

POSITION PAPER

Proposal amending Directive 96/53/EC (weights and dimensions for certain road vehicles in national and international traffic)

July 2013

COMMUNITY OF EUROPEAN RAILWAY AND INFRASTRUCTURE COMPANIES - COMMUNAUTÉ EUROPÉENNE DU RAIL ET DES COMPAGNIES D'INFRASTRUCTURE - GEMEINSCHAFT DER EUROPÄISCHEN BAHNEN UND INFRASTRUKTURGESELLSCHAFTEN



BACKGROUND

The Commission's **Proposal for amending Directive 96/53/EC on weights and dimensions for certain road vehicles in national and international traffic**, published in April 2013, covers four main areas. These are:

- Provisions for the use of aerodynamic devices
- Allowing the use of 45-foot containers
- Improved procedures for checking the weight of vehicles
- Cross-border use of longer and heavier vehicles ("megatrucks") between 'consenting countries'

CER is mainly concerned with **three aspects in particular**:

1. Cross-border use of megatrucks and the negative impact this may have on rail freight
2. The use of aerodynamic devices not compromising the ability of trucks to be used in combined road-rail transport journeys
3. The distances allowed for the road sections of 'intermodal' journeys.

CER'S POSITION

1. Cross-border use of megatrucks

CER believes that Parliament and Council should make clear that any variations on the standard lengths and dimensions of trucks used across European borders is an international issue that must be consistent for all countries in the EU, and that any changes can only be made if agreed by a majority of member states through the co-decision procedure.

CER has been opposed to the concept of cross-border use of megatrucks for many years, along with many other organisations covering a wide range of interests. CER believes that even allowing their use between only two countries sets a precedent for international transport and will start a 'domino effect' process that will lead to their general use across Europe over time.

A 2011 study carried out for CER by K+P Transport Consultants and Fraunhofer ISI¹ warned of a serious impact on single wagonload freight and combined transport if the general use of megatrucks was allowed across Europe. In the corridors considered, the study predicted a modal backshift from rail to road of up to 13% on combined transport, and up to 38% for single wagonload traffic within ten years of the introduction of megatrucks. The rail sector is also concerned that pressure from supporters of megatrucks to accommodate their wider use ignores the investment in road infrastructure that will be necessary, even though it would benefit only a small number of road users.

¹ *Study on the Effects of the Introduction of LHVs on Combined Road-Rail Transport and Single Wagonload Rail Freight Traffic, 2011*

CER also believes that such an approach would be contrary to the Commission's own agenda for modal shift from road to rail transport. This was most recently set out in the 2011 Transport White Paper, which stated a goal of shifting 30% of road freight to rail and inland waterways by 2030 as part of the long-term aim of significantly reducing greenhouse gas emissions from transport.

The proposal seeks to formalise the guidelines issued by Vice-President Kallas in 2012, when he announced that he was interpreting the existing Directive 96/53/EC as allowing cross-border use of megatrucks between two member states where their use is allowed internally. This was a complete reversal of the previous position taken by the Commission, which was that such cross-border use was not permitted without formal approval by Parliament and Council through the co-decision procedure.

CER strongly disagrees with the Commission's view that such use "should not have any significant impact on international competition", particularly because no impact assessment was carried out on its implications.

2. Use of aerodynamic devices

CER has no objection in principle to the use of aerodynamic devices and better aerodynamic design on trucks to improve energy and CO2 efficiency, providing that:

- the use of aerodynamic devices does not compromise the use of combined road-rail transport
- that any increase in dimensions is not used in time to increase instead the cargo area

The issue of the impact on combined road-rail transport was considered in depth during the comitology discussions on regulation 1230/2012 (adopted in December 2012) regarding the type-approval of the masses and dimensions of road vehicles. The regulation states that "*Foldable devices and equipment ... must be designed so ... they do not impair the capability of the vehicle to be used for intermodal transport*". CER would support the use of similar wording in this proposal, with exact details on what these should be to be fixed separately by stakeholders in a form of standards that respect the train loading gauge.

3. Road sections of 'intermodal' journeys

CER supports the wider use of 45-foot containers, as the proposal envisages. However, this should not be used as an opportunity to allow the greater use of road transport under the guise of 'intermodal transport'. 'Intermodal transport' is not properly legally defined; however, a definition of 'combined transport' which in practical terms is the same thing, is clearly laid out in Directive 92/106/EEC. Rather than develop separate definitions for 'intermodal transport' that includes allowing longer journeys for road legs, the use of the limits laid down in Directive 92/106/EEC should be adopted until that directive itself is revised. The Commission has already launched a fact-finding study which will consider if modifications to Directive 92/106/EEC are necessary.

SUGGESTIONS FOR AMENDMENTS

Amendment 1

RECITAL OF THE PROPOSAL

EC proposal

Longer vehicles may be used in cross-border transport **if the two Member States concerned already allow it and if the conditions for derogation under Article 4(3), (4) or (5) of the Directive are met. The European Commission has already provided guidance on the application of Article 4 of the Directive. The transport operations referred to in Article 4(4) do not have a significant impact on international competition if the cross-border use remains limited to two Member States where the existing infrastructure and the road safety requirements allow it. This balances the Member States' right under the principle of subsidiarity to decide on transport solutions suited to their specific circumstances with the need to prevent such policies from distorting the internal market. The provisions of Article 4 (4) are clarified in this respect.**

Paragraph (7)

Amendment

Longer ***and/or heavier*** vehicles ***shall not*** be used in cross-border transport. ***Cross-border operations would impact international competition and contradict the principle of EU-wide standardisation of weights and dimensions in international transport.***

Justification

Either cross-border use of longer and heavier vehicles is allowed or it is not: there is no basis for saying that limiting it to two Member States would not have a significant impact on international competition. The principle of subsidiarity should only concern activity internal to a Member State and cannot be extended to bilateral international agreements.

Amendment 2

EC proposal

Article 1

Amendment

2) Article 4 is amended as follows:

[...]

(b) The first phrase of the second subparagraph of Article 4(4) is replaced by the following phrase:

[delete]

‘Transport operations shall be considered to not significantly affect international competition in the transport sector if they take place on the territory of a Member State or, for a cross-border operation, between only two neighbouring Member States who have both adopted measures taken in application of this paragraph, and if one of the conditions under (a) and (b) is fulfilled:’

Justification

There is no basis for saying that limiting cross-border operations to two Member States would not have a significant impact on international competition, and any deviations from standard weights and dimensions should remain a purely national issue.

Amendment 3

EC proposal

With the aim of improving the aerodynamic performance of vehicles or combinations of vehicles, vehicles or combinations of vehicles equipped with devices that meet the criteria set out below may exceed the maximum lengths provided for in point 1.1 of Annex I. The only purpose of these exceedances is to allow the addition to the rear of vehicles or vehicle combinations of devices increasing their aerodynamic characteristics.

Article 8

Amendment

With the aim of improving the aerodynamic performance of vehicles or combinations of vehicles, vehicles or combinations of vehicles equipped with devices that meet the criteria set out below may exceed the maximum lengths provided for in point 1.1 of Annex I ***providing that they do not impair the capability of the vehicle or parts thereof (e.g. trailer, swap-body) to be used for combined transport.*** The only purpose of these exceedances is to allow the addition to the rear of vehicles or vehicle combinations of devices increasing their aerodynamic characteristics.

Justification

This clarifies clearly that any variation to the dimensions towards the rear of vehicles due to the addition of aerodynamic devices must still be compatible with all forms of combined ('intermodal') transport.

Amendment 4

EC proposal

In the aim of improving the aerodynamic performance and road safety of vehicles or combinations of vehicles, vehicles or combinations of vehicles that meet the criteria set out in paragraph 2 below may exceed the maximum lengths provided for in point 1.1 of Annex I. The main purpose of these exceedances is to allow the construction of tractor cabs improving the aerodynamic characteristics of vehicles or combinations of vehicles, and improving road safety.

Article 9

Amendment

In the aim of improving the aerodynamic performance and road safety of vehicles or combinations of vehicles, vehicles or combinations of vehicles that meet the criteria set out in paragraph 2 below may exceed the maximum lengths provided for in point 1.1 of Annex I ***providing that they do not impair the capability of the vehicle or parts thereof (e.g. tractor cab) to be used for combined transport.*** The main purpose of these exceedances is to allow the construction of tractor cabs improving the aerodynamic characteristics of vehicles or combinations of vehicles, and improving road safety.

Justification

This accompanies amendment 3, and clarifies clearly that any variation to the dimensions of tractor cabs due to the addition of aerodynamic devices must still be compatible with all forms of combined ('intermodal') transport.

Amendment 5

EC proposal

Article 11

Amendment

For the purposes of this Article, and of point 2.2.2(c) of Annex I, an intermodal transport operation shall include at least rail, river or sea transport at least. It shall also include a road section for its initial and/or terminal journey. Each of these road sections shall be less than **300 km** in the territory of the European Union or just as far as the closest terminals between which there is a regular service. **A transport operation shall also be regarded as inter-modal transport if it uses intra-European short sea shipping, regardless of the lengths of the initial and terminal road journeys. The initial road journey and the terminal road journey for an operation using intra-European short sea shipping takes place from the point where the goods are loaded to the nearest appropriate seaport for the initial leg, and/or where appropriate between the nearest appropriate seaport and the point where the goods are unloaded for the final leg.**

For the purposes of this Article, and of point 2.2.2(c) of Annex I, an intermodal transport operation shall include at least rail, river or sea transport at least. It shall also include a road section for its initial and/or terminal journey. Each of these road sections shall be less than **150 km as the crow flies** in the territory of the European Union or just as far as the closest terminals between which there is a regular service. *[delete]*

Justification

Allowing road journeys of up to 300km in combined ('intermodal') transport undermines the aim of shifting freight from road to other modes. Distances should be consistent with those laid down in the Combined Transport Directive (92/106/EEC). There is also no logical reason for having no limits on the road legs of those journeys involving short sea shipping.

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