**Proposal COM(2023) 445** of 11 July 2023 for a **Directive** of the European Parliament and of the Council **amending Council Directive 96/53/EC laying down for certain road vehicles** circulating within the Community **the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic.**

# WEIGHTS AN DIMENSIONS OF COMMERCIAL VEHICLES

cep**PolicyBrief** No. 16/2023

## LONG VERSION



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# A. Key elements of the EU proposal

## 1 Context

- Directive 96/53/EC, which is to be amended, governs
  - the maximum authorised values applicable to lorries, buses, and their trailers ("heavy-duty vehicles" HDVs) as regards
    - their dimensions (length, width, height) in national and international traffic [Annex 1, No. 1],
    - their weight in international traffic [Annex I No. 2] and
    - other characteristics such as axle weight in international traffic [Annex I No. 3 and 4],
  - the requirements under which the Member States may grant exceptions to these maximum values ("maximum value exceptions").
- Member States cannot prohibit the use of HDVs [Art. 3 (1)] that are permitted or put into circulation in another Member State and
  - that comply with the maximum authorised weights and dimensions in international traffic or
  - comply with the maximum authorised dimensions in national traffic.
- Based on the assessment carried out in 2022 [SWD(2023) 447], the Commission concludes that Directive 96/53/EC [p. 2][1]
  - contributes effectively
    - to promoting road safety,
    - to protecting road transport infrastructure and
    - to facilitating the use of HDVs in intermodal container transport;
  - however, it is inadequate with regard to
    - creating a level playing field and
    - decarbonisation.
- On 7 November 2023, the Commission published a proposal to amend Directive 92/106/EEC on a support framework for the intermodal transport of goods ("combined transport", CT) [COM(2023) 702] – closely linked to the content of this proposal to amend Directive 96/53/EC on the dimensions and weights of HDVs.

## 2 Targets

- The Commission's proposal to amend Directive 96/53/EC seeks to adapt and harmonise the requirements relating to the maximum dimensions and weights of HDVs in order to [Recital 3]
  - offer companies strong incentives for the introduction of zero-emission technologies;
  - facilitate the use of existing energy-saving solutions such as aerodynamic devices;
  - further support "intermodal" freight transport by rail, inland waterways, and sea;
  - avoid distortions of competition.
- The Commission wants to clarify the EU legislation in order to tackle the "patchwork of national rules and requirements" and the "diverging interpretations and control practices", which hinder free and efficient HDV-transport in the EU internal market and distort competition [p. 2].

## 3 Scope

- The Directive applies [amended Art. 1 in conjunction with Regulation (EU) 2018/858, Art. 4]
  - to motor vehicles for the carriage of goods with a total mass exceeding 3.5 tonnes (t) (categories $N_2$ and $N_3$) and their trailers (categories $O_3$ and $O_4$);
  - to motor vehicles for the transport of passengers with more than eight seats in addition to the driver's seat (categories $M_2$ and $M_3$) and their trailers (category O), but not to articulated buses with more than one articulated section.
- A "vehicle combination" is either a road train or an articulated vehicle [Art. 2].
  - A "road train" is a combination of motor vehicle and trailer (semi-trailers excluded).
  - An "articulated vehicle" is a combination of motor vehicle and semi-trailer.

[1] Unless otherwise indicated, references in square brackets refer to Commission Proposal COM(2023) 445.

## 4 Statement of the weight and height of interchangeable load carriers

In future, the shipper must also provide the haulier, to whom it entrusts the transport of a container or swap body, with a statement indicating – in addition to the weight – the height of the transported container or swap body [amended Art. 10f 1) (a)].

## 5 EU-wide maximum value exceptions for more efficient or zero-emission HDVs

### 5.1 Vehicle carriers

- A "vehicle carrier" is a vehicle combination designed or permanently adapted for the transport of other vehicles [amended Art. 2].
- In order to increase the efficiency of vehicle carriers with open bodies in cross-border transport and to avoid distortions of competition due to "diverging national rules on the overhanging of loads on vehicle carriers" [Recital 14] [new Art. 8c],
  - when loaded, they may exceed the maximum permissible lengths [Annex I, No. 1.1] up to a total length of 20.75 m subject to the use of approved loading supports and provided that the overhang or loading supports do not project beyond the load;
  - the load may
    - project forward over the towing vehicle by up to 0.5 m ("front overhang"), provided that the first axle of the vehicle being transported rests on the trailer body;
    - project to the rear by up to 1.5 metres ("rear overhang"), provided that the last axle of the vehicle being transported rests on the trailer body.

### 5.2 Zero-emission HDVs and vehicle combinations

- A HDV is "zero-emission" if it either has no combustion engine or emits less than 1g $CO_2$/kWh or less than 1g$CO_2$/km [Art. 2 in conjunction with Regulation (EU) 2019/1242 on $CO_2$ emission standards for new heavy-duty vehicles, Art. 3 No. 11; see cep**PolicyBrief** 13/2023].
- Zero-emission HDVs, or vehicle combinations that include zero-emission HDVs, may exceed the maximum permissible lengths [Annex I, No. 1.1] by the additional length required to accommodate the zero-emission technology, but only by a maximum of 90 cm, provided that [new Art. 10b (2)]
  - when in motion, they can turn within a circular ring area with an outer radius of 12.5 m and an inner radius of 5.3 m [Annex I, No. 1.5];
  - exceeding the maximum permissible length does not increase the load length.
- For four-axle vehicle combinations that include zero-emission HDVs, the maximum permissible weights are increased by 2 t – irrespective of the actual additional weight of the zero-emission drive [Annex I, No. 2.2].
- For five to six-axle vehicle combinations that include zero-emission HDVs, the maximum permissible weights are increased by 4 t – regardless of the actual additional weight of the zero-emission drive [Annex I, No. 2.2].

### 5.3 Longer cabs

- HDVs or vehicle combinations whose cab offers improved aerodynamics and energy efficiency as well as greater safety may exceed the maximum permissible lengths [Annex I, No. 1.1], provided that [amended Art. 9a]
  - when in motion, they can turn within a circular ring area with an outer radius of 12.5 m and an inner radius of 5.3 m [Annex I, No. 1.5];
  - exceeding the maximum permissible length does not increase the load length.
- "So that the zero-emission road transport sector is not penalised in economic terms" [Recital 15], in future any authorised excess of the maximum permissible length of cabs may also be used to install zero-emission technology [amended Art. 9a (1)].

# 6 EU-wide increase in maximum permissible values

## 6.1 Five-axle lorries with two steering axles

- For the first time, five-axle lorries with two steering axles that have a maximum weight of 40 t are authorised for operation in the EU if [Annex I, No. 2.3.6]
  - the driving axle is equipped with twin tyres and air suspension, or suspension recognised as equivalent in the EU [Annex II] or
  - each driving axle is fitted with twin tyres and the maximum weight of each axle does not exceed 9.5 t.

## 6.2 Intermodal transport

- An "intermodal transport operation" is a single transport operation [amended Art. 2]
  - involving both lorry and either rail or ship, whereby the length of the initial or final leg by road is as short as possible ("combined transport") [Directive 92/106/EEC, Art. 1, see cep**PolicyBrief** 05/2018];
  - by ship and lorry with transport of one or more containers or swap bodies with a maximum total length of up to 45 feet, provided that the length of the initial or final leg by road in the EU does not exceed 150 km. An excess is permitted in order to reach the nearest suitable transport terminal, for vehicle combinations of [Annex I, No. 2.2.2]
    - a two-axle motor vehicle and a three-axle semi-trailer;
    - a three-axle motor vehicle and a two or three-axle semi-trailer.
- For a transport operation to qualify as "intermodal", the shipper or the company organising the intermodal transport operation must ensure [new Art. 6 (7)] that the documents required for proof of the distance travelled by rail, inland waterways, or sea [Directive 92/106/EEC, Art. 3 and 7]
  - are made available on a platform for electronic freight transport information ("eFTI platform") [Regulation (EU) 2020/1056, see cep**PolicyBrief** 07/2019]
  - and made available to the authorities on the same eFTI platform on which they were recorded.
- In order to "promote the growth of the multimodal transport system" [Recital 19], the maximum height of HDVs used in intermodal transport for the carriage of containers with an external height of 9' 6'' (2.9 m) ("high-cube containers") is increased by 30 cm to 4.3 m [Annex I, No. 1.1.3].
- HDVs or vehicle combinations may exceed the specified maximum lengths [Annex I, No. 1.1] and distances [Annex I, No. 1.6] by 15 cm if they are transporting 45-foot containers or swap bodies in intermodal transport [amended Art. 10c].
- At the same time, if applicable, the increased maximum limits for cabs [Art. 9a (1) in conjunction with Annex I No. 1.5] and zero-emission HDVs [Art. 10b (2): maximum excess length of 90 cm] can be used as a starting point for measuring the 15 cm excess, provided that the requirement to be able to turn within a specified circular ring area [Annex I No. 1.5] continues to be met [amended Art. 10c].

# 7 National maximum value exceptions

## 7.1 National freight transport

- In national freight transport, Member States can already authorise HDVs or HDV-combinations that exceed maximum values, in particular for weight [Art. 4 (2) (a)].
- If a Member State allows five or six-axle vehicle combinations in national transport which exceed the maximum weight limits [Annex I, No. 2.2.1 or 2.2.2] in accordance with Art. 4 (2) (a), then it cannot prohibit the use of these vehicle combinations in international traffic which comply with the national maximum weight limits, until the end of 2034, provided that their maximum permissible weight
  - does not exceed 44 t [new Art. 4b (1) and (3)] or
  - in the case of intermodal transport, does not exceed the higher weight authorised by the Member State [new Art. 4b (2) and (3)].

### 7.2 European Modular Systems (EMS)

- A "European Modular System" (EMS) is a motor vehicle or vehicle combination connected to one or more trailers or semi-trailers, where [amended Art. 2]
  - the total combination exceeds the maximum authorised length [Annex I] and may exceed the maximum authorised weight [Annex I];
  - the motor vehicle as well as trailer and semi-trailer do not individually exceed the maximum authorised dimensions and weights [Annex I].
- Member States may authorise EMS in national and cross-border traffic after informing the Commission if they [new Art. 4 (4a)]
  - make information publicly available "in an accessible and transparent manner" regarding
    - the maximum dimensions and weights applicable to EMS in their territory;
    - the part of their road network where EMS can circulate;
  - allow the part of the network where EMS can circulate to be connected to the road network of neighbouring Member States that also allow EMS;
  - set up a monitoring system and assess the impact of the EMS on road infrastructure, road safety, the environment and on "modal cooperation".
- If a Member State allows EMS in national traffic, it cannot prohibit the cross-border use of EMS provided these do not exceed the maximum dimensions and weights specified for national traffic [new Art. 4 (4a)].

### 7.3 Indivisible loads

- In future, HDVs or vehicle combinations will be permitted to exceed maximum values not only for dimensions, as currently, but also for weights, and will be authorised to circulate [amended Art. 4 (3)] if
  - they carry indivisible loads – e.g. boats, wind turbine rotors – or are intended for this purpose, and
  - a special permit has been granted or comparable conditions have been agreed with the authorities on a case-by-case basis.
- Member States [amended Art. 4 (3)]
  - must in future ensure that the conditions under which permits or agreements are granted are not only non-discriminatory but also proportionate;
  - must in future ensure that the procedure for obtaining them is "smooth, efficient and non-discriminatory" and without unnecessary delays;
  - may not impose language requirements related to the transport of indivisible loads in future.

## 8 Trials of innovative HDVs and vehicle combinations

- Member States can already authorise, for a limited period, trials on HDVs or vehicle combinations based on new technologies or new concepts which cannot comply with the requirements of this Directive, provided that they inform the Commission [Art. 4 (5)].
- In future, these vehicles or vehicle combinations may be used not only for certain national transport operations, but also for certain international transport operations; the number of trials is, in principle, not limited [amended Art. 4 (5)].
- In future, trials with EMS will be permitted for a maximum duration of five years [amended Art. 4 (5)].
- Member States must set up a monitoring system and assess the impact of the tests with regard to [amended Art. 4 (5)]
  - road safety,
  - the road infrastructure,
  - modal cooperation, and
  - the environmental impacts on the transport system – including the impact on the market shares of the respective modes of transport ("modal split").

## 9 Maximum value exceptions in the case of a crisis

- In the case of a crisis with a significant impact on road transport or the economy or the welfare of EU citizens, in which "the normal functioning of society is significantly disrupted", Member States may grant temporary exceptions to the maximum weights and dimensions [Annex I] for vehicles in national transport, valid for a maximum of two months, provided that [new Art. 10k]
  - the public interest requires it;
  - road safety is not thereby jeopardised;
  - the exception granted is reasoned and the Commission is notified immediately.
- If such a crisis affects several Member States, the Commission may adopt implementing acts and, if the crisis persists, extend them in order to establish temporary exceptions – valid for a maximum of six months – to the limits on weights and dimensions [Annex I] for vehicles used in international transport between affected Member States [new Art. 10k].

## 10 Implementation: Weight checks and intelligent access policy

### 10.1 Weight checks

- Each Member State must carry out each calendar year at least six weight checks per million vehicle-kilometres travelled by HDVs and vehicle combinations falling within the scope of this Directive, in its territory, including an appropriate number of checks carried out at night [amended Art. 10d (2)].
- In order to identify HDVs or vehicle combinations in operation that are likely to have exceeded the maximum authorised weight and should be checked by the authorities, Member States must carry out checks using automatic systems integrated into the road infrastructure ("road-based systems") or using on-board weighing systems [Art. 10d (1)].
- If a Member State decides to set up road-based systems for weighing while travelling, it must ensure as a minimum that these are deployed in the trans-European road transport network TEN-T [Regulation (EU) No. 1315/2013] [amended Art. 10d (1)].

### 10.2 Intelligent access policy

- "Intelligent Access Policy" (IAP) means a "technical and functional framework" for managing heavy duty vehicle access to the road network by means of telematics to ensure compliance with the rules on weights and dimensions [new Art. 10da].
- Member States may, in accordance with the provisions on intelligent transport systems in road transport [Directive 2010/40/EU; see cep**PolicyBrief**], introduce intelligent access schemes to regulate, monitor and ease access by heavy duty vehicles to specific roads or areas [new Art. 10da (1) and (2)].
- Member States must ensure that data related to the smart access scheme – including restrictions on dimensions and weight – are available in digital machine-readable form and made accessible via the established national access points [Delegated Regulation (EU) 2022/670] [new Art. 10da (2)].
- The introduction of smart access schemes by a Member State must not lead to discriminatory or disproportionate restrictions on the free movement of goods and services and must not unduly impede the smooth functioning of the internal market [new Art. 10da (4)].

# B. Legal and political context

## 1 Legislative Procedure

11 July 2023 Adoption by the Commission

Open Adoption by the European Parliament and the Council, publication in the Official Journal of the European Union, entry into force

## 2 Options for Influencing the Political Process

| | |
|---|---|
| Directorates General: | GD Mobility and Transport |
| Committees of the European Parliament: | Transport and Tourism (leading), Rapporteur: Isabel García Muñoz (S&D Group, ES) |
| Federal Ministries: | DG Digital and Transport (leading) |
| Committees of the German Bundestag: | Economy (leading) |
| Decision-making mode in the Council: | Qualified majority (acceptance by 55% of Member States which make up 65% of the EU population) |

## 3 Formalities

| | |
|---|---|
| Legislative competence: | Art. 91 (1) TFEU (Transport policy) |
| Type of legislative competence: | Shared competence (Art. 4 (2) TFEU) |
| Procedure: | Art. 294 TFEU (ordinary legislative procedure) |

# C. Assessment

## 1 Economic Impact Assessment

### 1.1 Basic considerations

Specifications for the maximum permissible dimensions and weights of HDVs and vehicle combinations are essential to ensure road safety, the navigability of roundabouts, the protection of road infrastructure – such as bridges and road surfaces – and the compatibility of HDVs in intermodal freight transport – for example with the specified dimensions of tunnel profiles and wagons for HDV-transport by rail. At the same time, they are decisive for the quantity and weight of the load that can be transported per vehicle combination, which in turn directly determines both the competitiveness of different vehicle combinations with each other and with other modes of transport, as well as the extent of the negative effects of a transport operation – e.g. energy consumption, emissions, strain on the road infrastructure, etc. This applies in particular to zero-emission HDVs as they are heavier for technical reasons and require additional space to accommodate batteries or hydrogen storage systems.

With that in mind, the Commission's proposal to adapt the requirements on the maximum dimensions and weights of HDVs, and to harmonise them across the EU, with a view to preventing potential distortions of competition and providing incentives to increase efficiency and decarbonisation, is, in principle, appropriate. As the transport of goods by rail or ship is usually more energy-efficient and has less impact on people and the environment ("external costs") – for example due to pollutants, noise, congestion, land consumption and accidents – it is also appropriate to aim to further support intermodal freight transport by rail, inland waterway and sea by revising the Directive. At the same time, it is important that the granting of national exceptions – in view of national idiosyncrasies in territorial expansion, topography, infrastructure, or the historical development of the transport system – does not lead to distortions of competition and that clearer EU requirements prevent the emergence of a "patchwork" of maximum limits. The obligation for shippers to provide the transport company with a statement not only as to the weight of containers and swap bodies, but also their height, contributes to transparency and makes it easier for hauliers to fulfil their responsibility for complying with the maximum limits.

## 1.2 Harmonisation through EU-wide regulations

### 1.2.1 Increasing efficiency and promoting zero-emission HDVs

Increasing the permissible length of vehicle transporters, will in future allow longer vehicle transporters, capable of transporting nine cars, to be used throughout the EU, whereas previously only eight cars could be transported in Spain, Portugal, France, and Luxembourg due to national maximum lengths [SWD(2023) 445, p. 108]. The EU-wide definition of the maximum lengths for the front and rear overhang will eliminate the patchwork of national regulations and allow transport companies to fully utilise the maximum dimensions because loads are no longer restricted by the lowest common denominator in national regulations. All of this together will increase the efficiency of vehicle transport on the roads and contribute to decarbonisation and relieving traffic congestion, as fewer journeys are required to transport the same quantity of goods.

The future approval of five-axle lorries with a gross vehicle weight of 40 t will increase efficiency and flexibility, particularly in the construction industry,[2] because, until now, only four-axle lorries with a maximum weight of 32 t were permitted. The additional axle, which distributes the weight better, allows greater weight without putting more strain on roads and bridges, while also providing better traction on roads and unsurfaced tracks. This also enables construction sites to be supplied with materials more efficiently, as a single lorry is more manoeuvrable and easier to turn than a vehicle combination capable of transporting the same weight.[3] The higher permissible weight for lorries also improves efficiency in normal road freight transport. Another advantage is that the individual permissible axle loads can be better maintained on journeys involving several stops and partial unloading. With four-axle lorries, the permissible axle load is easily exceeded if part of the load is removed and the remaining weight rests too heavily on the front axles. Five-axle vehicles therefore lead to less wear and tear on the road infrastructure and also facilitate legally compliant transport by ensuring compliance with the permissible axle loads in the event of partial unloading. Finally, in contrast to driving a road train, driving a single lorry only requires a category C driving licence, so the use of five-axle lorries may counteract the shortage of drivers.

The proposed rule permitting the maximum length to be exceeded by the additional length required for the installation of zero-emission technology, ensures that the loading area of zero-emission HDVs or vehicle combinations is neither restricted nor extended. This creates a level playing field with conventional HDVs in terms of loading area. The specifications both regarding the specified turning ring and for the permitted maximum excess length of 90 cm also ensure that the additional length does not create an obstacle for driving on roundabouts or when turning. In terms of weight, the Commission proposal rightly even gives HDVs or vehicle combinations with zero-emission technology an advantage because the permitted additional weight – of 2 t for four-axle or 4 t for five or six-axle vehicle combinations – is not linked to the actual additional weight of the zero-emission drive. This means that a higher load weight is possible if the drive does not fully utilise the permissible additional weight, which incentivises the purchase of zero-emission vehicles without the need for government spending in the form of subsidies. In addition, the advantage will increase in the future due to the expected weight savings in batteries. At the same time, this provides incentives to reduce energy consumption through improved aerodynamics, so that even less battery capacity is required, and the weight saved will in turn increase the load weight. The additional weight also applies to intermodal transport, so that the initial and final leg can be carried out by HDVs with a gross vehicle weight of up to 48 t.

Another welcome incentive for zero-emission HDVs is that the driver's cab may be extended to the same extent for the installation of zero-emission technology, as was already the case for more energy-efficient cabs or those that had been improved in terms of aerodynamics or safety.

### 1.2.2 Promoting intermodal transport

The proposed electronic processing via an eFTI platform is appropriate in order to minimise the red tape and costs for transport companies and authorities when it comes to providing the required proof of intermodal transport. This is because, from August 2024, authorities will have to accept the legally required information on the transport of goods in electronic form where companies provide it in the designated format via an eFTI platform. This will push the industry towards using the electronic consignment note. The efficiency gains thereby

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[2] Wirtschaftskammer Österreich, Pressemitteilung vom 20. Juli 2023, WKÖ-Fachverband Güterbeförderung begrüßt Vorschlag der EU-Kommission zu Abmessungen und Gewichte.

[3] Ibid.

achieved will then be supplemented by the savings in paper-based evidence of intermodal transport and the reduction in administrative costs.

Increasing the maximum permissible height to 4.3 m for the transport of high-cube containers in intermodal transport could facilitate the transport of sea freight from seaports to the hinterland ("hinterland transport") in particular, as large volume containers are mainly used in maritime transport. This will reduce costs for shippers as around 20% of shipments are currently still not transported with special lowered trailers ("gooseneck trailers"), and therefore a special permit is required for a fee[4]. Consequently, the cost of special permits or the additional cost of purchasing gooseneck trailers can be avoided in future if the transport is carried out intermodally. However, it is unclear whether this will actually promote "the growth of the multimodal transport system" because, even if they could use an ordinary trailer for the initial or final leg and take advantage of the increased overall height, it is easier for specialised shippers to transport large containers exclusively by lorry with gooseneck trailers than to organise rail transport, for which the lower rail wagons required in many countries are only available in small numbers.

In addition, the conveying of lorries with a normal trailer and load in accompanied rail transport ("rolling road"), or just a normal trailer and load using horizontal handling techniques, fails on many routes due to the excessive overall height, which makes it impossible to drive through tunnels. The Commission gives a quantitative forecast of an increase in intermodal transport of more than 11 billion tkm as a result of this measure [Table 24 of the Impact Assessment[5]]. However, as the European Parliament's Research Service notes[6] , there is no link to the empirical evidence that supports this and it cannot be found online, so it is unclear what assumptions the model uses to arrive at such results.

The ability of transport companies, to exceed the permitted HDV-lengths for high-cube containers by 15 cm without a special permit in every single Member State, reduces their administration costs and thus the cost of freight transport overall. In this regard, it is also appropriate to take not only the maximum value exceptions granted due to an extended cab, but also those granted due to the installation of zero-emission drives as the starting point for measuring the permissible excess length of 15 cm. However, the rule should also apply to multimodal transport operations whose road transport components cover more than 150 km and therefore do not constitute intermodal transport operations within the meaning of this Directive. The decision on the mode of transport used should not be determined by policy but by the market operators themselves and thus left up to the competitive process. Especially as here – in contrast to "combined transport" – no further special subsidies are linked to the implementation of an intermodal transport operation. Only the market operators know which modes of transport in which combination provide the most efficient transport solution in each case. The requirement for very-large container transport to be transferred from road to an alternative form of transport after a maximum of 150 km is therefore inappropriate.

## 1.3 National maximum value exceptions

### 1.3.1 National freight transport

The possible use of five or six-axle vehicle combinations with a maximum permissible weight of up to 44 t in cross-border traffic until 2034, if a Member State permits higher weights [Art. 4(2)(a)], on the one hand increases the efficiency of cross-border road freight transport because the higher weight means that more goods can be transported per journey. This also saves $CO_2$ emissions. On the other hand, this will be detrimental to combined transport, which is much more efficient and generates lower external costs, if it completely eliminates the previous weight advantage of up to 4 t for the initial and final leg by road.[7] Even the harmonisation of the maximum permissible weight for international transport with the national maximum weight exception for intermodal transport will probably do little to counteract this, as very few Member States are likely to raise the maximum values applicable to combined transport to over 44 t. It is therefore important that combined transport be promoted in a different way relative to pure road freight transport in future.

4 SWD(2023) 445, p. 101.
5 Ibid.
6 EPRS (2023), Briefing: Maximum authorised weights and dimensions for certain road vehicles, p. 7.
7 Annex I No. 2.2.2 (c) and d).

### 1.3.2 European Modular Systems (EMS)

European Modular Systems (EMS), which can exceed the maximum permissible lengths and weights, may cut down transport operations due to their higher transport capacity, and thus contribute to cost savings, to alleviating the shortage of drivers and to decarbonising road freight transport. In order to strengthen the EU internal market for road freight transport, it is right to tackle the patchwork of national rules on EMS, which resulted from the fact that cross-border transport with EMS was only possible by means of bilateral agreements between Member States. The fact that each Member State that allows EMS for national transport on its territory must now also allow EMS for international transport, as long as they do not exceed its maximum dimensions and weights, means that transport companies can now cross any number of borders between Member States that have allowed EMS. At the same time, compliance with the common lowest maximum weights and dimensions applicable to EMS in the Member States concerned is assured. This gives the transport sector flexibility while at the same time complying with the maximum limits of the individual Member States.

It is in the "interests of safety of operations, transparency and legal clarity" [Recital 9] that special conditions must be met for the authorisation of EMS in national and cross-border traffic. At the same time, the provision of clear information on the maximum weights and dimensions of EMS and on which parts of the road network are authorised for EMS, is just as important for smooth cross-border traffic in the internal market as the connection of this sub-network to the corresponding sub-networks of neighbouring countries. In addition, monitoring the impact of EMS use plays a crucial role in avoiding negative effects on road safety, road infrastructure and on modal cooperation and competition. However, it is not clear from the Commission proposal how these negative effects are to be counteracted which should be specified in the course of the legislative process. This also includes – as a preventive measure – a viable strategy that can effectively counteract the cannibalisation of intermodal and combined transport.

### 1.3.3 Indivisible loads

The possibility of obtaining special permits for excess weight for the transport of indivisible loads is an important improvement because excess weight can easily be permitted in the context of a permit procedure if constructional considerations relating to the transport route allow it. This increases the flexibility of freight transport for indivisible loads. The proportionality requirements for applying for and issuing special permits are also important in this regard, as well as ensuring that the associated procedures are "smooth, efficient and non-discriminatory" and without unnecessary delays. This saves costs and time and creates a level playing field.

## 1.4 Trials of innovative HDVs and vehicle combinations

The fact that the trials of HDVs or vehicle combinations based on new technologies or new concepts ("innovative HDVs and vehicle combinations"), authorised for individual Member States in their territory, can now also be extended to certain international transport operations is conducive to evaluating the impact of these innovations on international transport. This will provide important experience for the further development of EU rules on weights and dimensions and competition issues in cross-border transport. The monitoring system to be set up and the specified criteria for evaluating the tests are also useful for this purpose because monitoring the effects on road safety, road infrastructure and modal cooperation and competition is crucial for the assessment of innovations in which HDVs and vehicle combinations exceed the maximum permissible values.

## 1.5 Maximum value exceptions in case of crises

In view of the experience of the systemic importance of freight transport for supplying the population during the Covid-19 crisis [p. 1], it makes sense to make provision for future crises and to establish rules for maximum value exceptions in the event of a crisis. The time limitation and the coordination between Member States are particularly important in this regard because exceptions should only apply for as long as they are actually necessary, and cross-border transport should be regulated in a standardised manner. The Commission proposal meets these requirements.

## 1.6 Implementation: Weight checks and intelligent access policy

### 1.6.1 Weight checks

Weight checks on HDVs whilst in motion may reduce the administration costs of the monitoring authorities and companies as vehicles no longer need to be stopped in order to be checked. At the same time, it makes sense that Member States, relying on road-based systems to support weight checking, should install them on its entire TEN-T network so that transport companies carrying out transport operations on its territory do not have to

install on-board systems for weight checking purposes. However, with such road-based systems, it must be guaranteed that the technology used is accurate and reliable as otherwise vehicles which comply with the rules will be stopped unnecessarily to be checked as a result of which the costs of the authorities and companies will increase once more.

In order to ensure a sufficient number of weight checks to enforce the Directive, a minimum number per total distance travelled by road haulage is a suitable means because the individual Member States are then required to carry out weight checks according to their respective traffic volumes. This facilitates a uniform control density throughout the internal market. At the same time, it contributes to providing a level playing field for the transport companies because they thus have the same incentive EU-wide to comply with the regulations on the size and weight of HDVs. With these standard EU rules, it is easier to ensure that infringements of maximum limits on size and weight have to be remedied and that vehicles with loads which jeopardise safety can be taken off the road immediately across the whole of the EU. However, the exact level of this minimum number of checks cannot be derived from theoretical considerations and will therefore probably be a subject of discussion in the further course of the legislative process.

### 1.6.2 Intelligent access to road sections

Common minimum conditions for the voluntary introduction of Intelligent Access Policies (IAPs) by Member States allow them to telematically control the access of HDVs or vehicle combinations to certain roads or areas for the purpose of surveillance, road safety or the prevention of infrastructure damage or congestion, without unduly hindering the internal market. This purpose is served by the requirement that these IAPs must comply with the EU rules on intelligent transport systems in road transport and that data on the relevant weights and measures must be available centrally in digital, machine-readable form. This harmonisation will enable the development of standardised interoperable communication systems between HDVs and the road infrastructure, which will in principle be available to all transport companies in the EU. It makes sense, in this regard, to oblige the Member States concerned to ensure that their IAPs do not lead to discriminatory or disproportionate restrictions on the free movement of goods and services. However, this must then also be enforced accordingly by the Commission.

# D. Legal Assessment

## 1.1 Legislative Competence

Unproblematic. In order to realise a single transport policy, the EU is empowered, in particular, to issue common rules on international transport from or to the sovereign territory of a Member State to improve traffic safety and any other "appropriate provisions" [Art. 91 Abs. 1 TFEU]. In addition, the planned legislation aims to improve the energy efficiency of HDVs and thus also to protect the climate [Art. 192 TFEU]. Finally, the legislation will also prevent competitive distortions and ensure the functioning of the internal market [Art. 114 AEUV].

## 1.2 Subsidiarity

Unproblematic. The EU is authorised to act due to the highly cross-border nature of the transport system [Art. 5 (3) TEU].

# E. Conclusion

The Commission proposal to update the EU specifications for the maximum permissible dimensions and weights of heavy-duty vehicles (HDVs), and to harmonise them across the EU, is basically appropriate in order to avoid potential distortions of competition in the EU internal market and create incentives for increasing efficiency and decarbonising the transport sector. Thus the approval of higher maximum values in favour of zero-emission HDVs, whose drive technologies such as batteries or hydrogen storage systems currently require more space and are heavier than those of conventional HDVs, ensures a level playing field with respect to the loading area and allows a higher loading weight where the additional weight of the zero-emission drive is lower. This incentivises the purchase of zero-emission HDVs.

With their additional axle and higher maximum weight of 40 t, five-axle lorries enable a higher transport volume per journey without putting greater strain on roads and bridges. At the same time, a single lorry is more manoeuvrable than a road train transporting the same quantity, especially in construction site traffic. The authorisation of vehicle combinations with a maximum weight of 44 t, and of European Modular Systems (EMS) in cross-border transport between Member States that permit such higher HDV-weights or EMS nationally, will improve efficiency and competition in road haulage and contribute to its decarbonisation.

As the transport of goods by rail or ship is usually more energy-efficient than road transport and is associated with fewer burdens for people and the environment ("external costs") – for example due to pollutants, noise, congestion, land consumption and accidents – the aim of further supporting intermodal road freight transport with rail, inland waterway and sea, through the revision of the Directive, is also appropriate. However, it is doubtful whether the increased maximum height of HDVs to 4.3m for the transport of high-cube containers in intermodal transport will actually contribute to this, if only because special rail wagons are required for the transport of containers, which are often not available, and the additional height prevents HDVs loaded with containers from being transported by rail. In addition, the efficiency gains in road freight transport, which are triggered by the increased dimensions and weights and the increased use of EMS, threaten to cannibalise the more environmentally friendly and therefore legally promoted "combined transport" – i.e. the transport of goods both by HDV and by rail or ship, where the length of the initial or final leg on the road is as short as possible – if the new competitive disadvantages are not sufficiently compensated for elsewhere. Therefore, the proposed amendment to the Directive on the dimensions and weights of HDVs [COM(2023) 445] should be closely coordinated with the proposed amendment to the Directive on combined transport [COM(2023) 702].