

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 479 final.

Brussels, 29 September 1978

Proposal for a

COUNCIL REGULATION (EEC)

on the adjustment of capacity for the carriage of goods by
road for hire or reward between Member States

(submitted to the Council by the Commission)

COM(78) 479 final.

EXPLANATORY MEMORANDUM

1. With the full achievement of the common market there will probably no longer be any reason to maintain the system for limiting the capacity for the carriage of goods by road which still exists between certain Member States.

2. The Commission is aware of the fact that transition from the current system to the integral common market must not cause too sudden a change in the situations which result from the rules in force, and in particular the bilateral agreements between Member States; this transition rather requires a sufficiently long transitional period to allow the various economic operators to adjust gradually to the changes occurring in the current situation.

3. It therefore appears advisable to envisage during a sufficiently long transitional period the coexistence of the systems set up between the Member States by bilateral agreements and those created by the Community quota and the First Directive insofar as the bilateral agreements are adjusted to take into account the development of trade between the Member States and the requirements of Community integration and insofar as they can thus operate within a Community framework.

4. The situation as regards matching transport supply to demand in the bilateral agreements at present varies considerably depending on the transport links between Member States: in fact, it ranges from the absence of any quantitative restriction to a very strict quota system for transport authorizations.

5. If the Council does not adopt further Community provisions on this subject, there is a risk of this situation continuing, so that road transport between the Member States would still be largely regulated merely by agreements between the Member States concerned - with the exception of transport operations conducted under the Community quota systems and the First Directive. This state of affairs appears likely not only to obstruct the achievement of the common transport policy, but also to hinder the development of trade and thus the achievement of the common market in general.

6. The Commission therefore considers that, pending the adoption of a Community solution covering all carriage of goods by road between the Member States, it is advisable to maintain the current system of bilateral quotas for the time being, but to incorporate it in a Community framework, basing these quotas on Community standards; the market observation system, the introduction of which has still to be decided, could provide some valuable information on this subject.

7. However, it is essential, as from now, to ensure that trade within the Community is not hindered because, owing to the geographical situation of some Member States, traffic must use the territory of one or more Member States in transit. One cannot allow restrictions to continue in this matter.

8. It is also advisable to find solutions, at Community level, to the difficulties which may arise in bilateral negotiations between Member States. With this in mind it would seem wise to provide for a Community arbitration procedure analogous to that set up in Council Regulation (EEC) No 2831/77 of 12 December 1977 concerning the fixing of rates for the carriage of goods by road between Member States (Article 13).

9. Finally the adjustment of capacity implies the need to adopt a solution which will take account of the use of all road transport capacity, including that in operation by carriers from third countries through the ECMT multilateral quota. The conclusion of an agreement with third countries would seem to be an indispensable instrument for meeting such an objective and of regulating the problem of traffic between Member States and third countries at the same time.

Proposal for a
COUNCIL REGULATION

on the adjustment of capacity for the carriage of goods by road for hire
or reward 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 carriage of goods by road for hire or reward between Member States is at present regulated to a large degree by a system of bilateral agreements between the Member States concerned;

Whereas the decisions of the Member States in this matter are prompted by economic and political considerations which are often divergent; whereas the measures at present provided for in the bilateral agreements range from complete liberalization to a stringent quota system; whereas these disparities can obstruct the functioning and development of the common market unless they can be justified by the situation in the market under consideration;

Whereas, in order to facilitate the transition from the present system to an integrated common market in transport, the system of bilateral agreements should initially be incorporated within the existing provisions of the common transport policy;

Whereas account must be taken of the requirements of the common market, and in particular of the changing pattern of trade;

Whereas it is essential to eliminate the impediments resulting from the restrictions imposed by certain Member States in respect of transit over their territory;

Whereas it is essential to provide for Community arrangements in the event that the Member States concerned do not arrive at an agreement on the adjustment of transport capacity;

Whereas it is essential to provide for the conclusion of an agreement with third countries with a view to the coherent regulation of all transport capacity,

HAS ADOPTED THIS REGULATION:

Article 1

The provisions of this Regulation shall apply from 1 January 1980 to the carriage of goods by road for hire or reward between Member States, with the exception of transport operations which, pursuant to measures decided upon at Community level, are not subject to any system of authorization and/or quotas, or which are carried out under a Community authorization or under an authorization issued within the multilateral quota established by the European Conference of Transport Ministers (hereinafter called ECTM multilateral quota).

For the purposes of this Regulation, bilateral quotas are quotas which are reciprocally granted by Member States pursuant to agreements on the carriage of goods by road.

Article 2

1. Where bilateral quotas already exist for particular routes they shall, by 30 September of each year, be adjusted, by negotiation between the Member States concerned, to match transport requirements, in particular as regards road transport between those Member States. The quotas may be varied by category of transport.

2. For purposes of determining the transport requirements referred to in paragraph 1, account shall be taken, among other things, of the information obtained from the market monitoring system established by the Commission at Community level and, more especially, of the following information:

- the trends observed in the demand for transport and the estimates of its behaviour in the short term;

- the situation of the transport market concerned, especially as regards the use of existing transport capacity and the level of transport rates actually charged, as against the published tariffs;
- the impact of the transport operations carried out between Member States under Community authorizations, or which, pursuant to measures decided upon at Community level, are not subject to any system of authorization and/or quotas, or which are carried out under an authorization issued within the ECMT multilateral quota.

3. No charge shall be made in respect of routes for which no bilateral quotas exist. However, the Member States in question may, by agreement, after having obtained the approval of the Commission and if the market situation so warrants, temporarily restrict the expansion of transport supply for such routes between the Member States.

Article 3

Transit over the territory of Member States in the course of a transport operation between Member States shall not be subject to any quantitative restriction.

The authorizations issued for the performance of transport operations between Member States shall be valid for the whole journey including transit over the territory of Member States.

Article 4

1. The Commission shall participate in a consultative capacity in the negotiations referred to in Article 2. It may make proposals to the Member States concerned in the interests of reaching agreement.

For that purpose, the Member States shall transmit to the Commission the information required.

2. If, in the circumstances referred to in Article 2(1), it has been impossible to fix bilateral quotas by negotiation on or before 30 September, the Commission shall, after consulting the Member States, adopt a decision which shall be published in the Official Journal of the European Communities.

The decision of the Commission shall become enforceable after a period of one month from the date of its publication unless, during that period, a Member State places the matter before the Council. In that event, the Council, within three months from the date when the question is placed before it, shall take a decision by qualified majority which shall be published in the Official Journal of the European Communities.

Article 5

In the event of transport developments for which no allowance could be made during the annual adjustment of bilateral quotas referred to in Article 2 or of a shortfall in the supply of transport, the Member States may, to provide for duly established cases of emergency, authorize the issue, over and above the quota, of special authorizations, stating the number and period of validity thereof and the categories of goods and routes for which they are valid. They shall inform the Commission thereof, which shall report to the Council as soon as possible.

Article 6

The Council shall, on a proposal from the Commission and before 1 July 1979, adopt the provisions necessary for the opening of negotiations with third countries for an agreement on the carriage of goods by road between Member States and third countries and on the participation of carriers from the Member States in carriage between third countries and vice versa.

Article 7

This Regulation shall enter into force on 1 January 1979.

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

Done at Brussels,

For the Council

The President