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*Title XII*

**Transport**

Chapter four

**PASSENGER TRANSPORT BY ROAD**

Article X

**Scope**

This Chapter applies to the regular and special regular transport of passengers by coach and bus between and through the territories of the Parties.

Article X+1

**Definitions**

For the purposes of this Chapter and in addition to the definitions set out in Article SERVINT 1.2 of Chapter one of Title VI of Part Two [Services and Investment], the following definitions apply:

- (a) "Coaches and buses" are vehicles which, by virtue of their construction and their equipment, are suitable for carrying more than nine persons, including the driver, and are intended for that purpose.
- (b) « Passenger transport services » means transport services by road for the public or for specific categories of users, supplied in return for payment by the person transported or by the transport organiser, by means of coaches and buses.
- (c) "Road passenger transport operator" means any natural person or any legal person, whether having its own legal personality or being dependent upon an authority having such a personality, which supplies passenger transport services.
- (d) "Road passenger transport operator of a Party" means a road passenger transport operator which is established in the territory of a Party.
- (e) "Regular services" means passenger transport services supplied at specified frequency along specified routes, whereby passengers may be picked up and set down at predetermined stopping points.
- (f) "Special regular services" means regular services which provide for the transport of specific categories of passengers, to the exclusion of other passengers.
- (g) "Group" means any of the following:
  - (i) one or more associated natural or legal persons and their parent natural or legal person or persons,
  - (ii) one or more associated natural person or legal persons which have the same parent natural or legal person or persons.

Article X+2

## **Passenger transport by coach and bus between and through the territories of the Parties**

1. Road passenger transport operators of a Party may undertake:
  - (a) laden journeys from the territory of a Party to the territory of the other Party;
  - (b) laden journeys from the territory of a Party to the territory of the same Party with transit through the territory of the other Party;
  - (c) unladen journeys of the buses and coaches concerned with the passenger transport services referred to in points (a) and (b).
2. A road passenger transport operator of a Party may not operate regular or special regular services with both origin and destination in the territory of the other Party.
3. Where the passenger transport service referred to in paragraph 1 is part of a service to or from the territory of the Party where the road passenger transport operator is established, passengers may be picked up or set down in the territory of the other Party *en route*, provided the stop is authorised in accordance with the rules applicable in that territory.
4. The passenger transport services referred to in paragraph 1 shall be performed using coaches and buses registered in the Party where the road passenger transport operator is established or resides. Those coaches and buses shall comply with the technical standards laid down in Annex 2 to the Interbus Agreement.

### **Article X+3**

#### **Conditions for the provision of services referred to in Article X+2**

1. Regular services shall be open to all road passenger transport operators of a Party, subject to compulsory reservation where appropriate.
2. Regular and special regular services shall be subject to authorisation in accordance with Article X+4.
3. The regular nature of the service shall not be affected by any adjustment to the service operating conditions.
4. The organisation of parallel or temporary services, serving the same public as existing regular services, the non-serving of certain stops and the serving of additional stops on existing regular services shall be governed by the same rules as those applicable to existing regular services.
5. Sections V (social provisions) and VI (custom and fiscal provisions) of the Interbus Agreement as well as Annexes I (conditions applying to road passenger transport operators) and II (technical standards applying to buses and coaches) thereto shall apply.

### **Article X+4**

#### **Authorisation**

1. Authorisations for services referred to in Article X +2 shall be issued by the competent authority of the Party in whose territory the road passenger transport operator is established (hereinafter the "authorising authority").

2. In the case of a road passenger transport operator established in the European Union, the authorising authority shall be the competent authority of the Member State of origin or destination.
3. In the case of a group of road passenger transport operators intending to operate a service referred to in Article X+2, the authorising authority shall be the competent authority to which the application is addressed in accordance with the second subparagraph of Article X+5(1).
4. Authorisations shall be issued in the name of the road passenger transport operator and shall be non-transferable. However, a road passenger transport operator of a Party who has received an authorisation may, with the consent of the authorising authority, operate the service through a subcontractor, if such a possibility is in line with the law of the Party. In this case, the name of the subcontractor and its role shall be indicated in the authorisation. The subcontractor shall be a road passenger transport operator of a Party and shall comply with all the provisions of this Chapter.

In the case of a group of road passenger transport operators that intend to operate services referred to in Article X+2, the authorisation shall be issued in the names of all the road passenger transport operators of the group and shall state the names of all those operators. It shall be given to the road passenger transport operators entrusted by the other road passenger transport operators of a Party for these purposes and which has requested it, and certified true copies shall be given to the other road passenger transport operators.

5. The period of validity of an authorisation shall not exceed five years. It may be set for a shorter period either at the request of the applicant or by mutual consent of the competent authorities of the Parties on whose territories passengers are picked up or set down.
6. Authorisations shall specify the following:
  - (a) the type of service;
  - (b) the route of the service, giving in particular the point of departure and the point of arrival;
  - (c) the period of validity of the authorisation;
  - (d) the stops and the timetable.
7. Authorisations shall conform to the model set out in ANNEX ROAD-2.
8. The road passenger transport operator of a Party carrying out a service referred to in Article X+2 may use additional vehicles to deal with temporary and exceptional situations. Such additional vehicles may be used only under the same conditions as set out in the authorisation referred to in paragraph 6.

In this case, in addition to the documents referred to in Article X+10 the road passenger transport operator shall ensure that a copy of the contract between the road passenger transport operators carrying out the regular or special regular service and the undertaking providing the additional vehicles or an equivalent document is carried in the vehicle and presented at the request of any authorised inspecting officer.

#### Article X+5

### **Submission of application for authorisation**

1. Applications for authorisation shall be submitted by the road passenger transport operator of a Party to the authorising authority referred to in paragraph 1 of Article X+4.

For each service, only one application shall be submitted. In the cases referred to in paragraph 3 of Article X+4, it shall be submitted by the operator entrusted by the other operators for these purposes. The application shall be addressed to the authorising authority of the Party in which the road passenger transport operator submitting it is established.

2. Applications for authorisation shall be submitted on the basis of the model set out in ANNEX ROAD-3.
3. The road passenger transport operator applying for authorisation shall provide any further information which it considers relevant or which is requested by the authorising authority, in particular the documents listed in ANNEX ROAD-3.

### **Article X+6**

#### **Authorisation procedure**

1. Authorisations shall be issued in agreement with the competent authorities of the other Party in whose territory passengers are picked up or set down. The authorising authority shall forward to such competent authorities, as well as to the competent authorities whose territories are crossed without passengers being picked up or set down, a copy of the application, together with copies of any other relevant documentation, and its assessment.

In respect of the European Union, the competent authorities referred to in the first subparagraph shall be those of the Member States in whose territories passengers are picked up or set down and whose territories are crossed without passengers being picked up or set down.

2. The competent authorities of the Party whose agreement has been requested shall notify the authorising authority of their decision regarding the application within four months. This time limit shall be calculated from the date of receipt of the request for agreement which is shown in the acknowledgement of receipt. If the decision received from the competent authorities of the Party whose agreement has been requested is negative, it shall contain a proper statement of reasons. If the authorising authority does not receive a reply within four months, the competent authorities consulted shall be deemed to have given their agreement and the authorising authority may grant the authorisation.
3. The authorising authority shall take a decision on the application no later than six months of the date of submission of the application by the road passenger transport operator.
4. Authorisation shall be granted unless:
  - (a) the applicant is unable to provide the service which is the subject of the application with equipment directly available to him;
  - (b) the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorisations for international

road passenger services, or has committed serious infringements of a Party's road transport legislation in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers;

- (c) in the case of an application for renewal of authorisation, the conditions of authorisation have not been complied with;
- (d) a Party decides on the basis of a detailed analysis that the service concerned would seriously affect the viability of a comparable service covered by one or more public service contracts conforming to the Party's law on the direct sections concerned. In such a case, the Party shall set up criteria, on a non-discriminatory basis, for determining whether the service applied for would seriously affect the viability of the abovementioned comparable service and shall communicate them to the other Party referred to in paragraph 1;
- (e) a Party decides on the basis of a detailed analysis that the principal purpose of the service is not to carry passengers between stops located in the territories of the Parties.

In the event that an existing service seriously affects the viability of a comparable service covered by one or more public service contracts which conform to a Party's law on the direct sections concerned, due to exceptional reasons which could not have been foreseen at the time of granting the authorisation, a Party may, with the agreement of the other Party, suspend or withdraw the authorisation to run the international coach and bus service after having given six months' notice to the road passenger transport operator .

The fact that a road passenger transport operator of a Party offers lower prices than those offered by other road passenger transport operator or the fact that the link in question is already operated by other road passenger transport operators shall not in itself constitute justification for rejecting the application.

- 5. Having completed the procedure laid down in paragraphs 1 to 4, the authorising authority shall grant the authorisation or formally refuse the application.

Decisions rejecting an application shall state the reasons on which they are based. The Parties shall ensure that transport undertakings are given the opportunity to make representations in the event of their application being rejected.

The authorising authority shall inform the competent authorities of the other Party of its decision and shall send them a copy of any authorisation.

#### Article X+7

#### **Renewal and alteration of authorisation**

- 1. Article X+6 shall apply, mutatis mutandis, to applications for the renewal of authorisations or for alteration of the conditions under which the services subject to authorisation must be carried out.
- 2. In the event of a minor alteration to the operating conditions, in particular the adjustment of intervals, fares and timetables, the authorising authority need only supply the competent authorities of the other Party with information relating to the alteration. Changing the timetables or intervals in a manner that affects the timing of controls at the borders between the Parties or at third country borders shall not be considered a minor alteration.

## Article X+8

### **Lapse of an authorisation**

1. An authorisation for a service referred to in Article X+2 shall lapse at the end of its period of validity or three months after the authorising authority has received notice from its holder of his or her intention to withdraw the service. Such notice shall contain a proper statement of reasons.
2. Where demand for a service has ceased to exist, the period of notice provided for in paragraph 1 shall be one month.
3. The authorising authority shall inform the competent authorities of the other Party concerned that the authorisation has lapsed.
4. The holder of the authorisation shall notify users of the service concerned of its withdrawal one month in advance by means of appropriate publicity.

## Article X+9

### **Obligations of transport operators**

1. Save in the event of force majeure, the road passenger transport operator of a Party carrying out a service referred to in Article X+2 shall launch the service without delay and, until the authorisation expires, take all measures to guarantee a transport service that fulfils the standards of continuity, regularity and capacity and complies with the conditions specified in accordance with paragraph 6 of Article X+4.
2. The road passenger transport operator of a Party shall display the route of the service, the bus stops, the timetable, the fares and the conditions of carriage in such a way as to ensure that such information is readily available to all users.
3. It shall be possible for the Parties to make changes to the operating conditions governing a service referred to in Article X+2, by common agreement and in agreement with the holder of the authorisation.

## Article X+10

### **Documents to be kept on the coach or bus**

1. Without prejudice to paragraph 8 of Article X+4, the authorisation or a certified true copy thereof to carry out services referred to in Article X+2 and the operator's licence of the road passenger transport operator or a certified true copy thereof for the international carriage of passengers by road provided for according to national or European Union legislation shall be kept on the coach or bus and shall be presented at the request of any authorised inspecting officer.
2. Without prejudice to paragraph 1 as well as to paragraph 8 of Article X+4, in the case of a special regular service, the contract between the organiser and the road passenger transport operator or a copy thereof as well as a document evidencing that the passengers constitute a specific category to the exclusion of other passengers for the purposes of a special regular service shall also serve as control documents, shall be kept in the vehicle and shall be presented at the request of any authorised inspecting officer.

## Article X+11

### **Duration**

The provisions of the present Chapter shall cease to apply as of the date the Protocol to the Interbus agreement regarding the international regular and special carriage of passengers by coach and bus enters into force for the UK, or [six months] following the entry into force of that Protocol for the Union, whichever is the earliest.

## Article X+12

### **Obligations in other chapters**

Articles SERVIN 3.2 [Market access] and SERVIN 3.3 of Chapter three of Title VI of Part two [National treatment] are incorporated into and made part of this Chapter and apply to the treatment of transport operators undertaking journeys in accordance with Article X+2.



# **ANNEX ROAD-1 : TRANSPORT OF GOODS BY ROAD**

## **PART A – Requirements for road haulage operators to hold a valid licence in accordance with Article ROAD.5**

### **Article 1 - Scope**

This section governs admission to, and the pursuit of, the occupation of road haulage operator and shall apply to all road haulage operators of a Party<sup>1</sup>.

### **Article 2 - Definitions**

For the purposes of this section,

1. ‘authorisation to pursue the occupation of road haulage operator’ means an administrative decision which authorises a natural or legal person which satisfies the conditions laid down in this section to pursue the occupation of road haulage operator;
2. ‘competent authority’ means a national, regional or local authority in a Party which, for the purpose of authorising the pursuit of the occupation of road haulage operator, verifies whether a natural or legal person satisfies the conditions laid down in this section, and which is empowered to grant, suspend or withdraw an authorisation to pursue the occupation of road haulage operator;

### **Article 3 - Requirements for engagement in the occupation of road haulage operator**

1. Natural or legal persons engaged in the occupation of road haulage operator shall:
  - (a) have an effective and stable establishment in a Party;
  - (b) be of good repute;
  - (c) have appropriate financial standing; and
  - (d) have the requisite professional competence.

### **Article 4 - Transport manager**

1. A road haulage operator shall designate at least one natural person, the transport manager, who effectively and continuously manages its transport activities and satisfies the requirements set out in Article 3(1)(b) and (d) and who:
  - (a) has a genuine link to the road haulage operator, such as being an employee, director, owner or shareholder or administering it, or is that person; and
  - (b) is resident in the Party in the territory of which the road haulage operator is established.

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<sup>1</sup> The following exemption should be included in Art. ROAD.6: transport of goods by means of motor vehicles with a maximum authorised speed not exceeding 40 km/h.

2. If a natural or legal person does not satisfy the requirement of professional competence laid down in Article 3(1)(d), the competent authority may authorise it to engage in the occupation of road haulage operator without a transport manager designated in accordance with paragraph 1 of this Article, provided that:
  - (a) the natural or legal person designates a natural person residing in the Party of establishment who satisfies the requirements laid down in Article 3(1)(b) and (d), and who is entitled under contract to carry out duties as transport manager on behalf of the undertaking;
  - (b) the contract linking the natural or legal person with the person referred to in point (a) specifies the tasks to be performed on an effective and continuous basis by that person, and indicates his or her responsibilities as transport manager. The tasks to be specified shall comprise, in particular, those relating to vehicle maintenance management, verification of transport contracts and documents, basic accounting, the assignment of loads or services to drivers and vehicles, and the verification of safety procedures;
  - (c) in his or her capacity as transport manager, the person referred to in point (a) may manage the transport activities of up to four different road haulage operators carried out with a combined maximum total fleet of 50 vehicles; and
  - (d) the person referred to in point (a) performs the specified tasks solely in the interests of the natural or legal person and his or her responsibilities are exercised independently of any natural or legal persons for which it carries out transport operations.
3. A Party may decide that a transport manager designated in accordance with paragraph 1 may not in addition be designated in accordance with paragraph 2, or may only be so designated in respect of a limited number of natural or legal persons or a fleet of vehicles that is smaller than that referred to in paragraph 2(c).
4. The natural or legal person shall notify the competent authority of the transport manager or managers designated.

#### **Article 5 - Conditions relating to the requirement of establishment**

1. In order to satisfy the requirement laid down in Article 3(1)(a), in the Party of establishment a natural or legal person shall:
  - (a) have premises, at which it is able to access the originals of its core business documents, whether in electronic or any other form in particular its transport contracts, documents relating to the vehicles at the disposal of the natural or legal person, accounting documents, personnel management documents, labour contracts, social security documents, documents containing data on the dispatching and posting of drivers, documents containing data relating to cabotage, driving time and rest periods, and any other document to which the competent authority must have access in order to verify compliance with the conditions laid down in this section;
  - (c) be registered in the register of commercial companies of that Party or in a similar register whenever required under national law;
  - (d) be subject to tax on revenues and, whenever required under national law, have assigned a VAT registration number;

- (e) once an authorisation has been granted, have at its disposal one or more vehicles which are registered or put into circulation and authorised to be used in conformity with the legislation of that Party, regardless of whether those vehicles are wholly owned or, for example, held under a hire-purchase agreement or under a hire or leasing contract;
- (f) effectively and continuously conduct its administrative and commercial activities with the appropriate equipment and facilities at premises as referred to in point (a) situated in that Party and manage effectively and continuously its transport operations using the vehicles referred to in point (g) with the appropriate technical equipment situated in that Party;
- (g) on an ongoing basis have at its regular disposal a number of vehicles complying with the conditions laid down in point (e) and drivers normally based at an operational centre in that Party, proportionate to the volume of transport operations carried out by the undertaking.

#### **Article 6 - Conditions relating to the requirement of good repute**

1. Subject to paragraph 2 of this Article, the Parties shall determine the conditions to be met by natural or legal persons and transport managers in order to satisfy the requirement of good repute laid down in Article 3(1)(b).

In determining whether a natural or legal person has satisfied that requirement, the Parties shall consider the conduct of the natural or legal persons, its transport managers, executive directors and any other relevant person as may be determined by the Party. Any reference in this Article to convictions, penalties or infringements shall include convictions, penalties or infringements of the natural or legal person itself, its transport managers, executive directors and any other relevant person as may be determined by the Party.

The conditions referred to in the first subparagraph shall include at least the following:

- (a) that there be no compelling grounds for doubting the good repute of the transport manager or the road haulage operator, such as convictions or penalties for any serious infringement of national rules in force in the fields of:

- (i) commercial law;
- (ii) insolvency law;
- (iii) pay and employment conditions in the profession;
- (iv) road traffic;
- (v) professional liability;
- (vi) trafficking in human beings or drugs;
- (vii) tax law; and

- (b) that the transport manager or the road haulage operator have not in one or both Parties been convicted of a serious criminal offence or incurred a penalty for a serious infringement of the rules of this agreement or of national rules relating in particular to:

- (i) the driving time and rest periods of drivers, working time and the installation and use of recording equipment;

- (ii) the maximum weights and dimensions of commercial vehicles used in international traffic;
- (iii) the initial qualification and continuous training of drivers;
- (iv) the roadworthiness of commercial vehicles, including the compulsory technical inspection of motor vehicles;
- (v) access to the market in international road haulage;
- (vi) safety in the carriage of dangerous goods by road;
- (vii) the installation and use of speed-limiting devices in certain categories of vehicle;
- (viii) driving licences;
- (ix) admission to the occupation;
- (x) animal transport;
- (xi) the posting of workers in road transport;
- (xii) the law applicable to contractual obligations;
- (xiii) cabotage.

2. For the purposes of point (b) of the third subparagraph of paragraph 1, where the transport manager or the road haulage operator has been convicted of a serious criminal offence or has incurred a penalty for one of the most serious infringements as set out in Appendix ROAD.A.1, in one or both Parties, the competent authority of the Party 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 natural or legal person concerned.

During the administrative procedure, the competent authority shall assess whether, due to specific circumstances, the loss of good repute 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 the rules as referred to in the third subparagraph of paragraph 1, as well as the number of most serious infringements as set out in Appendix ROAD.A.1, for which the transport manager or the road haulage operator 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 repute would be disproportionate, it shall decide that the natural or legal person concerned continues to be of good repute. Where the competent authority does not find that the loss of good repute would be disproportionate, the conviction or penalty shall lead to the loss of good repute.

3. The requirement laid down in Article 3(1)(b) shall not be satisfied until a rehabilitation measure or any other measure having an equivalent effect has been taken pursuant to the relevant provisions of national law of the Parties.

## **Article 7 - Conditions relating to the requirement of financial standing**

1. In order to satisfy the requirement laid down in Article 3(1)(c), a natural or legal person shall, on a permanent basis, be able to meet its financial obligations in the course of the

annual accounting year. The natural or legal person 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 capital and reserves:

- totalling at least EUR 9 000 (or the equivalent in pound sterling) when only one motor vehicle is used, EUR 5 000 (or the equivalent in pound sterling) for each additional motor vehicle or combination of vehicles that has a permissible laden mass exceeding 3.5 tonnes used and EUR 900 (or the equivalent in pound sterling) for each additional motor vehicle or combination of vehicles that has a permissible laden mass, exceeding 2.5 tonnes but not 3.5 tonnes;
- Natural or legal persons engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles that have a permissible laden mass exceeding 2.5 tonnes but not 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 capital and reserves totalling at least EUR 1 800 (or the equivalent in pound sterling) when only one vehicle is used and EUR 900 (or the equivalent in pound sterling) for each additional vehicle used.

For the purposes of this section, the value of the euro in the currencies of EU Member States which do not participate in the third stage of the economic and monetary union and the equivalent in pound sterling shall be fixed every year. The rates to be applied shall be those obtained on the first working day of October and published in the *Official Journal of the European Union*. They shall have effect from 1 January of the following calendar year.

2. By way of derogation from paragraph 1, the competent authority may agree or require that an undertaking demonstrate its financial standing by means of a certificate determined by the competent authority, such as a bank guarantee or an insurance, including a professional liability insurance from one or more banks or other financial institutions including insurance companies or another binding document providing a joint and several guarantee for the undertaking in respect of the amounts specified in the first subparagraph of paragraph 1.
3. By way of derogation from paragraph 1, in the absence of certified annual accounts for the year of an undertaking's registration, 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 as determined by the competent authority proving that the undertaking has at its disposal the amounts specified in the first subparagraph of paragraph 1.
4. The annual accounts referred to in paragraph 1, and the guarantee referred to in paragraph 2, which are to be verified, are those of the economic entity established in the Party in which an authorisation has been applied for and not those of any other entity established in the other Party.

#### **Article 8 - Conditions relating to the requirement of professional competence**

1. In order to satisfy the requirement laid down in Article 3(1)(d), the person or persons concerned shall possess knowledge corresponding to the level provided for in Part I of Appendix ROAD.A.2 in the subjects listed therein. That knowledge shall be demonstrated by means of a compulsory written examination which, if a Party so decides, may be

supplemented by an oral examination. Those examinations shall be organised in accordance with Part II of Appendix ROAD.A.2. To this end, a Party may decide to impose training prior to the examination.

2. The persons concerned shall sit the examination in the Party in which they have their normal residence.

‘Normal residence’ shall mean the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal ties which show close links between that person and the place where he is living.

3. Only the authorities or bodies duly authorised for this purpose by a Party, in accordance with criteria defined by it, may organise and certify the written and oral examinations referred to in paragraph 1. The Parties shall regularly verify that the conditions under which those authorities or bodies organise the examinations are in accordance with Appendix ROAD.A.2.
4. A Party may exempt the holders of certain higher education qualifications or technical education qualifications issued in that Party, specifically designated to this end and entailing knowledge of all the subjects listed in Appendix ROAD.A.2 from the examination in the subjects covered by those qualifications. The exemption shall only apply to those sections of Part I of Appendix ROAD.A.2 for which the qualification covers all subjects listed under the heading of each section.

A Party may exempt from specified parts of the examinations holders of certificates of professional competence valid for national transport operations in that Party.

#### **Article 9 – Exemption from examination**

For the purpose of granting a licence to a road haulage operator which only operates motor vehicles or combinations of vehicles the permissible laden mass of which does not exceed 3.5 tonnes, a Party may decide to exempt from the examinations referred to in Article 8(1) persons who provide proof that they have continuously managed, for the period of ten years before [XXX], a natural or legal person of the same type.

#### **Article 10 – Procedure for the suspension and withdrawal of authorisations**

1. Where a competent authority establishes that a natural or legal person runs the risk of no longer fulfilling the requirements laid down in Article 3, it shall notify the natural or legal person thereof. Where a competent authority establishes that one or more of those requirements is no longer satisfied, it may set one of the following time limits for the natural or legal person to rectify the situation:
  - (a) a time limit not exceeding 6 months, which may be extended by 3 months in the event of the death or physical incapacity of the transport manager, for the recruitment of a replacement transport manager where the transport manager no longer satisfies the requirement as to good repute or professional competence;
  - (b) a time limit not exceeding 6 months where the natural or legal person has to rectify the situation by demonstrating that it has an effective and stable establishment;

- (c) a time limit not exceeding 6 months where the requirement of financial standing is not satisfied, in order to demonstrate that that requirement is again satisfied on a permanent basis.
2. The competent authority may require a natural or legal person whose authorisation has been suspended or withdrawn to ensure that its transport managers have passed the examinations referred to in Article 8(1) prior to any rehabilitation measure being taken.
  3. If the competent authority establishes that the natural or legal person no longer satisfies one or more of the requirements laid down in Article 3, it shall suspend or withdraw the authorisation to engage in the occupation of road haulage operator within the time limits referred to in paragraph 1 of this Article.

#### **Article 11 – Declaration of unfitness of the transport manager**

1. Where a transport manager loses good repute in accordance with Article 6, the competent authority shall declare that transport manager unfit to manage the transport activities of a road haulage operator.

The competent authority shall not rehabilitate the transport manager earlier than one year from the date of the loss of good repute and before the transport manager has demonstrated to have followed appropriate training for a period of at least 3 months or an exam on the subjects listed in part I of Appendix ROAD.A.2.

2. Where a transport manager loses good repute in accordance with Article 6, an application for rehabilitation may be introduced after no less than one year from the date of the loss of good repute.

## **APPENIDX ROAD.A.1**

### **Most serious infringements for the purpose of Article 6(2)**

1. (a) Exceeding the maximum 6-day or fortnightly driving time limits by margins of 25 % or more.  
  
(b) Exceeding, during a daily working period, the maximum daily driving time limit by a margin of 50 % or more.
2. Not having a tachograph and/or speed limiter, or having in the vehicle and/or using a fraudulent device able to modify the records of the recording equipment and/or the speed limiter or falsifying record sheets or data downloaded from the tachograph and/or the driver card.
3. Driving without a valid roadworthiness certificate if such a document is required under the rules of this Chapter and/or driving with a very serious deficiency of, inter alia, the braking system, the steering linkages, the wheels/tyres, the suspension or chassis that would create such an immediate risk to road safety that it leads to a decision to immobilise the vehicle.
4. Transporting dangerous goods that are prohibited for transport or transporting such goods in a prohibited or non-approved means of containment or without identifying them on the vehicle as dangerous goods, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle.
5. Carrying goods without holding a valid driving licence or carrying by an undertaking not holding a valid operator's licence as referred to in Article ROAD.5.
6. Driving with a driver card that has been falsified, or with a card of which the driver is not the holder, or which has been obtained on the basis of false declarations and/or forged documents.
7. Carrying goods exceeding the maximum permissible laden mass by 20 % or more for vehicles the permissible laden weight of which exceeds 12 tonnes, and by 25 % or more for vehicles the permissible laden weight of which does not exceed 12 tonnes.



## **APPENIDX ROAD.A.2**

### **I. LIST OF SUBJECTS REFERRED TO IN ARTICLE 8**

The knowledge to be taken into consideration for the official recognition of professional competence by the Parties must cover at least the subjects listed below. In relation to these subjects, applicant road haulage operators must have the levels of knowledge and practical aptitude necessary for the management of a transport undertaking.

The minimum level of knowledge, as indicated below, must correspond at least to the level of knowledge acquired during the course of compulsory education, which is supplemented either by vocational training and supplementary technical training or by secondary school or other technical training.

#### **A. Civil law**

The applicant must, in particular:

1. be familiar with the main types of contract used in road transport and with the rights and obligations arising therefrom;
2. be capable of negotiating a legally valid transport contract, notably with regard to conditions of carriage;
3. be able to consider a claim by his principal regarding compensation for loss of or damage to goods during transportation or for their late delivery, and to understand how such a claim affects his contractual liability;
4. be familiar with the rules and obligations arising from the CMR Convention on the Contract for the International Carriage of Goods by Road;

#### **B. Commercial law**

The applicant must, in particular:

1. be familiar with the conditions and formalities laid down for plying the trade, the general obligations incumbent upon transport operators (registration, record keeping, etc.) and the consequences of bankruptcy;
2. have appropriate knowledge of the various forms of commercial companies and the rules governing their constitution and operation.

#### **C. Social law**

The applicant must, in particular, be familiar with the following:

1. the role and function of the various social institutions which are concerned with road transport (trade unions, works councils, shop stewards, labour inspectors, etc.);
2. the employers' social security obligations;
3. the rules governing work contracts for the various categories of worker employed by road transport undertakings (form of the contracts, obligations of the parties, working conditions and working hours, paid leave, remuneration, breach of contract, etc.);
4. the rules applicable to driving time, rest periods and working time, and the practical measures for applying those provisions; and

5. the rules applicable to the initial qualification and continuous training of drivers laid down in Appendix ROAD.B.1.1.

#### **D. Fiscal law**

The applicant must, in particular, be familiar with the rules governing:

1. value added tax (VAT) on transport services;
2. motor-vehicle tax;
3. the taxes on certain road haulage vehicles and tolls and infrastructure user charges;
4. income tax.

#### **E. Business and financial management**

The applicant must, in particular:

1. be familiar with the laws and practices regarding the use of cheques, bills of exchange, promissory notes, credit cards and other means or methods of payment;
2. be familiar with the various forms of credit (bank credit, documentary credit, guarantee deposits, mortgages, leasing, renting, factoring, etc.) and the charges and obligations arising therefrom;
3. know what a balance sheet is, how it is set out and how to interpret it;
4. be able to read and interpret a profit and loss account;
5. be able to assess the undertaking's profitability and financial position, in particular on the basis of financial ratios;
6. be able to prepare a budget;
7. be familiar with the cost elements of the undertaking (fixed costs, variable costs, working capital, depreciation, etc.), and be able to calculate costs per vehicle, per kilometre, per journey or per tonne;
8. be able to draw up an organisation chart relating to the undertaking's personnel as a whole and to organise work plans, etc.;
9. be familiar with the principles of marketing, publicity and public relations, including transport services, sales promotion and the preparation of customer files, etc.;
10. be familiar with the different types of insurance relating to road transport (liability, accidental injury/life insurance, non-life and luggage insurance) and the guarantees and obligations arising therefrom;
11. be familiar with the applications of electronic data transmission in road transport;
12. be able to apply the rules governing the invoicing of road haulage services and know the meaning and implications of Incoterms;
13. be familiar with the different categories of transport auxiliaries, their role, their functions and, where appropriate, their status.

## **F. Access to the market**

The applicant must, in particular, be familiar with the following:

1. the occupational regulations governing road transport for hire or reward, industrial vehicle rental and subcontracting, and in particular the rules governing the official organisation of the occupation, admission to the occupation, authorisations for road transport operations, inspections and penalties;
2. the rules for setting up a road transport undertaking;
3. the various documents required for operating road transport services and the introduction of checking procedures to ensure that the approved documents relating to each transport operation, and in particular those relating to the vehicle, the driver, the goods and luggage are kept both in the vehicle and on the premises of the undertaking;
4. the rules on the organisation of the market in road haulage services, as well as the rules on freight handling and logistics;
5. border formalities, the role and scope of T documents and TIR carnets, and the obligations and responsibilities arising from their use.

## **G. Technical standards and technical aspects of operation**

The applicant must, in particular:

1. be familiar with the rules concerning the weights and dimensions of vehicles in the Parties and the procedures to be followed in the case of abnormal loads which constitute an exception to these rules;
2. be able to choose vehicles and their components (chassis, engine, transmission system, braking system, etc.) in accordance with the needs of the undertaking;
3. be familiar with the formalities relating to the type approval, registration and technical inspection of these vehicles;
4. understand what measures must be taken to reduce noise and to combat air pollution by motor vehicle exhaust emissions;
5. be able to draw up periodic maintenance plans for the vehicles and their equipment;
6. be familiar with the different types of cargo-handling and loading devices (tailboards, containers, pallets, etc.) and be able to introduce procedures and issue instructions for loading and unloading goods (load distribution, stacking, stowing, blocking and chocking, etc.);
7. be familiar with the various techniques of 'piggy-back' and roll-on roll-off combined transport;
8. be able to implement procedures to comply with the rules on the carriage of dangerous goods and waste;
9. be able to implement procedures to comply with the rules on the carriage of perishable foodstuffs, notably those arising from the Agreement on the International

Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such Carriage (ATP);

10. be able to implement procedures to comply with the rules on the transport of live animals.

## **H. Road safety**

The applicant must, in particular:

1. know what qualifications are required for drivers (driving licence, medical certificates, certificates of fitness, etc.);
2. be able to take the necessary steps to ensure that drivers comply with the traffic rules, prohibitions and restrictions in force in the Parties (speed limits, priorities, waiting and parking restrictions, use of lights, road signs, etc.);
3. be able to draw up instructions for drivers to check their compliance with the safety requirements concerning the condition of the vehicles, their equipment and cargo, and concerning preventive measures to be taken;
4. be able to lay down procedures to be followed in the event of an accident and to implement appropriate procedures to prevent the recurrence of accidents or serious traffic offences;
5. be able to implement procedures to properly secure goods and be familiar with the corresponding techniques.

## **II. ORGANISATION OF THE EXAMINATION**

1. The Parties will organise a compulsory written examination which they may supplement by an optional oral examination to establish whether applicant road haulage operators have achieved the required level of knowledge in the subjects listed in Part I and in particular their capacity to use the instruments and techniques relating to those subjects and to fulfil the corresponding executive and coordination duties.

(a) The compulsory written examination will involve two tests, namely:

(i) written questions consisting of either multiple choice questions (each with four possible answers), questions requiring direct answers or a combination of both systems;

(ii) written exercises/case studies.

The minimum duration of each test will be two hours.

(b) Where an oral examination is organised, the Parties may stipulate that participation is subject to the successful completion of the written examination.

2. Where the Parties also organise an oral examination, they must provide, in respect of each of the three tests, for a weighting of marks of a minimum of 25 % and a maximum of 40 % of the total number of marks to be given.

Where the Parties organise only a written examination, they must provide, in respect of each test, for a weighting of marks of a minimum of 40 % and a maximum of 60 % of the total number of marks to be given.

3. With regard to all the tests, applicants must obtain an average of at least 60 % of the total number of marks to be given, achieving in any given test not less than 50 % of the total

number of marks possible. In one test only, a Party may reduce that mark from 50 % to 40 %.

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## PART B – Requirements for drivers involved in the transport of goods in accordance with Article ROAD.7

### 1. Certificate of professional competence

#### Article 1 Scope

This section shall apply to the activity of driving by anyone employed or used by a road haulage operator of a Party undertaking journeys referred to in Article ROAD.4 and using vehicles for which a driving licence of category C1, C1+E, C or C+E, or a driving licence recognised as equivalent by the Specialised Committee, is required.

#### Article 2 Exemptions

A certificate of professional competence is not required for drivers of vehicles:

- (a) with a maximum authorised speed not exceeding 45 km/h;
- (b) used by, or under the control of, the armed forces, civil defence, the fire service, forces responsible for maintaining public order, and emergency ambulance services, when the carriage is undertaken as a consequence of the tasks assigned to those services;
- (c) undergoing road tests for technical development, repair or maintenance purposes, or the drivers of new or rebuilt vehicles which have not yet been put into service;
- (d) used in states of emergency or assigned to rescue missions;
- (e) carrying material, equipment or machinery to be used by the drivers in the course of their work, provided that driving the vehicles is not the drivers' principal activity.
- (f) used, or hired without a driver, by agricultural, horticultural, forestry, farming or fishery undertakings for carrying goods as part of their own entrepreneurial activity, except if driving is part of the driver's principal activity or the driving exceeds a distance set in national law from the base of the undertaking which owns, hires or leases the vehicle.

#### Article 3 Qualification and training

1. The activity of driving as defined in Article 1 shall be subject to a compulsory initial qualification and compulsory periodic training. To this end the Parties shall provide for:

- (a) a system of initial qualification corresponding to one of the following two options:
  - (i) option combining both course attendance and a test

In accordance with section 2(2.1) of Appendix ROAD.B.1.1, this type of initial qualification involves compulsory course attendance for a specific period. It shall conclude with a test. Upon successful completion of the test, the qualification shall be certified by a CPC as provided for in Article 6(1)(a);

(ii) option involving only tests

In accordance with section 2(2.2) of Appendix ROAD.B.1.1, this type of initial qualification does not involve compulsory course attendance but only theoretical and practical tests. Upon successful completion of the tests, the qualification shall be certified by a CPC as provided for in Article 6(1)(b).

However, a Party may authorise a driver to drive within its territory before obtaining a CPC, when he or she is undergoing a national vocational training course of at least six months, for a maximum period of three years. In the context of this vocational training course, the tests referred to in points (i) and (ii) may be completed in stages;

(b) a system of periodic training

In accordance with section 4 of Appendix ROAD.B.1.1, periodic training involves compulsory course attendance. It shall be certified by a CPC as provided for in Article 8(1).

2. A Party may also provide for a system of accelerated initial qualification so that a driver may drive in the cases referred to in Article 5(2)(a)(ii) and (b).

In accordance with section 3 of Appendix ROAD.B.1.1, the accelerated initial qualification shall involve compulsory course attendance. It shall conclude with a test. Upon successful completion of the test, the qualification shall be certified by a CPC as provided for in Article 6(2).

3. A Party may exempt drivers who have obtained the certificate of professional competence provided for in Article 8 of Part A of this Annex from the tests referred to in paragraph 1(a)(i) and (ii) and in paragraph 2 in the subjects covered by the test provided for in that Part of this Annex and, where appropriate, from attending the part of the course corresponding thereto.

#### **Article 4 Acquired rights**

Drivers who hold a category C1, C1+E, C or C+E licence, or a licence recognised as equivalent by the Specialised Committee, issued no later than 10 September 2009, shall be exempted from the need to obtain an initial qualification.

#### **Article 5 Initial qualification**

1. Access to an initial qualification shall not require the corresponding driving licence to be obtained beforehand.

2. Drivers of a vehicle intended for the carriage of goods may drive:

(a) from the age of 18:

(i) a vehicle in licence categories C and C+E, provided they hold a CPC as referred to in Article 6(1);

(ii) a vehicle in licence categories C1 and C1+E, provided they hold a CPC as referred to in Article 6(2);

(b) from the age of 21, a vehicle in licence categories C and C+E, provided they hold a CPC as referred to in Article 6(2).

3. Without prejudice to the age limits specified in paragraph 2, drivers undertaking carriage of goods who hold a CPC as provided for in Article 6 for one of the categories provided for in paragraph 2 of this Article shall be exempted from obtaining such a CPC for any other of the categories of vehicles referred to in that paragraph.

4. Drivers undertaking carriage of goods who broaden or modify their activities in order to carry passengers, or vice versa, and who hold a CPC as provided for in Article 6, shall not be required to repeat the common parts of the initial qualification, but rather only the parts specific to the new qualification.

## **Article 6 CPC certifying the initial qualification**

### **1. CPC certifying an initial qualification**

#### **(a) CPC awarded on the basis of course attendance and a test**

In accordance with Article 3(1)(a)(i), the Parties shall require trainee drivers to attend courses in a training centre approved by the competent authorities in accordance with section 5 of Appendix ROAD.B.1.1, hereinafter referred to as 'approved training centre'. These courses shall cover all the subjects referred to in section 1 of Appendix ROAD.B.1.1. This training shall conclude with successful completion of the test provided for in section 2(2.1) of Appendix ROAD.B.1.1. That test shall be organised by the competent authorities of the Parties or an entity designated by them and shall serve to check whether, for the aforementioned subjects, the trainee driver has the level of knowledge required in section 1 of Appendix ROAD.B.1.1. The said authorities or entities shall supervise the test and, upon successful completion, issue the drivers with a CPC certifying an initial qualification.

#### **(b) CPC awarded on the basis of tests**

In accordance with Article 3(1)(a)(ii), the Parties shall require trainee drivers to pass the theoretical and practical tests referred to in section 2(2.2) of Appendix ROAD.B.1.1. These tests shall be organised by the competent authorities of the Parties or an entity designated by them and shall serve to check whether, for all the aforementioned subjects, the trainee driver has the level of knowledge required in section 1 of Appendix ROAD.B.1.1. The said authorities or entities shall supervise the tests and, upon successful completion, issue the drivers with a CPC certifying an initial qualification.

### **2. CPC certifying an accelerated initial qualification**

In accordance with Article 3(2), the Parties shall require trainee drivers to attend courses in an approved training centre. These courses shall cover all the subjects referred to in section 1 of Appendix ROAD.B.1.1.

This training shall conclude with the test provided for in section 3 of Appendix ROAD.B.1.1. That test shall be organised by the competent authorities of the Parties or an entity designated by them and shall serve to check whether, for the aforementioned subjects, the trainee driver has the level of



knowledge required in section 1 of Appendix ROAD.B.1.1. The said authorities or entities shall supervise the test and, upon successful completion, issue the drivers with a CPC certifying an accelerated initial qualification.

#### **Article 7 Periodic training**

Periodic training shall consist of training to enable holders of a CPC to update the knowledge which is essential for their work, with specific emphasis on road safety, health and safety at work, and the reduction of the environmental impact of driving.

That training shall be organised by an approved training centre, in accordance with section 5 of Appendix ROAD.B.1.1. Training shall consist of classroom teaching, practical training and, if available, training by means of information and communication technology (ICT) tools or on top-of-the-range simulators. If a driver moves to another undertaking, the periodic training already undergone must be taken into account.

Periodic training shall be designed to expand on, and to revise, some of the subjects referred in section 1 of Appendix ROAD.B.1.1. It shall cover a variety of subjects and shall always include at least one road safety related subject. The training subjects shall take into account developments in the relevant legislation and technology, and shall, as far as possible, take into account the specific training needs of the driver.

#### **Article 8 CPC certifying periodic training**

1. When a driver has completed the periodic training referred to in Article 7, the competent authorities of the Parties or the approved training centre shall issue him or her with a CPC certifying periodic training.

2. The following drivers shall undergo a first course of periodic training:

(a) holders of a CPC as referred to in Article 6, within five years of the issue of that CPC;

(b) the drivers referred to in Article 4, within five years of 10 September 2009.

A Party may reduce or exempt the periods of time referred to in (a) or (b) by a maximum of two years.

3. A driver who has completed a first course of periodic training as referred to in paragraph 2 shall undergo periodic training every five years, before the end of the period of validity of the CPC certifying periodic training.

4. Holders of the CPC as referred to in Article 6 or the CPC as referred to in paragraph 1 of this Article and the drivers referred to in Article 4 who have ceased pursuit of the occupation and do not meet the requirements of paragraphs 1, 2 and 3, shall undergo a course of periodic training before resuming pursuit of the occupation.

5. Drivers undertaking the carriage of goods by road who have completed courses of periodic training for one of the licence categories provided for in Article 5(2) shall be exempt from the

obligation to undergo further periodic training for another of the categories provided for in those paragraphs.

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## **Appendix ROAD.B.1.**

### **MINIMUM QUALIFICATION AND TRAINING REQUIREMENTS**

To ensure that the rules governing the transport of goods by road covered by this Agreement are as harmonised as possible, the minimum requirements for driver qualification and training as well as the approval of training centres are as follows. Any other content for this qualification or training may be acceptable provided that it is considered as equivalent by the Specialised Committee.

#### **Section 1: List of subjects**

The knowledge to be taken into account by the Parties when establishing the driver's initial qualification and periodic training must include at least the subjects in this list. Trainee drivers must reach the level of knowledge and practical competence necessary to drive in all safety vehicles of the relevant licence category. The minimum level of knowledge may not be less than the level reached during compulsory education, supplemented by professional training.

##### **1. Advanced training in rational driving based on safety regulations**

1.1. Objective: to know the characteristics of the transmission system in order to make the best possible use of it:

curves relating to torque, power, and specific consumption of an engine, area of optimum use of revolution counter, gearbox-ratio cover diagrams.

1.2. Objective: to know the technical characteristics and operation of the safety controls in order to control the vehicle, minimise wear and tear, and prevent disfunctioning:

limits to the use of brakes and retarder, combined use of brakes and retarder, making better use of speed and gear ratio, making use of vehicle inertia, using ways of slowing down and braking on downhill stretches, action in the event of failure, use of electronic and mechanical devices such as Electronic Stability Program (ESP), Advanced Emergency Braking Systems (AEBS), Anti-Lock Braking System (ABS), traction control systems (TCS) and in vehicle monitoring systems (IVMS) and other, approved for use, driver assistance or automation devices.

1.3. Objective: ability to optimise fuel consumption:

optimisation of fuel consumption by applying know-how as regards points 1.1 and 1.2, importance of anticipating traffic flow, appropriate distance to other vehicles and use of the vehicle's momentum, steady speed, smooth driving style and appropriate tyre pressure, and familiarity with intelligent transport systems that improve driving efficiency and assist in route planning.

1.4. Objective: ability to anticipate, assess and adapt to risks in traffic:

to be aware of and adapt to different road, traffic and weather conditions, anticipate forthcoming events; to understand how to prepare and plan a journey during abnormal weather conditions; to be familiar with the use of related safety equipment and to understand when a journey has to be postponed or cancelled due to extreme weather conditions; to adapt to the risks of traffic, including dangerous behaviour in traffic or distracted driving (through the use of electronic devices, eating, drinking, etc.); to recognise and adapt to dangerous situations and to be able to cope with stress

deriving therefrom, in particular related to size and weight of the vehicles and vulnerable road users, such as pedestrians, cyclists and powered two wheelers;

to identify possible hazardous situations and properly interpret how these potentially hazardous situations may turn into situations where crashes can no longer be averted and selecting and implementing actions that increase the safety margins to such an extent that a crash can still be averted in case the potential hazards should occur.

1.5. Objective: ability to load the vehicle with due regard for safety rules and proper vehicle use:

forces affecting vehicles in motion, use of gearbox ratios according to vehicle load and road profile, use of automatic transmission systems, calculation of payload of vehicle or assembly, calculation of total volume, load distribution, consequences of overloading the axle, vehicle stability and centre of gravity, types of packaging and pallets;

main categories of goods needing securing, clamping and securing techniques, use of securing straps, checking of securing devices, use of handling equipment, placing and removal of tarpaulins.

## 2. Application of regulations

2.1. Objective: to know the social environment of road transport and the rules governing it:

maximum working periods specific to the transport industry; principles, application and consequences of the rules related to the driving times and rest periods and those related to the tachograph; penalties for failure to use, improper use of and tampering with the tachograph; knowledge of the social environment of road transport: rights and duties of drivers as regards initial qualification and periodic training.

2.2. Objective: to know the regulations governing the carriage of goods:

transport operating licences, documents to be carried in the vehicle, bans on using certain roads, road-use fees, obligations under standard contracts for the carriage of goods, drafting of documents which form the transport contract, international transport permits, obligations under the Convention on the Contract for the International Carriage of Goods by Road, drafting of the international consignment note, crossing borders, freight forwarders, special documents accompanying goods.

## 3. Health, road and environmental safety, service, logistics

3.1. Objective: to make drivers aware of the risks of the road and of accidents at work:

types of accidents at work in the transport sector, road accident statistics, involvement of lorries/coaches, human, material and financial consequences.

3.2. Objective: ability to prevent criminality and trafficking in illegal immigrants:

general information, implications for drivers, preventive measures, check list, legislation on transport operator liability.

3.3. Objective: ability to prevent physical risks:

ergonomic principles; movements and postures which pose a risk, physical fitness, handling exercises, personal protection.

3.4. Objective: awareness of the importance of physical and mental ability:

principles of healthy, balanced eating, effects of alcohol, drugs or any other substance likely to affect behaviour, symptoms, causes, effects of fatigue and stress, fundamental role of the basic work/rest cycle.

3.5. Objective: ability to assess emergency situations:

behaviour in an emergency situation: assessment of the situation, avoiding complications of an accident, summoning assistance, assisting casualties and giving first aid, reaction in the event of fire, evacuation of occupants of a lorry/bus passengers, ensuring the safety of all passengers, reaction in the event of aggression; basic principles for the drafting of an accident report.

3.6. Objective: ability to adopt behaviour to help enhance the image of the company:

behaviour of the driver and company image: importance for the company of the standard of service provided by the driver, the roles of the driver, people with whom the driver will be dealing, vehicle maintenance, work organisation, commercial and financial effects of a dispute.

3.7. Objective: to know the economic environment of road haulage and the organisation of the market:

road transport in relation to other modes of transport (competition, shippers), different road transport activities (transport for hire or reward, own account, auxiliary transport activities), organisation of the main types of transport company and auxiliary transport activities, different transport specialisations (road tanker, controlled temperature, dangerous goods, animal transport, etc.), changes in the industry (diversification of services provided, rail-road, subcontracting, etc.).

## **Section 2: Compulsory initial qualification provided for in Article 3(1)(a)**

A Party may count specific other training related to the transport of goods by road required under its legislation as part of the training under this section and under section 3.

2.1. Option combining both course attendance and a test

Initial qualification must include the teaching of all subjects in the list under section 1. The duration of this initial qualification must be 280 hours.

Each trainee driver must drive for at least 20 hours individually in a vehicle of the category concerned which meets at least the requirements for test vehicles.

When driving individually, the trainee driver must be accompanied by an instructor, employed by an approved training centre. Each trainee driver may drive for a maximum of eight hours of the 20 hours of individual driving on special terrain or on a top-of-the-range simulator so as to assess training in rational driving based on safety regulations, in particular with regard to vehicle handling in different road conditions and the way they change with different atmospheric conditions, the time of day or night, and the ability to optimise fuel consumption.

A Party may allow part of the training to be delivered by the approved training centre by means of ICT tools, such as e-learning, while ensuring that the high quality and the effectiveness of the training are maintained, and by selecting the subjects where ICT tools can most effectively be

deployed. Reliable user identification and appropriate means of control shall be required in such a case.

For the drivers referred to in Article 5(4) the length of the initial qualification must be 70 hours, including five hours of individual driving.

At the end of that training, the competent authorities of the Parties or the entity designated by them shall give the driver a written or oral test. The test must include at least one question on each of the objectives in the list of subjects under section 1.

## 2.2. Option involving a test

The competent authorities of the Parties or the entity designated by them shall organise the aforementioned theoretical and practical tests to check whether the trainee driver has the level of knowledge required in section 1 for the subjects and objectives listed there.

(a) The theoretical test shall consist of at least two parts:

(i) questions including multiple-choice questions, questions requiring a direct answer, or a combination of both;

(ii) case studies.

The minimum duration of the theoretical test must be four hours.

(b) The practical test shall consist of two parts:

(i) a driving test aimed at assessing training in rational driving based on safety regulations. The test must take place, whenever possible, on roads outside built-up areas, on fast roads and on motorways (or similar), and on all kinds of urban highways presenting the different types of difficulties that a driver is liable to encounter. It would be desirable for this test to take place in different traffic density conditions. The driving time on the road must be used optimally in order to assess the candidate in all traffic areas likely to be encountered. The minimum duration of this test must be 90 minutes;

(ii) a practical test covering at least points 1.5, 3.2, 3.3 and 3.5.

The minimum duration of this test must be 30 minutes.

The vehicle used for the practical test must meet at least the requirements for test vehicles.

The practical test may be supplemented by a third test taking place on special terrain or on a top-of-the-range simulator so as to assess training in rational driving based on safety regulations, in particular with regard to vehicle handling in different road conditions and the way they change with different atmospheric conditions and the time of day or night.

The duration of this optional test is not fixed. Should the driver undergo such a test, its duration may be deducted from the 90 minutes of the driving test referred to under (i), but the time deducted may not exceed 30 minutes.

For the drivers referred to in Article 5(4), the theoretical test must be limited to the subjects, referred to in section 1, which are relevant to the vehicles to which the new initial qualification applies. However, such drivers must undergo the whole practical test.

### **Section 3: Accelerated initial qualification provided for in Article 3(2)**

Accelerated initial qualification must include the teaching of all subjects in the list in section 1. Its duration must be 140 hours.

Each trainee driver must drive for at least 10 hours individually in a vehicle of the category concerned which meets at least the requirements for test vehicles.

When driving individually, the trainee driver must be accompanied by an instructor, employed by an approved training centre. Each trainee driver may drive for a maximum of four hours of the 10 hours of individual driving on special terrain or on a top-of-the-range simulator so as to assess training in rational driving based on safety regulations, in particular with regard to vehicle handling in different road conditions and the way those road conditions change with different atmospheric conditions, the time of day or night, and the ability to optimise fuel consumption.

The provisions of the fourth paragraph of point 2.1 shall also apply to the accelerated initial qualification.

For the drivers referred to in Article 5(4), the length of the accelerated initial qualification must be 35 hours, including two-and-a-half hours of individual driving.

At the end of that training, the competent authorities of the Parties or the entity designated by them shall give the driver a written or oral test. The test must include at least one question on each of the objectives in the list of subjects under section 1.

A Party may count specific other training related to the transport of goods by road required under its legislation as part of the training under this section.

### **Section 4: Compulsory periodic training provided for in point (b) of Article 3(1)**

Compulsory periodic training courses must be organised by an approved training centre. Their duration must be of 35 hours every five years, given in periods of at least seven hours, which may be split over two consecutive days. Whenever e- learning is used, the approved training centre shall ensure that the proper quality of the training is maintained, including by selecting the subjects where ICT tools can most effectively be deployed. In particular, the Parties shall require reliable user identification and appropriate means of control. The maximum duration of the e-learning training shall not exceed 12 hours. At least one of the training course periods shall cover a road safety related subject. The content of the training shall take into account training needs specific to the transport operations carried out by the driver and relevant legal and technological developments and should, as far as possible, take into account specific training needs of the driver. A range of different subjects should be covered over the 35 hours, including repeat training where it is shown that the driver needs specific remedial training.

A Party may count specific other training related to the transport of goods by road required under its legislation as part of the training under this section.

## **Section 5: Approval of the initial qualification and periodic training**

5.1. The training centres taking part in the initial qualification and periodic training must be approved by the competent authorities of the Parties. Approval may be given only in response to a written application. The application must be accompanied by documents including:

5.1.1. a suitable qualification and training programme specifying the subjects taught and setting out the proposed implementing plan and teaching methods;

5.1.2. the instructors' qualifications and fields of activity;

5.1.3. information about the premises where the courses are given, the teaching materials, the resources made available for the practical work, and the vehicle fleet used;

5.1.4. the conditions regarding participation in the courses (number of participants).

5.2. The competent authority must give approval in writing subject to the following conditions:

5.2.1. the training must be given in accordance with the documents accompanying the application;

5.2.2. the competent authority must be entitled to send authorised persons to assist in the training courses of the approved centres, and must be entitled to monitor such centres, with regard to the resources used and the proper running of the training courses and tests;

5.2.3. the approval may be withdrawn or suspended if the conditions of approval are no longer complied with.

The approved centre must guarantee that the instructors have a sound knowledge of the most recent regulations and training requirements. As part of a specific selection procedure, the instructors must provide certification showing a knowledge of both the subject material and teaching methods. As regards the practical part of the training, instructors must provide certification of experience as professional drivers or similar driving experience, such as that of driving instructors for heavy vehicles.

The programme of instruction must be in accordance with the approval and must cover the subjects in the list in section 1.