assess the expected impacts of the possible policy measures. The Commission received 175 contributions: 23 replies from medium and large companies (hauliers and shippers with 50 or more employees); 18 replies from small companies (hauliers and shippers with 49 or fewer employees); 17 replies from logistics industry representatives; 33 replies from associations representing road transport workers; 48 replies from associations of road transport operators; 18 replies from national authorities and relevant associations; and 18 replies from other respondents.

Moreover, as part of the public consultation 22 position papers were received from a variety of interested parties including industry associations, workers organisations, national authorities, enforcement organisations, NGOs and experts.

The consultation paper, the contributions received and a summary of these contributions are available on the webpage 'A road transport strategy for Europe' of the Directorate-General for Mobility and Transport and on the Commission's 'Your voice in Europe' website.¹¹

The *targeted consultation* process included the following:

- A SME panel survey focused on issues around the use of LCVs in road transport and the potential impact of policy measures related to the extension of the scope of the legal framework to cover LCVs. A total of 17 responses were received, including 7 providers of road freight transport services using owned or hired vehicles for hire and reward, 7 firms that use owned or hired vehicles for the transport of their own goods ('own account operators') and 8 users of road freight transport services.
- A survey of authorities to obtain the views of the national authorities on the policy measures proposed here in terms of their expected impact on the implementation and enforcement of the legal framework and to obtain data or estimates of the possible costs those measures could entail for the authorities. A total of 18 responses were received, covering 16 Member States¹² and 1 from Euro-Contrôle-Route.
- A survey of hauliers to obtain relevant data from transport operators on costs and characteristics of operations that could be used in the assessment of the impacts (as part of the baseline scenario) and also their views and estimates on the costs or savings from the policy measures under consideration. A total of 80 firms responded to the survey of hauliers.
- Telephone interviews of interested parties (31 interviews of national and international transport companies and the respective associations and national authorities) to gather more detailed insight into the opinions of interested parties on the different measures under consideration, obtain data or estimates of costs and views on possible difficulties that may arise in relation to each measure.
- Several stakeholder seminars, meetings and other events were organised during the course of the *ex-post* evaluation and impact assessment of this initiative, involving the social partners and the Commission also participated in several initiatives organised by the social partners.

The information gathered during the consultation confirmed the existence of the main problems identified during the evaluation phase, as well as the pertinence of the main objectives of the intervention.

On the potential policy measures identified during the consultation, there was strong support for measures intended to strengthen enforcement.

On changes to the cabotage restrictions, there were mixed reactions, with some groups of interested parties supporting changes and others expressing reluctance. High-wage Member States, supported by trade unions, tend to favour stricter rules on cabotage, whereas low-wage

¹¹ Please see <http://ec.europa.eu/transport/node/4817>.

¹² BE, BG, CY, DE, EE, EL, FI, HR, HU, LU, LV, NL, PL, RO, SE, UK.

Member States, supported by most of the hauliers' associations, tend to favour further liberalisation of the cabotage rules.

There was a positive reaction to the idea of adopting measures intended to strengthen the criteria underlying the requirement of a stable establishment. Many interested parties opined that it was necessary to ensure that only cases of real activity in the Member State of establishment qualify under the corresponding rules.

The inclusion of LCVs in the scope of the Regulations was also seen as a positive measure by a majority of interested parties consulted.

- **Collection and use of expertise**

An external contractor contributed to the *ex-post* evaluation report and an accompanying study for the impact assessment,¹³ which were concluded in April 2017.

- **Impact assessment**

The proposal is accompanied by an impact assessment, which has received a positive opinion with reservations from the Regulatory Scrutiny Board. As detailed in Annex 1 to the impact assessment report, the reservations were addressed by explaining in greater detail the magnitude of the identified problems and the REFIT nature of the initiative, improving the rationale for the structure of the policy options and better explaining the interactions between this proposal and the initiative concerning road social legislation.

Four policy packages were considered, reflecting an increasing level of regulatory intervention and entailing an increasing level of expected impacts. The first policy package focused on clarification of the legal framework. The second policy package focused on the strengthening of enforcement. The third policy package focused on substantive changes in the rules, in particular on cabotage and establishment, on top of the measures covered by the first two policy packages. The fourth policy package involved an extension of the scope of the Regulations to LCVs.

The preferred option is a combination of the third policy package, with amendments to the cabotage rules and the establishment provisions, and a partial extension of Regulation (EC) No 1071/2009 to LCVs.

Overall it is the most effective option and it is estimated to generate savings for businesses in the range of EUR 2.7-5.2 billion for the EU-28 in 2020-2035. It is expected to reduce infringements of cabotage rules by up to 62% and to reduce the risk of formation of letterbox companies by around 10%, which should have a positive impact on working conditions. It should also lead to more professionalisation of LCV operators. The preferred option will, however, trigger increased implementation and enforcement costs for national authorities in the range of EUR 65-166 million for the EU-28 in 2020-2035. The partial application of Regulation (EC) No 1071/2009 to LCVs will also trigger additional compliance costs for businesses in the order of a 4-10% increase in operating costs.

The proposal is in line with the preferred option in the impact assessment.

- **Regulatory fitness and simplification**

The proposal pursues the REFIT objective of increasing effectiveness and reducing regulatory burdens for businesses. This is done mainly through the mandatory acceptance of electronic

¹³See Footnote 10.

transport documents in international transport by national enforcement authorities and through clearer and more harmonised rules on access to the profession. While enforcement costs for public authorities are expected to increase, this increase is of a much lower magnitude than the savings for businesses and is anyway justified by the improvement in the competitive conditions, with fewer infringements of cabotage rules, fewer letterbox companies being created and better working conditions for transport workers.

- **Fundamental rights**

The proposal respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, insofar as it provides for additional data to be included in the national electronic registers of road transport undertakings and to be processed by national authorities, it complies with Article 8 of the Charter, since this data is necessary to achieve the purpose of a better national and cross-border enforcement of the provisions of the Regulations.

4. BUDGETARY IMPLICATIONS

The proposal will have no implications on the Union budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Information on the prevalence of LCVs in national and international transport for hire and reward should be further developed. Therefore, close monitoring and data collection is necessary to follow the market trends in this respect. This will be done through a combination of national data gathering and Member State reporting. This monitoring should start immediately after the entry into force of the Regulations.

- **Detailed explanation of the specific provisions of the proposal**

The main elements of the proposal are the following:

Regulation (EC) No 1071/2009

Article 1 – Subject matter and scope

Current Article 1(4)(a) excludes hauliers operating solely with LCVs from the scope of the Regulation, unless otherwise provided by Member States (cf. introductory sentence). In order to ensure a minimum level of professionalisation of the LCV sector by way of common rules and thus to approximate competitive conditions between operators, it is proposed to delete this provision and to make certain rules mandatory for this category of operators as well.

To this end, it is proposed to add a new paragraph 6 excluding hauliers operating solely with LCVs from some, but not all of the requirements of the Regulation. Requirements on the transport manager, good reputation, professional competence and obligations related to those requirements are not proposed as mandatory, but Member States would keep the possibility to apply them as hitherto. By contrast, the requirements regarding effective and stable establishment and appropriate financial standing are proposed to apply to such hauliers in all Member States. The scope for differences between Member States would be reduced accordingly.

Article 3 – Requirements for engagement in the occupation of road transport operator

It is proposed to delete paragraph 2, which so far permits the imposition of additional conditions on access to the occupation, beyond the four criteria laid down in Article 3(1). This

possibility has led to divergences in respect of the conditions for access to the profession. Therefore, and because this possibility has not proven to be required in light of imperative needs, it should be abolished.

Article 5 – Conditions relating to the requirement of establishment

It is proposed to clarify the terms of Article 5 to ensure that undertakings established in a Member State have a real and continuous activity there. In detail, the following is proposed: in point (a), a reference to commercial and labour contracts is added, which therefore would also need to be kept in the premises situated in the Member State of establishment; point (c) is split into points (c) and (d) to better distinguish between the conduct of administrative and commercial activities and operations involving vehicles; point (e) is added to require undertakings to hold assets and employ staff in the Member State of establishment in proportion to the establishment's activity.

Article 6 – Conditions relating to the requirement of good repute

In Article 6, a number of amendments are proposed to clarify and further harmonise the assessment of good repute and to extend the list of infringements which may lead to loss of good repute. In detail, the following is proposed:

Paragraph 1 is amended to better circumscribe the categories of persons whose conduct should be taken into account for the purposes of assessing an undertaking's good repute. One additional point (vii) is added in point (a) of the third subparagraph, so that serious infringements of national tax rules are taken into account in the assessment of the good repute of the transport manager or transport undertaking. Two additional points (xi) and (xii) are added in point (b) of the third subparagraph, so that serious infringements of EU rules on the posting of workers and the law applicable to contractual obligations are taken into account in the assessment of the good repute of the transport manager or transport undertaking. Article 6(2) is amended to further specify the administrative procedure which must be followed by the competent authority of the Member State of establishment of a transport undertaking or transport manager having committed a serious infringement of national or EU rules in order to determine whether the transport undertaking or transport manager concerned has lost good repute. A new paragraph 2a replaces former point (b) of Article 6(2) and specifies that the Commission is empowered to adopt delegated acts establishing infringements of Union rules which may lead to the loss of good repute, in addition to those set out in Annex IV. In this context, it is proposed to empower the Commission to define the degree of seriousness of infringements also according to their potential to distort competition (which concerns notably cabotage rules). Infringements likely to undermine working conditions should, because of their competitive effects, be treated in the same way.¹⁴

Article 7 - Conditions relating to the requirement of financial standing

It is proposed to amend paragraph 1 to provide for specific, less demanding conditions to be fulfilled by hauliers operating solely with LCVs. In paragraph 2, it is proposed to clarify the means by which undertakings may prove their financial standing in the absence of certified annual accounts, in order to enable the assessment of compliance with this criterion by enforcers, in particular for newly created undertakings which have no certified accounts yet.

Article 13 – Procedure for the suspension and withdrawal of authorisations

The proposed amendment to Article 13(1)(c) clarifies the position of competent authorities where undertakings no longer comply with the requirement of financial standing. Within the

¹⁴ The possibility for the Commission to define the degree of seriousness of infringements also according to their potential to create a risk of fatalities or serious injuries would remain.

time limit set, the undertaking is expected to demonstrate that that requirement is again satisfied (and not only that it will be satisfied in the future).

Article 14 – Declaration of unfitness of the transport manager

It is proposed to specify that, after having lost good repute, a transport manager cannot be rehabilitated by the competent authority earlier than one year from the date of loss of good repute (cf. new subparagraph added to paragraph 1). The intention is to avoid important divergences on this point between Member States.

Article 16 – National electronic registers

In paragraph 2, it is proposed to add elements of information to be included in the national electronic registers. This should allow better enforcement of the rules on access to the profession.

Article 18 – Administrative cooperation between Member States

It is proposed to further specify the terms of the cooperation between Member States. In particular, it is proposed to set a maximum time period for Member States to reply to reasoned requests from other Member States and an obligation for Member States to conduct inspections concerning non-compliance with the criteria on establishment by undertakings established in their territories on the basis of evidence provided by other Member States.

Article 26 – Reporting

It is proposed to require that Member States report to the Commission information about the activities of hauliers operating with LCVs in their territory (new paragraph 3). Draft new paragraph 4 provides that the Commission shall report to the European Parliament and the Council by the end of 2024 on the presence of LCV operators in national and international road transport and that, on this basis, it will reassess whether there is a need to propose additional measures.

Annex IV – Most serious infringements for the purposes of Article 6(2)(a)

Paragraph 1, point (b) is amended in order to make it consistent with Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport¹⁵ and to remove legal uncertainty in its implementation.

Regulation (EC) No 1072/2009

Article 1 – Scope

In paragraph 1a new subparagraph is added to clarify that the carriage of empty containers or pallets is to be considered as a carriage for hire and reward only if it is subject to a transport contract between a consignee and a consignor.

Article 2 – Definitions

Point 6 is amended to clarify that a cabotage operation can involve several loading points, several delivery points or several loading and delivery points.

Article 8 – Cabotage – general principle

The following amendments are proposed:

In paragraph 2 the maximum number of cabotage operations which may be carried out in a host Member State following an incoming international carriage is removed, while reducing the maximum number of days for carrying out such cabotage operations. In line with the

¹⁵ See footnote no. 5.

conclusions of the Impact Assessment, these amendments render the rules easier to enforce. In paragraph 3, the requirement to produce evidence of each cabotage operation is suppressed, since it becomes redundant as a consequence of the amendment of paragraph 2. New draft paragraph 4a specifies that evidence of compliance with the cabotage restrictions shall be provided during the duration of the road side check and possibly through electronic means, thereby simplifying procedures and removing legal uncertainty regarding the timing for the presentation of the evidence.

Article 10 – Safeguard procedure

It is proposed to amend Article 10(3) to update the reference to the relevant committee procedure, following the proposed deletion of Article 15.

Article 10a – Cabotage – checking systems

Article 10a is added to require that Member States carry out a minimum amount of checks of compliance with the cabotage provisions (i.e. 2% of cabotage operations from 1 January 2020 and 3% from 1 January 2022). It also requires Member States to carry out a minimum number of concerted roadside checks per year (3) on the cabotage provisions of the Regulation.

Article 14a – Liability

It is proposed to specify that shippers and freight forwarders shall be subject to sanctions in case they knowingly commission transport services which involve infringements of the provisions of the Regulation.

Article 17 – Reporting

It is proposed to amend paragraphs 1 and 2, specifying the date by which Member States are required to report to the Commission on the number of Community licences, certified true copies and driver attestations issued in the previous calendar year, i.e. by 31 January of the following year. New draft paragraph 3 requires Member States to report to the Commission on the number of cabotage checks performed during the previous year.

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹⁶,

Having regard to the opinion of the Committee of the Regions¹⁷,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Experience with the implementation of Regulations (EC) No 1071/2009¹⁸ and (EC) No 1072/2009¹⁹ revealed that the rules provided for in those regulations offered scope for improvement on a number of points.
- (2) So far, and unless otherwise provided for in national law, the rules on access to the occupation of road transport operator do not apply to undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles not exceeding that limit. The number of such undertakings which are active in both national and international transport operations has been increasing. As a result, several Member States have decided to apply the rules on access to the occupation of road transport operator, provided for in Regulation (EC) No 1071/2009, to those undertakings. To ensure a minimum level of professionalisation of the sector using vehicles with a permissible laden mass not exceeding 3.5 tonnes by way of common rules, and thus to approximate competitive conditions between all operators, this provision should be deleted, whereas the requirements regarding effective and stable establishment and appropriate financial standing should be rendered mandatory.

¹⁶ OJ C , , p. .

¹⁷ OJ C , , p. .

¹⁸ Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).

¹⁹ Regulation (EC) No 1072/2009 on common rules for access to the international road haulage market (OJ L 300, 14.11.2009, p. 72).

- (3) Currently, Member States are entitled to make access to the occupation of road transport operator subject to requirements additional to those specified in Regulation (EC) No 1071/2009. This possibility has not proven to be necessary in order to respond to imperative needs and has led to divergences in respect of such access. It should therefore be abolished.
- (4) It is necessary to ensure that road transport operators established in a Member State have a real and continuous presence in that Member State and conduct their business from there. Therefore, and in light of experience, it is necessary to clarify the provisions regarding the existence of an effective and stable establishment.
- (5) To the extent that access to the occupation depends on the good repute of the undertaking concerned, clarifications are needed as regards the persons whose conduct must be taken into account, the administrative procedures which must be followed and waiting periods in respect of rehabilitation once a transport manager has lost good repute.
- (6) In view of their potential to considerably affect the conditions for fair competition in the road haulage market, serious infringements of national tax rules should be added to the items relevant to the assessment of good repute.
- (7) In view of their potential to considerably affect the road haulage market, as well as the social protection of workers, serious infringements of Union rules on the posting of workers and the law applicable to contractual obligations should be added to the items relevant to the assessment of good repute.
- (8) Given the importance of fair competition in the market, infringements of Union rules relevant to this issue should be taken into account in the assessment of the good repute of transport managers and transport undertakings. The empowerment of the Commission to define the degree of seriousness of relevant infringements should be clarified accordingly.
- (9) National competent authorities have had difficulties identifying the documents which may be submitted by transport undertakings to prove their financial standing, in particular in the absence of certified annual accounts. The rules regarding evidence required to prove financial standing should be clarified.
- (10) Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or with combinations of vehicles not exceeding that limit should have a minimum level of financial standing, to ensure that they have the means to carry out operations on a stable and long-lasting basis. However, since the operations concerned are generally of a limited size, the corresponding requirements should be less demanding than those applicable to operators using vehicles or combinations of vehicles above that limit.
- (11) The information about transport operators contained in the national electronic registers should be as complete as possible to allow national authorities in charge of enforcing the relevant rules to have a sufficient overview of the operators being investigated. In particular, information regarding the registration number of the vehicles at the disposal of operators, the number of employees they hire, their risk rating and their basic financial information should allow a better national and cross-border enforcement of the provisions of Regulations(EC) No 1071/2009 and (EC) No 1072/2009. The rules on the national electronic register should therefore be amended accordingly.
- (12) The definition of the most serious infringement concerning exceeding the daily driving time, as provided for in Annex IV of Regulation (EC) No 1071/2009, does not fit the

existing relevant provision laid down in Regulation (EC) No 561/2006 of the European Parliament and of the Council²⁰. That inconsistency leads to uncertainty and diverging practices among national authorities and ensuing difficulties in the enforcement of the rules in question. That definition should therefore be clarified to ensure consistency between the two Regulations.

- (13) The rules on national transport performed on a temporary basis by non-resident hauliers in a host Member State ('cabotage') should be clear, simple and easy to enforce, while broadly maintaining the level of liberalisation achieved so far.
- (14) To this end, and in order to facilitate checks and to eliminate uncertainty, the limitation on the number of cabotage operations subsequent to an international carriage should be abolished, while the number of days available for such operations should be reduced.
- (15) The means by which road transport operators can prove compliance with the rules for cabotage operations should be clarified. The use and transmission of electronic transport information should be recognised as such means, which should simplify the provision of relevant evidence and its treatment by the competent authorities. The format used for that purpose should ensure reliability and authenticity. Considering the increasing use of efficient electronic exchange of information in transport and logistics, it is important to ensure coherence in the regulatory frameworks and provisions addressing the simplification of administrative procedures.
- (16) Transport undertakings are the addressees of the rules on international carriage and are, as such, subject to the consequences of any infringements committed by them. However, in order to prevent abuses by undertakings contracting transport services from road haulage operators, Member States should also provide for sanctions on shippers and freight forwarders in case they knowingly commission transport services which involve infringements of the provisions of Regulation (EC) No 1072/2009.
- (17) Insofar as this Regulation introduces a degree of harmonisation in certain areas so far not harmonised by Union law, in particular in respect of transport with light commercial vehicles and enforcement practices, its objectives, namely to approximate conditions of competition and improve enforcement, cannot be sufficiently achieved by the Member States but can rather, by reason of the nature of the objectives pursued in combination with the cross-border nature of road transport, be better achieved at Union level. Therefore, the Union may adopt measures, in line with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve the objectives pursued.
- (18) In order to take into account market developments and technical progress the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend Annexes I, II and III to Regulation (EC) No 1071/2009, to supplement that Regulation by drawing up a list of categories, types and degrees of seriousness of serious infringements which, in addition to those set out in Annex IV to Regulation (EC) No 1071/2009, may lead to the loss of good repute and to amend Annexes I, II and III to Regulation (EC) No 1072/2009. It is of particular importance that the Commission carry out appropriate

²⁰ Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

consultations during its preparatory work, including at expert level, and that those consultations be conducted in line with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016²¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to the Commission's expert groups meetings dealing with the preparation of delegated acts.

- (19) Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1071/2009 is amended as follows:

- (1) Article 1 is amended as follows:

- (a) paragraph 4 is amended as follows:

(i) point (a) is deleted;

(ii) point (b) is replaced by the following:

'(b) undertakings engaged in road passenger transport services exclusively for non-commercial purposes or which have a main occupation other than that of road passenger transport operator.

Any carriage by road for which no remuneration is received and which does not create any income, such as carriage of persons for charity purposes or for strictly private use, is to be considered as carriage exclusively for non-commercial purposes;';

- (b) the following paragraph 6 is added:

'6. Article 3(1)(b) and (d) and Articles 4, 6, 8, 9, 14, 19 and 21 shall not apply to undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes.

Member States may, however:

- (a) require those undertakings to apply some or all of the provisions referred to in the first subparagraph;
- (b) lower the limit referred to in the first subparagraph for all or some categories of road transport operations.';

- (2) in Article 3, paragraph 2 is deleted;

- (3) Article 5 is amended as follows:

- (a) point (a) is replaced by the following:

²¹ OJ L 123, 12.5.2016, p. 1.

'(a) have premises in which it keeps its core business documents, in particular its commercial contracts, accounting documents, personnel management documents, labour contracts, documents containing data relating to driving time and rest and any other document to which the competent authority must have access in order to verify compliance with the conditions laid down in this Regulation;';

(b) point (c) is replaced by the following:

'(c) conduct effectively and continuously its administrative and commercial activities with the appropriate administrative equipment and facilities at premises situated in that Member State;';

(c) the following point (d) is added:

'(d) manage the transport operations carried out with the vehicles referred to in point (b) with the appropriate technical equipment situated in that Member State;';

(d) the following point (e) is added:

'(e) hold assets and employ staff proportionate to the activity of the establishment.';

(4) Article 6 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the second subparagraph is replaced by the following:

'In determining whether an undertaking has satisfied that requirement, Member States shall consider the conduct of the undertaking, its transport managers, executive directors, general partners in the case of partnerships, other legal representatives and any other relevant person as may be determined by the Member State. Any reference in this Article to convictions, penalties or infringements shall include convictions, penalties or infringements of the undertaking itself, its transport managers, executive directors, general partners in the case of partnerships, other legal representatives and any other relevant person as may be determined by the Member State.';

(ii) in point (a) of the third subparagraph the following point (vii) is added:

'(vii)tax law.';

(iii) in point (b) of the third subparagraph the following points (xi) and (xii) are added:

'(xi)the posting of workers;

'(xii) the law applicable to contractual obligations.';

(b) paragraph 2 is replaced by the following:

'2. For the purposes of point (b) of the third subparagraph of paragraph 1, where the transport manager or the transport undertaking has been convicted of a serious criminal offence or has incurred a penalty for one of the most serious infringements of Union rules as set out in Annex IV, in one or more Member States, the competent authority of the Member State of establishment shall carry out and complete in an appropriate and timely manner an administrative

procedure, which shall include, if appropriate, an on-site inspection at the premises of the undertaking concerned.

During the administrative procedure, the transport manager or other legal representatives of the transport undertaking, as the case may be, shall be given the right to present their arguments and explanations.

During the administrative procedure, the competent authority shall assess whether, due to specific circumstances, the loss of good reputation would constitute a disproportionate response in the individual case. In that assessment, the competent authority shall take into account the number of serious infringements of national and Union rules as referred to in the third subparagraph of paragraph 1, as well as the number of most serious infringements of Union rules as set out in Annex IV, for which the transport manager or the transport undertaking have been convicted or had penalties imposed on them. Any such finding shall be duly reasoned and justified.

Where the competent authority finds that the loss of good reputation would be disproportionate, it shall decide that the undertaking concerned continues to be of good reputation. The reasons for this decision shall be recorded in the national register. The number of such decisions shall be indicated in the report referred to in Article 26(1).

Where the competent authority does not find that the loss of good reputation would be disproportionate, the conviction or penalty shall lead to the loss of good reputation;'

- (c) the following paragraph 2a is inserted:

'2a. The Commission is empowered to adopt delegated acts in line with Article 24 establishing a list of categories, types and degrees of seriousness of serious infringements of Union rules as referred to in point (b) of the third subparagraph of paragraph 1 which, in addition to those set out in Annex IV, may lead to the loss of good reputation. Member States shall take into account information on those infringements, including information received from other Member States, when setting the priorities for checks pursuant to Article 12(1).

To that end, the Commission shall:

- (a) lay down the categories and types of infringement which are most frequently encountered;
- (b) define the degree of seriousness of infringements according to their potential to create a risk of fatalities or serious injuries and to distort competition in the road transport market, including by undermining the working conditions of transport workers;
- (c) provide the frequency of occurrence beyond which repeated infringements shall be regarded as more serious, taking into account the number of drivers used for the transport activities managed by the transport manager.';

- (5) Article 7 is amended as follows:

- (a) in paragraph 1, the first subparagraph is replaced by the following:

'In order to satisfy the requirement laid down in Article 3(1)(c), an undertaking shall, on a permanent basis, be able to meet its financial obligations in the

course of the annual accounting year. The undertaking shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal equity capital totalling at least EUR 9 000 when only one vehicle is used and EUR 5 000 for each additional vehicle used. Undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, they have at their disposal equity capital totalling at least EUR 1 800 when only one vehicle is used and EUR 900 for each additional vehicle used.';

- (b) paragraph 2 is replaced by the following:

'2.By way of derogation from paragraph 1, in the absence of certified annual accounts the competent authority shall agree that an undertaking demonstrate its financial standing by means of a certificate, such as a bank guarantee, a document issued by a financial institution establishing access to credit in the name of the undertaking, or another binding document proving that the undertaking has at its disposal the amounts specified in the first subparagraph of paragraph 1.';

- (6) in Article 8, paragraph 9 is replaced by the following:

'9. The Commission is empowered to adopt delegated acts in line with Article 24 to amend Annexes I, II and III in order to adapt them to market developments and technical progress.';

- (7) in Article 11(4), the third subparagraph is deleted;

- (8) in Article 12(2), the second subparagraph is deleted;

- (9) in Article 13(1), point (c) is replaced by the following:

'(c)a time limit not exceeding six months where the requirement of financial standing is not satisfied, in order to demonstrate that that requirement is again satisfied on a permanent basis.';

- (10) in Article 14(1), the following second subparagraph is added:

'The competent authority shall not rehabilitate the transport manager earlier than one year from the date of the loss of good repute.';

- (11) Article 16 is amended as follows:

- (a) paragraph 2 is amended as follows:

- (i) the following points (g), (h), (i) and (j) are added:

'(g) the registration numbers of the vehicles at the disposal of the undertaking pursuant to Article 5(b);

(h) the number of employees;

(i) the total assets, liabilities, equity and turnover during the last two years;

(j) the risk rating of the undertaking pursuant to Article 9 of Directive 2006/22/EC.';

- (ii) the second, third and fourth subparagraphs are replaced by the following:

'Member States may choose to keep the data referred to in points (e) to (j) of the first subparagraph in separate registers. In such a case, the relevant data shall be available upon request or directly accessible to all the competent authorities of the Member State in question. The requested information shall be provided within five working days of receipt of the request. The data referred to in points (a) to (d) of the first subparagraph shall be publicly accessible, in line with the relevant provisions on personal data protection.

In any case, the data referred to in points (e) to (j) of the first subparagraph shall only be accessible to authorities other than the competent authorities where they are duly endowed with powers relating to supervision and the imposition of penalties in the road transport sector and their officials are sworn to, or otherwise are under a formal obligation of secrecy.';

(b) paragraph 4 is replaced by the following:

'4. Member States shall take all necessary measures to ensure that all the data contained in the national electronic register is kept up to date and is accurate.';

(c) paragraph 7 is deleted;

(12) Article 18 is replaced by the following:

Article 18

Administrative cooperation between Member States

1. Member States shall designate a national contact point responsible for the exchange of information with the other Member States on the application of this Regulation. Member States shall inform the Commission of the names and addresses of their national contact points by 31 December 2018. The Commission shall draw up a list of all contact points and forward it to the Member States. Member States shall immediately communicate to the Commission any changes to the contact points.

2. A Member State which receives notification of a serious infringement which has resulted in a conviction or a penalty in another Member State during the last two years shall record that infringement in its national electronic register.

3. Member States shall reply to requests for information from all competent authorities of other Member States and, where necessary, carry out checks, inspections and investigations concerning compliance with the requirement laid down in Article 3(1)(a) by road transport operators established in their territory. Requests for information by competent authorities of Member States shall be reasoned. To this end, requests shall include credible indications of possible infringements of Article 3(1)(a).

4. Where the requested Member State considers that the request is insufficiently reasoned, it shall inform the requesting Member State accordingly within ten working days. The requesting Member State shall further substantiate the request. Where this is not possible, the request may be rejected by the Member State.

5. Where it is difficult or impossible to comply with a request for information or to carry out checks, inspections or investigations, the Member State in question shall inform the requesting Member State accordingly within ten

working days, with reasons. The Member States concerned shall discuss with each other with a view to finding a solution for any difficulty raised.

6. In response to requests under paragraph 3, Member States shall supply the requested information and carry out the required checks, inspections and investigations within twenty-five working days from the receipt of the request, unless they have informed the requesting Member State that the request is insufficiently reasoned or of the impossibility or the difficulties pursuant to paragraphs 4 and 5.

7. Member States shall ensure that the information transmitted to them in line with this Article is used only in respect of the matter(s) for which it was requested.

8. Mutual administrative cooperation and assistance shall be provided free of charge.

9. A request for information shall not preclude the competent authorities from taking measures in line with the relevant national and Union law to investigate and prevent alleged breaches of this Regulation.';

(13) Article 24 is deleted;

(14) the following Article 24a is inserted:

'Article 24a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 6(2) and Article 8(9) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this (amending) Regulation].

3. The delegation of power referred to in Article 6(2) and Article 8(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in line with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.*

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted under Article 6(2) and Article 8(9) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

* OJ L 123, 12.5.2016, p. 1.';

(15) in Article 25, paragraph 3 is deleted;

(16) in Article 26, the following paragraphs 3, 4 and 5 are added:

'3. Every year, Member States shall draw up a report on the use of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes in their territory and shall forward it to the Commission no later than 30 June of the year after the end of the reporting period. This report shall include:

(a) the number of authorisations granted to operators engaged in the occupation of road haulage operator solely by means of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes;

(b) the number of vehicles with a permissible laden mass not exceeding 3,5 tonnes registered in the Member State in each calendar year;

(c) the overall number of vehicles with a permissible laden mass not exceeding 3,5 tonnes registered in the Member State as of 31 December of each year;

(d) the estimated share of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes in the overall road transport activity of all vehicles registered in the Member State, broken down by national, international and cabotage operations.

4. On the basis of the information gathered by the Commission under paragraph 3 and of further evidence, the Commission shall, by 31 December 2024 at the latest, present a report to the European Parliament and the Council on the evolution of the total number of motor vehicles with a permissible laden mass not exceeding 3.5 tonnes or combinations of vehicles with a permissible laden mass not exceeding 3.5 tonnes engaged in national and international road transport operations. On the basis of this report, it shall reassess whether it is necessary to propose additional measures.

5. Every year Member States shall report to the Commission on the requests made by them under Article 18(3) and (4), on the replies received from other Member States and on the actions that they have taken on the basis of the information provided.';

(17) in Annex IV, in point 1, point (b) is replaced by the following:

'(b) exceeding, during a daily working period, the maximum daily driving time limit by a margin of 50 % or more.';

Article 2

Regulation (EC) No 1072/2009 is amended as follows:

(1) in paragraph 1 of Article 1, the following subparagraph is added:

'The carriage of empty containers or pallets shall be considered as carriage of goods for hire or reward whenever it is subject to a transport contract.';

(2) Article 2 is amended as follows:

(a) point 6 is replaced by the following:

'6. 'cabotage operation' means national carriage for hire or reward carried out on a temporary basis in a host Member State, 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, as specified in the consignment note;';

(3) Article 4 is amended as follows:

(a) in paragraph 2, the third subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in line with Article 14b to amend this Regulation to adapt the maximum period of validity of the Community licence to market developments.';

(b) in paragraph 4, the second subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in line with Article 14b to amend Annexes I and II in order to adapt them to technical progress.';

(4) in Article 5, paragraph 4 is replaced by the following:

'4. The Commission is empowered to adopt delegated acts in line with Article 14b to amend Annex III in order to adapt it to technical progress.';

(5) Article 8 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Once the goods carried in the course of an incoming international carriage from another Member State or from a third country to a host Member State have been delivered, hauliers referred to in paragraph 1 shall be allowed to carry out, with the same vehicle or, in the case of a coupled combination, the motor vehicle of that same vehicle, cabotage operations in the host Member State or in contiguous Member States. The last unloading in the course of a cabotage operation shall take place within 5 days from the last unloading in the host Member State in the course of the incoming international carriage.';

(b) in paragraph 3, the first subparagraph is replaced by the following:

'National road haulage services carried out in the host Member State by a non-resident haulier shall only be deemed to comply with this Regulation if the haulier can produce clear evidence of the preceding international carriage.';

(c) the following paragraph 4a is inserted:

'4a. Evidence referred to in paragraph 3 shall be presented or transmitted to the authorised inspecting officer of the host Member State on request and within the duration of the roadside check. It may be presented or transmitted electronically, using a revisable structured format which can be used directly for storage and processing by computers, such as the eCMR.* During the roadside check, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may provide the evidence referred to in paragraph 3.

* Electronic consignment note under the 'Convention on the Contract for the International Carriage of Goods by Road'.';

(6) in Article 10(3), the first subparagraph is replaced by the following:

The Commission shall examine the situation on the basis in particular of the relevant data and, after consulting the committee established pursuant to Article 42(1) of Regulation (EC) No 165/2014 of the European Parliament and of the Council,** shall decide within one month of receipt of the Member State's request whether or not safeguard measures are necessary and shall adopt them if they are necessary.

** Regulation (EC) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).';

(7) the following Article 10a is inserted:

'Article 10a

Checks

1. Each Member State shall organise checks in such a way that, as from 1 January 2020, in every calendar year at least 2 % of all cabotage operations performed in their territory are checked. They shall increase the percentage to at least 3 % from 1 January 2022. The basis for the calculation of that percentage shall be the total cabotage activity in the Member State in terms of tonnes-kilometres in year t-2, as reported by Eurostat.

2. Member States shall target those undertakings which are classed as posing an increased risk of infringing the provisions of the present Chapter, applicable to them. For that purpose, Member States shall, within the risk classification system established by them under Article 9 of Directive 2006/22/EC of the European Parliament and of the Council*** and extended in accordance with Article 12 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council,****treat the risk of such infringements as a risk in its own right.

3. Member States shall, at least three times per year, undertake concerted roadside checks on cabotage operations. Such checks shall be undertaken at the same time by the national authorities in charge of enforcing the rules in the field of road transport of two or more Member States, each operating in its own territory. The national contact points designated in accordance with Article 18(1) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council***** shall exchange information on the number and type of infringements detected after the concerted roadside checks have taken place.

*** Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities (OJ L 102, 11.4.2006, p. 35).

****Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).';

- (8) the following Articles 14a and 14b are inserted:

'Article 14a

Liability

Member States shall provide for sanctions against consignors, freight forwarders, contractors and subcontractors for non-compliance with Chapters II and III, where they knowingly commission transport services which involve infringements of this Regulation.

Article 14b

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 4(2) and (4) and Article 5(4) is conferred on the Commission for an indeterminate period of time from [date of entry into force of this (amending) Regulation].
3. The delegation of power referred to in Article 4(2) and (4) and Article 5(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in line with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.*****
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted under Article 4(2) and (4) and Article 5(4) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*****OJ L 123, 12.5.2016, p. 1.';

- (9) Article 15 is deleted;
- (10) Article 17 is replaced by the following:

Article 17

Reporting

1. By 31 January of every year, at the latest, Member States shall inform the Commission of the number of hauliers possessing Community licences as of 31 December of the previous year and of the number of certified true copies corresponding to the vehicles in circulation on that date.
2. By 31 January of every year, at the latest, Member States shall inform the Commission of the number of driver attestations issued in the previous calendar year as well as the total number of driver attestations as of 31 December of the previous calendar year.
3. By 31 January of every year, at the latest, Member States shall inform the Commission on the number of cabotage checks performed in the previous calendar year pursuant to Article 10a. This information shall include the number of vehicles checked and the number of tonnes-kilometres checked.';

Article 3

Review

1. The Commission shall evaluate the implementation of this Regulation, in particular the impact of Article 2 amending Article 8 of Regulation (EC) No 1072/2009, by [3 years after the date of entry into force of this Regulation] and report to the European Parliament and the Council on the application of this Regulation. The report by the Commission shall, if appropriate, be accompanied by a legislative proposal.
2. Following the report referred to in paragraph 1, the Commission shall regularly evaluate this Regulation and submit the evaluation results to the European Parliament and the Council.
3. Where appropriate, the reports referred to in paragraphs 1 and 2 shall be accompanied by relevant proposals.

Article 4

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [xx].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President