

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(83) 266 final

Brussels, 18 May 1983

Proposal for a  
COUNCIL DIRECTIVE

on the use of hired vehicles for the carriage of goods by road

(submitted to the Council by the Commission)

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Amendment of the Proposal for  
COUNCIL DIRECTIVE

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

(Doc. VII/COM (78) 772 of 31 January 1979)

(submitted to the Council by the Commission pursuant to the second  
paragraph of Article 149 of the EEC Treaty)

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Proposal for a  
COUNCIL REGULATION

amending Regulation No 11 concerning the abolition of discrimination  
in transport rates and conditions, in implementation of Article 79(3)  
of the Treaty establishing the European Economic Community

(submitted to the Council by the Commission)

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COM(83) 266 final

**PROPOSAL FOR A COUNCIL DIRECTIVE**

**ON THE USE OF HIRED VEHICLES IN THE CARRIAGE OF GOODS BY ROAD**

EXPLANATORY MEMORANDUMI. GENERAL CONSIDERATIONS

1. The present economic situation characterised by uncertainty and weak growth rates makes it necessary to rationalise the utilisation of transport equipment. Road hauliers and own account operators need more than ever to improve vehicle and staff productivity and minimise the cost of their operations.
2. In this context it is important to establish the conditions under which road carriers will be free to choose the means and forms of transport which best meet their interests and the special nature of their requirements.
3. The admission of hired vehicles in the carriage of goods by road will bring an element of flexibility in the organisation of the transport market.

It constitutes an important option which may help both carriers for hire or reward and own account operators to improve their financial management through the reduction of fixed costs.

4. At present the situation of hired vehicles in the Community is far from being harmonised. In certain Member States there exist many restrictions and the use of hired vehicles is practically prohibited in both the national and intracommunity carriage of goods. In other Member States, however, the system of vehicle rental is very liberal and carriers are free to hire vehicles without restriction. It is possible to hire drivers also, having no minimum use period etc.

With regard to access to the occupation of vehicle hirer there also exist divergences. Thus, in certain cases the hirer of vehicles must satisfy the conditions of the carrier for hire or reward while in others the requirements are different.

5. Up to now in Member States the system of hired vehicles is regulated by national provisions.

The proposal does not intend to harmonise all aspects of the national systems.

It aims only at permitting the use of hired vehicles giving therefore the carriers a possibility to improve the organisation of their transport operations.

The advantages of this measure are of economic interest especially for the following cases:

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- i. Short term or peak business requirements
  - ii. Seasonal demands
  - iii. Short term demands for specialised vehicles  
(refrigerated vehicles, road tankers, vehicles fitted with special lifting gear etc.)
  - iv. Replacement of vehicles off the road through breakdown, maintenance or statutory testing.
  - v. Experimentation with different (more efficient, modern and environmentally more acceptable) vehicles.
6. It will be possible to use hired vehicles for any period of time. No minimum compulsory rental periods are introduced either for carriers for hire or reward or own account carriers. This step has a great economic value since the largest share of the hired vehicle market concerns rentals ranging from a few days to some weeks. The imposition of a time restriction would effectively prevent the interested carriers and the whole economy from enjoying all the<sup>economic</sup> and environmental benefits referred to above. On the other hand no risk of excess capacity in the road transport exists when vehicles are hired for short periods. Carriers for hire or reward with few exceptions in the carriage of goods between Member States are subject to quota and authorisation systems. This implies the capacity is fixed and cannot be enlarged by these means.

For own account carriers the carriage of goods by road between Member States is not subject to any quota system. This could probalby lead to an increase in capacity but such a case must be seen in a different light. Thus in practice the choice for a manufacturing and distributing industry is not between consignments to professional hauliers or exceptionally hiring vehicles. It is rather the principal question whether to organise the transport of its goods by itself or to resort to the carrier for hire or reward. Once it decides to do the work itself the possibility is either to purchase the vehicles or hire them. The introduction of a minimum rental period would oblige own account operators when hiring a vehicle to keep it throughout a compulsory period and this might result in a consequent reduction of their consignments to professional carriers during this period.

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7. No territorial limitation in the application of the Directive is made. The economic justifications in favour of hired vehicles are valid for any transport operation; therefore it will be possible to use hired vehicles for the carriage of goods within and between Member States.

This step is necessary because if no provision for national traffic is made i.e. if the new regime would be limited to international traffic the measure would not have sufficient impact on a substantial positive development of the demand for hired vehicles.

## II. PARTICULAR CONSIDERATIONS

### Article 1

Gives the definition of hired vehicles. The term "hired" is understood in the broad sense of the word. It includes various forms such as leasing etc.

### Article 2

Establishes the conditions under which hired vehicles can be used by carriers for hire or reward and own account carriers in the carriage of goods by road within and between Member States.

- a. The hiring of a vehicle is permitted only when no driver or accompanying staff is provided. This applies for both carriers for hire or reward and own account carriers. Vehicles must be driven strictly by the staff of these undertakings. Such a step aims at preventing a distortion in the conditions of competition between carriers for hire or reward and between those and the own account operators.
- b. Only the undertaking hiring the vehicles itself can use them and must do this for its own exclusive use. This will facilitate checks and make it difficult to pass illicitly the vehicle to other enterprises.

### Article 3

In order to make it possible to check that the vehicle has been hired under the conditions laid down in this directive the carrier is obliged to have on board the necessary documentation and especially the contract or a copy of the contract and to present it to the persons authorised to effect the control.

### Article 4

Certain Member States already allow the use of hired vehicles and these are subject to a more liberal regime. The present directive will not affect national provisions in such cases.

### Article 5

The purpose of the Directive is only to introduce the possibility of using hired vehicles when carriers deem it is in their interest. The system of vehicle rental itself is not regulated. All other aspects (access to the occupation, access to the market, rental prices) are governed by national law.

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Article 6

No comments

Article 7

The Council Directive mentioned here liberalises from any quota system the carriage of goods between Member States effected by own account carries on condition that the vehicles used must be owned or have been obtained on deferred terms by the operator.

Therefore an amendment must be made in order that the two directives are in conformity.

Article 8

No comments

Proposal for a  
COUNCIL DIRECTIVE  
ON THE USE OF HIRED VEHICLES FOR THE CARRIAGE OF GOODS BY ROAD

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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 Economic and Social Committee, (1)

Having regard to the opinion of the European Parliament, (2)

Whereas, from a macroeconomic point of view, the use of hired vehicles permits, in certain situations, an optimum allocation of resources by limiting the wasteful use of factors of production ;

Whereas, from a microeconomic point of view, this possibility brings an element of flexibility to the organisation of transport, and thus increases the productivity of the undertakings concerned ;

Whereas, subject to certain requirements safeguarding fair conditions of competition, it is necessary to admit the use of hired vehicles in the carriage of goods by road within and between Member States ;

Whereas 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 States (3), as last amended by Directive 82/50/EEC (4), must be amended accordingly ;

HAS ADOPTED THIS DIRECTIVE :

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(1) OJ No C

(2) OJ No C

(3) O.J. N° 70, 6.8.1962, p. 2005 /62

(4) O.J. N° L 27, 4.2.1982, p. 22



Article 1

For the purposes of this Directive, "hired vehicle" means any vehicle put, for remuneration and for a determined period, at the disposal of an undertaking which carries out carriage of the goods by road for hire or reward or for own account, by means of a contract with the undertaking which makes the vehicles available.

Article 2

Member States shall take the necessary measures to ensure that hired vehicles can be used for the carriage of goods by road within and between Member States to the same extent as vehicles owned by carriers on condition that :

- the contract referred to in Article 1 relates solely to the hiring of a vehicle without driver and is not accompanied by a service contract concluded with that same undertaking including driving or accompanying staff ;
- the hired vehicle, throughout the period of hire, is at the sole disposal of the undertaking, which shall use it ;
- the hired vehicle is driven by staff of the undertaking which hired it.

Article 3

Undertakings which use hired vehicles must be able to present the relevant documents, which shall be on board the vehicle, showing that the conditions of Article 2 are complied with.

Article 4

This Directive shall not affect the law of a Member State which, in the case of the use of hired vehicles, lays down less restrictive conditions than those specified in Article 2.

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Article 5

1. This Directive shall not affect the rules concerning access to the market for carriage of goods by road for hire or reward and own account except to the extent specified in Article 2.
2. This Directive shall not affect the conditions which each Member State imposes on its own nationals in respect of access to the occupation of road vehicle hirer and formation of prices.

Article 6

In Annex I to the First Council Directive of 23 July 1962, point 11 d) is replaced by the following text:

"d) the vehicles carrying the goods must be owned by the undertaking or have been bought by it on deferred terms or hired provided that in this case they meet the conditions of Article 2 of Directive ...."

Article 7

Member States shall take the measures necessary to comply with this Directive within six months of its notification. They shall forthwith inform the Commission thereof.

Article 8

This Directive is addressed to the Member States.

Done at Brussels,

For the Council  
The President

AMENDMENT

of the proposal for a Council Directive  
on own-account carriage of goods by road  
between Member States  
(Doc. VII/COM (78)772 of 31 January 1979)

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(Submitted to the Council by the Commission  
by virtue of article 149 of the Treaty of EEC)

### Justification

1. The Commission submits a new proposal for a Council Directive on the use of hired vehicles for the carriage of goods by road. This proposal provides that the carriers for hire or reward and carriers for own account may, under certain conditions, use hired vehicles for the carriage of goods by road without being subject to any compulsory minimum hire period.
2. The proposal for a Council Directive on own-account carriage of goods by road between Member States submitted to the Council by the Commission in 31 January 1979, in its article 2 provides that an own-account carrier can use a vehicle placed at his exclusive disposal for at least one year.
3. In order that the two proposals are in conformity, an amendment must be made in article 2 of the latter proposal by deleting the words "for at least one year".
4. The consequence of such an amendment will be the enlargement of the scope of the proposal of the 31 January 1979 and thus an increase in the possibilities of resorting to hired vehicles in the case of carriage of goods for own account and therefore improve also the flexibility and profitability of this type of transport.

PRESENTATION OF THE AMENDMENT

The proposal for a Council Directive on own-account carriage of goods by road between Member States (Doc. COM (78)772 of 31 January 1979) is amended as follows :

In article 2 the words :

"for at least one year"

are deleted.

Proposal for a  
COUNCIL REGULATION

amending Regulation No 11 concerning the abolition of discrimination  
in transport rates and conditions, in implementation of Article 79(3)  
of the Treaty establishing the European Economic Community

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### Justification

1. The Commission has submitted to the Council a proposal for a Directive on the use of hired vehicles for the carriage of goods by road. This proposal provides that carriers for hire or reward and carriers for own account may, under certain conditions, use hired vehicles in national and international traffic.
2. The Regulation N° 11/60 in its article 9 provides a definition of own account transport which stipulates that the carriage of goods by an undertaking for its own requirements must be made by vehicles **owned or** obtained on **deferred** terms by the undertaking. It excludes the utilisation of hired vehicles in this field.
3. In order that the proposal for a Council Directive on the use of hired vehicles for the carriage of goods by road, if adopted, does not contradict Regulation N° 11/60, an amendment of the latter must be made. Therefore, in Article 9, it must be stated that vehicles can also be hired.

Proposal for a  
COUNCIL REGULATION

amending Regulation No 11 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79(3) of the Treaty establishing the European Economic Community

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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; <sup>(1)</sup>

Having regard to the opinion of the Economic and Social Committee; <sup>(2)</sup>

Whereas, Council Directive..... <sup>(3)</sup> makes provision for carriers for hire or reward and carriers for own account to use hired vehicles;

Whereas the definition of own-account carriage of goods by road contained in Article 9 of Regulation No 11 <sup>(3)</sup> does not provide for the use of hired vehicles; whereas it is therefore necessary to amend the said Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Article 9, first indent, of Regulation No 11 is hereby replaced by the following:

"- the goods must be carried by vehicles owned or obtained on deferred terms or hired by the undertaking, provided that in the latter case they meet the conditions of Article 2 of Directive ....."

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(1)

(2)

(3)

(4) OJ No 52, 16.8.1960, p. 1121/60



Article 2

This Regulation shall enter into force on 1 January 1984.

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

Done at Brussels,

For the Council

The President