



Brussels, 17.6.2022  
COM(2022) 307 final

2022/0199 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the signing, on behalf of the European Union, and provisional application of the Agreement on the carriage of freight by road between the European Union and Ukraine**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

Following the war of aggression carried-out by Russia against Ukraine, transportation of freight from Ukraine has become very difficult. Important transport routes for the carrying of goods via the Black Sea are blocked or have been destroyed by Russian military forces, and the Ukrainian airspace is closed for civilian transport. The rail network is currently prioritised for the transport of passengers and refugees and it remains very vulnerable to the Russian bombardments.

The road freight transport between the European Union and Ukraine is currently governed by two main sets of mechanisms, namely bilateral transport agreements between Member States and Ukraine and permits granted in the framework of the European Conference of Ministers of Transport (ECMT) multilateral quota system within the International Transport Forum. Both these mechanisms impose quotas on hauliers from both sides, regarding transit and bilateral trade.

Road transport is seen as one of the main alternatives to allow Ukraine to export its products, including grains. This would support the Ukrainian economy but would also be crucial to other economies as the export of Ukrainian products such as grain, fuel, foodstuffs and other goods is becoming more and more needed in view of the increasing concerns of food security in the world. At the same time the increased use of the number of transport operations by road compared to normal times would very likely go beyond the quotas set out in the bilateral agreements of Member States and Ukraine and given via the ECMT within the International Transport Forum.

This Agreement on road transport between the European Union and Ukraine would therefore replace existing bilateral transport agreements between Member States and Ukraine and facilitate the use of alternative transport by road for operators, as bilateral operations and transit would be liberalised between the two Parties.

In addition, following the start of Russia's war of aggression against Ukraine, many Ukrainian drivers are no longer able to follow the administrative procedures related to driver documents such as international driving permit applications or issuances of new documents in the event of lost or stolen documents. This Agreement will enable the two Parties to address these issues under exceptional circumstances. It is thus important to provide for measures that exempt drivers from the requirement to present an international driving permit, recognise decisions taken by Ukraine to extend the administrative validity of driver documents and facilitate the exchange of information between the competent authorities of the two Parties with the aim of combatting fraud and forgery of driver documents.

Therefore, it is appropriate to sign an Agreement liberalising the transport of freight by road between the European Union and Ukraine in relation to bilateral operations and transit and containing specific clauses related to driving licenses. This Agreement should be limited in time but with a possibility for renewal.

- **Consistency with existing policy provisions in the policy area**

The Agreement was also foreseen in the EU-Ukraine Solidarity Lanes<sup>1</sup> action plan which aims to facilitate Ukraine's agricultural export and bilateral trade with the EU. This action plan expresses the commitment of the European Union to support Ukraine's economy and economic recovery and contribute to stabilising world food markets and improving global food security.

- **Consistency with other Union policies**

This Agreement is consistent with the current EU external relations policy with Ukraine. The Government of Ukraine has requested such an Agreement as an urgent measure.

The Agreement on the carriage of goods by road with Ukraine would also be in line with the Association Agreement signed on 27 June 2014 between the European Union and Ukraine<sup>2</sup>, as it envisages in its Article 136 possible future special road agreements with a view to assuring a coordinated development and progressive liberalisation of transport between the Parties.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

Article 91 in conjunction with Article 218(5) of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity (for non-exclusive competence)**

Not applicable.

- **Proportionality**

The Agreement is the most efficient instrument to enhance EU-Ukraine road transport relations, since it removes the existing limitations imposed by the quotas and permits systems.

This Agreement will not impose any additional administrative or financial burden neither on Member States' authorities nor on the industry compared to the current situation. It will, on the opposite, reduce the administrative burden for both the industry and the Member States. In particular, it will remove the need for transport permits for EU hauliers for the indicated categories of transport rights (transit and bilateral rights), which will reduce the burden for the EU transport industry as well as for Member States authorities in relation to the administrative formalities linked to issuing and printing such permits.

- **Choice of the instrument**

International Agreement.

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<sup>1</sup> COM(2022) 217 final

<sup>2</sup> Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, OJ L 161, 29.5.2014, p. 3.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

### **4. BUDGETARY IMPLICATIONS**

The proposal has no implication for the budget of the Union.

### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

In Articles 6 and 7, this Agreement includes a review mechanism provided with a view of assessing the need and duration of its renewal. For this purpose, Article 6(2) and Article 7(2) lays down that the Joint Committee shall be convened at the latest three months before the expiry of the Agreement.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 authorises the signature of the Agreement on behalf of the European Union, subject to its conclusion.

Article 2 requires the Council Secretariat General to establish the instrument of full powers to sign the Agreement, subject to its conclusion, for the person or persons indicated by the Commission.

Article 3 provides for provisional application in accordance with Article 13 of the Agreement.

Article 4 provides for the entry into force of the proposed Decision.

Proposal for a

## COUNCIL DECISION

### **on the signing, on behalf of the European Union, and provisional application of the Agreement on the carriage of freight by road between the European Union and Ukraine**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91, in conjunction with Article 218 (5), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 2 June 2022, the Council authorised the opening of negotiations with Ukraine on an Agreement on the carriage of freight by road between the European Union and Ukraine (hereinafter, the “Agreement”).
- (2) The negotiations were successfully concluded on 14 June 2022.
- (3) In view of the important disruptions in the transport sector in Ukraine caused by the war of aggression undertaken by Russia, it is necessary to find alternative routes by road for Ukraine to export its stocks of grain, fuel, foodstuffs and other relevant goods.
- (4) Given that permits granted in the framework of the European Conference of Ministers of Transport (ECMT) multilateral quota system within the International Transport Forum and existing bilateral agreements with Ukraine do not allow for the necessary flexibility for Ukrainian road haulage operators to increase and plan ahead their operations through and with the European Union, it is crucial to liberalise the transport of freight by road for bilateral operations as well as for transit.
- (5) Russia’s war of aggression against Ukraine has compromised the possibility for many Ukrainian drivers to follow the administrative procedures related to driver documents such as international driving permit applications or issuances of new documents in the event of lost or stolen documents. It is thus important to address these exceptional circumstances by providing for specific measures that exempt drivers from the requirement to present an international driving permit, recognise decisions taken by Ukraine to extend the administrative validity of driver documents and facilitate the exchange of information between the competent authorities of the two Parties with the aim of combatting fraud and forgery of driver documents.
- (6) Therefore, this time-limited Agreement with a possibility for renewal should be urgently signed on behalf of the European Union, subject to its conclusion at a later date.
- (7) In order to start deploying the beneficial effects of this Agreement on transport of freight and allow the export of Ukrainian products in particular grains, as soon as possible, the Agreement should be applied provisionally in accordance with its Article 13.

HAS ADOPTED THIS DECISION:

*Article 1*

The signing of the Agreement on the carriage of freight by road between the European Union and Ukraine, is hereby approved on behalf of the European Union, subject to the conclusion of the said Agreement.

The text of the Agreement is attached as Annex 1 to this Decision.

*Article 2*

The Council Secretariat General shall establish the instrument of full powers to sign the Agreement, subject to its conclusion, for the person(s) indicated by the Commission.

*Article 3*

The Agreement shall be applied provisionally, in accordance with Article 13 of the Agreement, as from the day of its signature, pending its entry into force.

*Article 4*

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council  
The President*



Brussels, 17.6.2022  
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ANNEX

**ANNEX**

**to the**

**Council Decision**

**on the signing, on behalf of the European Union, and provisional application of the Agreement on the carriage of freight by road between the European Union and Ukraine**

**ANNEX**

AGREEMENT  
BETWEEN THE EUROPEAN UNION  
AND UKRAINE  
ON THE CARRIAGE OF FREIGHT BY ROAD



THE EUROPEAN UNION, hereinafter also referred to as “the Union”,  
of the one part,  
and  
UKRAINE,  
of the other part,  
hereinafter referred to individually as a "Party" and collectively as the "Parties",

1. ACKNOWLEDGING the important disruptions faced by the transport sector in Ukraine following Russia's war of aggression against Ukraine.
2. RECOGNISING the unavailability of traditional transport routes in the region and the urgent need to secure supply chains and food security by using alternative routes via road, in particular for the transport of grain, fuel, foodstuffs and other goods from Ukraine to the Union.
3. DESIRING to support the Ukrainian society and economy by allowing Union and Ukrainian road haulage operators to carry out freight transport operations to and through the Ukrainian territory to the Union and vice versa when needed.
4. NOTING that the current system based on a limited number of Member States' permits does not allow the necessary flexibility for Ukrainian road haulage operators to increase their operations through and with the Union.
5. DETERMINED to ensure for the future that the conditions of market access in transport of goods by road between the Parties currently available to road transport operators established in any of the Parties will in any case not be more restrictive as compared to the situation currently existing.
6. DETERMINED to help the Ukrainian economy by liberalising transit and bilateral international carriage operations between the Union and Ukraine to allow for the necessary transport of goods and to give the same reciprocal rights to both Parties to carry out transit and bilateral international carriage operations between those territories.
7. NOTING that Article 136 of the Association Agreement between the European Union and European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (hereinafter the “Association Agreement”) provides for a coordinated and progressive liberalisation of transport between the Parties and states that conditions to that effect should be dealt with by special road transport agreements.

8. DESIRING to subject the provisions of this Agreement to the dispute settlement chapter of the Association Agreement.
9. DESIRING to support Ukrainian drivers and facilitate the application of their skills and knowledge by creating conditions to allow them to continue using their existing Ukrainian driving licences and certificates of professional competence.
10. RECOGNISING the impossibility of anticipating the duration of the impact of the Russian war of aggression on the transport sector and infrastructures in Ukraine, for which reason the Parties shall, at the latest three months before the expiry of this Agreement, consult within the Joint Committee in order to assess the need for its renewal.
11. ACKNOWLEDGING that the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) will ensure that the transport operations under this Agreement respect drivers' working conditions, fair competition and not jeopardise road safety,

HAVE AGREED AS FOLLOWS:

#### *Article 1*

##### **Objectives**

- (1) The aim of this Agreement is to temporarily facilitate road freight transport between and through the territory of the European Union and Ukraine by granting additional rights of transit and carriage of goods between the Parties to operators established in one of the Parties, following the repercussions of Russia's war of aggression against Ukraine and the significant disruptions it brings for all transport modes in the country.
- (2) This Agreement shall also include measures to facilitate the recognition of driver documents.
- (3) This Agreement shall not be construed as having the effect of diminishing or otherwise rendering the conditions of market access to international road transport services between the Parties more restrictive as compared to the situation existing on the day preceding the day of entry into force of this Agreement.

#### *Article 2*

## **Scope**

- (1) This Agreement shall apply to the transit and international carriage of goods by road between the Parties for hire or reward and is without prejudice to the application of the rules established by the European Conference of Ministers of Transport multilateral quota system within the International Transport Forum. The carriage of goods by road within a Member State of the European Union or between Member States of the European Union is outside the scope of this Agreement. Transit through the territory of the other Party for the carriage of goods between third countries is not covered by this Agreement.
- (2) This Agreement also lays down certain specific provisions concerning driver documents.

## *Article 3*

### **Definitions**

For the purposes of this Agreement the following definitions apply:

- (1) ‘party of establishment’ means the Party in which the road haulage operator is established;
- (2) ‘road haulage operator’ means any natural or legal person engaged in the transport of freight with a commercial purpose established in a Party in conformity with the law of that Party and authorised by the same Party to carry out the international transport of goods for hire or reward by means either of motor vehicles or combinations of vehicles;
- (3) ‘vehicle’ means a motor vehicle registered in one of the Parties, or a coupled combination of vehicles the motor vehicle of which at least is registered in one of the Parties, used exclusively for the carriage of goods;
- (4) ‘transit’ means the movement of vehicles, without loading or unloading goods, in the territory of a Party by a road haulage operator established in the other Party;

- (5) ‘bilateral international carriage’ means laden journeys with a vehicle, from the territory of the Party of establishment to the territory of the other Party, and vice versa, with or without transit through the territory of a third country;
- (6) ‘driver documents’ means a domestic driving permit, such as a driving licence, proving the conditions under which a driver is authorised to drive under the law of the Party issuing the document, or a certificate of professional competence, a driver qualification card or any other official document proving that its holder has the relevant qualification and training required under the law of the Party issuing the document to carry out the activity of driving in similar terms to those set out in Article 1 of Directive 2003/59/EC<sup>1</sup>.

#### *Article 4*

#### **Access to road transport services**

Road haulage operators shall be entitled to carry out the following road haulage operations:

- (a) laden journeys undertaken by a vehicle the point of departure and the point of arrival of which are in the territory of two different Parties, with or without transit through the territory of a third country;
- (b) laden journeys undertaken by a vehicle from the territory of the Party of establishment to the territory of the same Party with transit through the territory of the other Party;
- (c) laden journeys undertaken by a vehicle to or from the territory of the Party of establishment to a third country with transit through the territory of the other Party;
- (d) unladen journeys undertaken by a vehicle in conjunction with the journeys referred to in points (a), (b) and (c).

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<sup>1</sup> Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC (OJEU L 226, 10.9.2003, p. 4).

## *Article 5*

### **Driver documents**

- (1) Within the scope of this Agreement and for its entire duration, each Party shall exempt the holders of driving licences issued by the other Party from the requirement to hold an international driving permit, as defined in the Conventions on Road Traffic done at Geneva in 1949 and done at Vienna in 1968.
- (2) Ukraine shall inform the European Union and its Member States of any measures taken after 23 February 2022 to extend the administrative validity of driver documents issued by the former.
- (3) The Parties shall cooperate in order to prevent and combat fraud and forgery of driver documents. To that end, and without prejudice to the relevant rules on the protection of personal data, the competent authorities of Ukraine shall provide the relevant information to the competent authorities of the European Union and of its Member States by means of a web portal managed by the competent authorities of Ukraine or by the retrieval of data from electronic driving licences issued by Ukraine in accordance with its legislation.

In the event that the competent authorities of the European Union and of its Member States are not able to access the relevant information by appropriate electronic means, the competent authorities of Ukraine shall provide the relevant information to the competent authorities of the European Union and of its Member States by any other appropriate means.

## *Article 6*

### **Duration**

- (1) This Agreement shall apply until 30 June 2023.
- (2) At the latest three months before the expiry of the Agreement, the Parties shall consult in order to assess the need for its renewal. For this purpose, the Parties shall consult within the Joint Committee as set out in Article 7(2).

## *Article 7*

### **Joint Committee**

- (1) A Joint Committee is hereby established. It shall supervise and monitor the application and implementation of this Agreement and periodically review the functioning of this Agreement in light of its objectives.
- (2) The Joint Committee shall be convened at the request of either of its co-chairs. It shall also be convened at the latest three months before the expiry of the Agreement, in order to assess and decide the need for the continuation of this Agreement in accordance with Article 6(2). The Joint Committee shall take a decision on such continuation, including the duration thereof, as appropriate, in accordance with paragraph 5 of this Article.
- (3) The Joint Committee shall be composed of representatives of the Parties. The representatives of the Member States of the European Union may attend the meetings of the Joint Committee as observers.
- (4) The Joint Committee shall be chaired in turn by a representative of the European Union and a representative of Ukraine.
- (5) The Joint Committee shall adopt its decisions by consensus between the Parties. The decisions shall be binding on the Parties, which shall take all necessary measures to implement them.
- (6) The Joint Committee shall adopt its rules of procedure.

*Article 8*

**Dispute settlement<sup>2</sup>**

When a dispute arises between the Parties concerning the interpretation and application of this Agreement, the provisions of Chapter 14 of Title IV of the Association Agreement shall apply *mutatis mutandis*.

*Article 9*

**Fulfilment of obligations**

- (1) Each Party is fully responsible for the observance of all provisions of this Agreement.
- (2) Each Party shall ensure that all necessary measures are taken to give effect to the provisions of this Agreement, including their observance at all levels of government as well as by persons exercising delegated governmental authority. Each Party shall act in good faith to ensure that the objectives set out in this Agreement are attained.
- (3) This Agreement is an agreement within the meaning of Article 479(5) of the Association Agreement. A Party may take appropriate measures relating to this Agreement in the event of a particularly serious and substantial violation of any of the obligations described in Article 2 of the Association Agreement as essential elements, which threatens international peace and security so as to require an immediate reaction. Such appropriate measures shall be taken in accordance with Article 478 of the Association Agreement.

*Article 10*

**Safeguard measures**

- (1) Either Party may take appropriate safeguard measures if it considers that transport operations carried out by road haulage operators of the other Party pose a threat to

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<sup>2</sup> For the avoidance of doubt, neither this Article nor this Agreement shall be construed as conferring rights or imposing obligations which can be directly invoked before the domestic courts of the Parties.

road safety. Safeguard measures shall be taken in full respect of international law, shall be proportionate and limited with regard to their scope and duration, to what is strictly necessary in order to remedy the situation or maintain the balance of this Agreement. Priority shall be given to such measures that least disturb the functioning of this Agreement.

- (2) The Party concerned shall, before entering into consultations, notify the measures taken to the other Party and shall provide all relevant information.
- (3) The Parties shall immediately enter into consultations in the Joint Committee with a view to finding a mutually acceptable solution.
- (4) Any action taken under the terms of this Article shall be suspended, as soon as the Party at fault again complies with the provisions of this Agreement or when the threat to road safety ceases to exist.

#### *Article 11*

#### **Territorial application**

This Agreement shall apply, of the one part, to the Territory in which the Treaty on the European Union and the Treaty on the Functioning of the European Union apply and under the conditions laid down in those Treaties, and, of the other part, to the territory of Ukraine within its internationally recognised borders.

Its application is suspended in those areas in which the Government of Ukraine does not exercise effective control.

#### *Article 12*

#### **Termination**

- (1) Either Party may, at any time, give notice in writing, through diplomatic channels, to the other Party of its decision to terminate this Agreement. The Agreement shall be terminated two weeks after such notification, unless the notifying Party indicates a



later date for such notification to take effect. In the latter case, the date shall not be more than two months after the date of the notification.

- (2) Road haulage operators whose vehicle is in the territory of the other Party upon expiry of this Agreement shall be allowed to transit through the territory of that Party to return to the territory of the Party where they are established.
- (3) For greater certainty, the date of notification referred to in paragraph 1 means the date the notification is delivered to the other Party.
- (4) The expiry pursuant to Article 6, or the termination of this Agreement pursuant to paragraph 1 of this Article shall not have the effect of restricting the conditions for market access in road transport services between the Parties as compared to the situation existing on the day before the entry into force of this Agreement. To that effect, in the absence of a subsequent agreement between the Parties, the market access entitlements set under the bilateral agreements existing between Member States of the European Union and Ukraine on that day shall apply again as of the date of expiry or termination of this Agreement.

### *Article 13*

#### **Entry into force and provisional application**

- (1) The Parties shall ratify or approve this Agreement in accordance with their own procedures. This Agreement shall enter into force on the day on which the Parties have notified each other of the completion of their respective internal legal procedures necessary for this purpose.
- (2) Notwithstanding paragraph 1, the Union and Ukraine agree to provisionally apply this Agreement as from the day of its signature.
- (3) For the purposes of the relevant provisions of this Agreement, any reference in such provisions to the “date of entry into force of this Agreement” shall be understood to the “date from which this Agreement is provisionally applied” in accordance with paragraph 2 of this Article.

Done in Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Ukrainian, each of these texts being equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorised to this effect, have signed this Agreement.

Done at Lyon, this ..... day of ... in the year ... .

For the European Union

For Ukraine