

Specialised Committee on Road Transport – Minutes of the meeting

21 November 2022, 13:30 BST, 14.30 CEST (London and online/UK host)

1. and 2. Opening statements and Adoption of the Agenda

The UK Co-Chair welcomed participants to the meeting.

The agenda was formally adopted.

3. Exchange of views on the operation of the road transport titles in the Trade and Cooperation Agreement (TCA)

The Parties welcomed the generally smooth operation of the road transport titles of the TCA. The UK noted good collaboration through recent challenges, including keeping haulage moving through the COVID-19 pandemic.

The UK also noted the strong and positive response in road transport to the invasion of Ukraine, including the EU ban of Russian and Belarussian goods road transport operators and the temporary road transport agreements with Ukraine and Moldova. UK noted its permanently liberalised international road transport arrangements with Ukraine, Moldova and other countries and expressed regret about the reported constraints on transit by Türkiye haulage between Türkiye and the UK.

The UK updated the committee on developments relevant to the implementation of the TCA in areas including the EU (Future Relationship) Act of 2020 in relation to road transport and more recent legislation. This included the implementation of goods vehicle operator licensing changes in 2022 as envisaged in the TCA and legislative adjustments to drivers' hours, tachograph rules and access rules (including for EU operations within the UK and between the UK and third countries).

The UK also confirmed its signature of the Regular and Special Regular Protocol to the Interbus Agreement. The EU highlighted the importance of the Interbus Protocol to the structure of the TCA in respect of road passenger transport and looked forward to the UK's ratification of the Protocol.

The UK noted a number of recent and planned developments in EU law connected with commercial road transport, including related to road vehicle weights and dimensions, the occasional use of tachographs and drivers' hours related to certain occasional road passenger transport services. The usefulness of formal and informal communication about planned legislative developments was agreed and noted.

The UK welcomed the issue of guidance documents by DG-Move about Mobility Package One designed for practical use including by road transport operators. These related to posting of workers, tachographs, market access and driving and rest times. UK noted many of the issues are shared for international road transport undertaken under the TCA, but there are some important differences.

The UK Department for Transport suggested that the Parties would engage in a technical dialogue during the next few months, with a view to producing agreed guidance documents about the application of the goods road transport title of the TCA. These would involve stakeholder participation.

EU took note of the UK's request for the production of agreed guidance documents. In that respect, the EU reiterated the importance of the guidance document produced by DG MOVE.

4. Decision on the inclusion of UK in the Internal Market Information System (IMI)

The Parties agreed and the co-chairs signed a joint decision on the UK's inclusion of the Internal Market Information System (IMI), further to article 7, paragraph 5 of section 2 of part A of Annex 31 of the TCA. This was the document annexed to Council Decision (EU) 2022/2197. The Decision establishes the technical and procedural specifications for the use of the IMI system by the UK. It came into force on signature.

5. Adaption of the Smart Tachograph Regulation (EU) No 2021/1228 and consequences for the TCA

The UK confirmed its readiness for the legal use of the Smart Generation 2 tachograph from August 2023, extending to further vehicles progressively up to July 2026 as provided for in the TCA. The final instrument required is the adoption of a decision by the specialised committee to adapt 2021/1228 for the UK's position.

Both parties envisaged to lead a technical discussion on the topic to aim to adopt a decision adapting 2021/1228 via written procedure before August 2023.

In addition, the UK identified the possibility of shared interests in respect of the development of the AETR treaty.

6. List of infringements that would lead to the loss of good repute (Annex 31, section 1, Art 6.3 of the TCA)

The UK noted the continuation of pre-2021 practice in its operation of national electronic registers in the context of the TCA. It considered this assurance fulfils for its part the provision at article 13 paragraph 2 of section 1 of part A of annex 31 of the TCA related to national electronic registers.

The UK noted Commission Implementing Regulation 2022/694. The UK has amended infringements further to the Mobility Package as reflected in the TCA for example connected with drivers' hours, tachographs, operator licensing and postings, the focus of the changes made to EU Regulation 2016/403 by Regulation 2022/694.

The Commission indicated a delegated directive is planned alongside Commission Implementing Regulation 2022/694 for approval in the EU in about March 2023 in relation to infringements.

The UK proposed to start a technical dialogue about infringements between the UK Department for Transport and DG-Move once the delegated directive had been finalised. This would be in the context of article 6 paragraph 3 of section 1 of part A of annex 31 of the TCA.

The UK noted the ongoing need to be able to share data with the EU on infringements and risks associated with operators and transport managers, whether this be via the European Register of Road Transport Undertakings (ERRU) interface or another mechanism.

The EU noted that such data exchange between the UK and the EU could contribute to preventing illegal activity.

The EU took note of the UK's request for technical dialogue between the UK Department of Transport and DG-Move with a view to establishing detailed rules on the exchange of information related to repute checks, convictions and penalties for infringements whether that be in the form of ERRU or an alternative system. This would be in the context of Article 14, paragraph 5 of section 1 of

part A of annex 31 of the TCA. Before launching any technical exchange, the EU highlighted that it should discuss the dossier first internally.

7. Treatment of UK hauliers travelling to / from Gibraltar through the EU

The UK noted concerns in respect of cases where UK hauliers had been hindered from crossing into Gibraltar following a transit journey from the UK, or hindered from leaving Gibraltar on a return transit journey to the UK. The UK stated that, under Article 462 of the TCA, EU hauliers have rights to transit the UK, and UK hauliers have rights to transit the EU. The UK considered that action against UK hauliers at the Gibraltar border is incompatible with Article 462.

The UK accepted that, under Art 774(3), the TCA shall neither apply to Gibraltar nor have any effects in that territory. However, the TCA neither applies to, nor has any effects in, other third countries such as Switzerland, Turkey or Ukraine yet that is no hindrance to transit to those places. The UK sought reassurances that rights of UK hauliers would be respected.

The EU Co-Chair noted that inclusion of this point on the agenda does not prejudice the EU's legal position on this issue. The EU did not share the UK's legal position but took note of the UK's intervention. The EU considered that the issue could be addressed through the current negotiations towards an agreement between the UK and EU in respect of Gibraltar.

8. Any other business

The UK Co-Chair referred to the situation facing specialist event hauliers and explained the purpose of the dual registration measure that it implemented in July 2022. The UK Co-Chair noted that whilst this offered a partial solution, some specialist event hauliers still faced issues, and so the UK would continue to welcome a cultural exemption and further dialogue on this issue.

The EU Co-Chair said that the EU had looked into the situation of specialist event hauliers, and that the EU remain of the opinion that there is nothing in the TCA that can solve this issue. He noted that they have no observations on the dual registration measure. He concluded by stating that the EU are not in favour of any amendment to the TCA.

9. Closing session

Approved by the Joint Secretariat of the Specialised Committee on Road Transport

Annex 1: Participants of the Specialised Committee on Road Transport held on 21 November 2022

UK Delegation (14)

- UK Co-Chair of the Specialised Committee on Road Transport
- UK Government officials from DfT, FCDO and other government agencies
- Scottish Government officials
- Northern Ireland Executive officials

EU Delegation (32)

- EU Co-Chair of the Specialised Committee on Road Transport
- European Commission officials
- Delegation of the European Union to the UK Official
- Representatives of EU Member States