



## BREXIT CHECKLIST

### IRU Checklist on how to bridge the regulatory gap post Brexit for the Road Transport Industry

#### I. BACKGROUND

This IRU checklist outlines the most relevant and pressing issues for the Freight and Logistics Industry post Brexit to be addressed by the negotiators as absolute priorities. The checklist focuses on the key elements of the IRU positions on Brexit, notably [CLTM/BR5587/DKE](#) and [CLTM/BR5592/DKE](#). In terms of structure, this proposed checklist follows the positions of IRU concerning Brexit and the [notice](#) to stakeholders “Withdrawal of the United Kingdom and EU rules in the field of road transport” published by DG Move in January 2018

#### II. IRU CHECKLIST

##### 1. Transition

###### Issue:

Strong trade-focused negotiations are expected for the post-Brexit settlement. However, the negotiations are also expected to cover other domains such as customs, transport, security and financial services.

###### IRU Position:

The negotiating parties need to agree as soon as possible on a comprehensive transition regime that would safeguard the status quo for a sufficient time during which the full EU acquis would be applied, considering the complexity and potential length of trade-related negotiations. Having a comprehensive transition regime would also help to avoid challenges during the negotiation periods for both the withdrawal agreement and post-Brexit settlement. To allow businesses to prepare properly, such an agreement should be communicated to the industry.

##### 2. Access to the profession /market

###### a) Establishment and Transport Manager

###### Issue:

According to article 3 (1) (a) and 4 of the Regulation (EC) No 1071/2009, an undertaking needs to have an effective and stable establishment in the EU in order to engage in road transport operations in the EU and a transport manager who is an EU resident. Post Brexit, a UK-based and an EU-based haulier would no longer fulfil these criteria that would enable them to operate in the respective target market.

**IRU Position:**

The access to the profession criteria in the EU and its UK equivalent should be mutually recognised under any type of EU UK post-Brexit settlement. Therefore, EU and UK established undertakings wishing to operate as professional road hauliers in the UK or the EU should be able to do if they meet the following four requirements:

- (a) good repute;
- (b) appropriate financial standing;
- (c) professional competence
- (d) have an effective and stable establishment in either the UK or the EU

The criteria of the country of establishment of the haulier should prevail over the criteria of other EU member states and the UK post-Brexit. At the moment, some of the EU 28 member states request more burdensome or less demanding criteria concerning the requirement of good repute.

It is absolutely key that the UK and EU mutually accept and recognize each other's criteria in this respect.

In 2016, around 8 million freight units were moved between the UK and the EU 27 and over 12 million passengers transited through the port of Dover. The UK is the second most important trade and economic partner of the EU after the US and ahead of China. Since road transport is a key enabler of trade between the UK and the EU, such treatment is justified. The respective legal basis could be embedded either inside a comprehensive road transport agreement between the UK and the EU or in an EU-UK Free Trade Agreement.

**b) Cross-border international road haulage****Issue:**

According to Regulation (EC) No 1072/2009, the international carriage of goods in the Union is subject to the possession of a Community License. These Community Licenses can only be issued by the competent authorities in the EU, of which the UK will no longer be part post Brexit. As a consequence, Community Licenses would no longer be valid in the UK and would therefore not allow operations in each other's market anymore.

**IRU Position:**

The international carriage of goods by road for hire or reward between the UK and the EU should take place under the community licensing system laid down in EU regulation 1072/2009 and under a similar British authorisation for UK based carriers that could be developed during the transition period. Once developed, the EU and the UK should mutually recognize each other's licensing system provided that they are developed with comparable criteria and standards. There should be no restrictions to the movements of trucks for own-account purposes (whether internationally or domestically).

**c) Cabotage****Issue:**

Transport between two points situated on the territory of an individual member State of the EU by a UK-registered haulier and transport between two points situated on the territory of the UK by a vehicle registered in a Member State of the EU are not authorised under a post Brexit land transport agreement.

**IRU Position:**

Any sort of regulation concerning cabotage post Brexit should be laid down in an EU UK post-Brexit settlement. Having several independent agreements on cabotage between the UK and the individual EU member states in place, would only lead to an unnecessary legal fragmentation of the European road haulage market.

The law exempting HGVs specifically for the carriage of new cars and vans from the restrictions on cabotage should be retained as a continued support of the automotive industry in the UK. This was introduced in 2013 to allow operators from other countries such as the Republic of Ireland and the Netherlands to supplement the capacity in the UK market during the months of March and September. This exemption has been in place for many years prior to the introduction of the current EU regulations on cabotage introduced in 2010.

### 3. Certificates and driving licenses

#### a) Driving license

**Issue:**

In the EU, driving licenses are recognized between EU member states according to EU Directive 2006/126 EC.

**IRU Position:**

Post-Brexit a UK driving license should be recognized in the EU and vice versa. Such mutual recognition should be laid down either in a land transport agreement between the UK and the EU or ensured through the accession of the UK to the Vienna convention on road traffic of 1968. Therefore IRU appreciates that the UK has acceded and ratified this convention in March 2018. This is particularly important, because that set of rules regulates the mutual acceptance of foreign registered vehicles.

#### b) Certificate of professional competence for road transport managers and operators

**Issue:**

According to articles 3, 4 and 8 of EU Regulation (EC) No 1071/2009, road transport operators in the EU and transport managers employed by an undertaking engaged by a road transport operator have to hold a certificate of professional competence issued by a competent authority within an EU member state. Certificates issued by UK authorities will therefore no longer be valid post Brexit.

**IRU Position:**

EU and UK certificates of professional competence for road transport managers and operators should be mutually recognized post Brexit.

### 4. Customs

#### a) Authorised Economic Operator (AEO)

**Issue:**

Within the EU there is one AEO scheme to which UK operators will no longer be able to participate in post Brexit. Therefore authorisations granting the status of Authorised Economic Operator (AEO) and other authorisations for customs simplifications, issued by the customs authorities of the United Kingdom will no longer be valid in the customs territory of the Union and vice versa.

**IRU Position:**

The EU and the UK government should conclude and implement a Mutual Recognition Agreement (MRA) that ensures the

- a. mutual recognition of EU AEOs in the UK and the
- b. mutual recognition of UK AEOs in the EU

AEO schemes should remain voluntary in the EU and the UK post Brexit.

#### b) Transit

**Issue:**

The UK government has outlined several times their willingness to leave the EU Customs Union.

**IRU Position:**

Transport over intermediate states need to be facilitated. E.g. Irish – EU traffic should be permitted without hurdle through the UK and UK traffic to or from all intermediate EU states should also be unrestricted.

In order to ensure smooth transit movements, IRU urges the UK and the EU government to keep the UK as a member of the New Computerised Transit System (NCTS). This system is based on electronic declarations

and processing, which will help to provide good management and control of the transit of goods within the System. Alongside the NCTS, international tools on transit, notably the UN TIR system, should apply.

## **5. Other**

### **Issue:**

For the industry EU law regulating weights and dimensions are of high importance (Directive (EU) 2015/719 which amends Directive 96/53/EC) and Council Directive 94/74/EC amending Directive 92/12/EEC as they specify the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products. Both will cease to apply for UK EU transport movements post Brexit. In the case of the latter, hauliers would potentially risk to pay the excise duties on the fuel twice, notably when the truck enters the territory of the UK coming from an EU member state.

### **IRU Position:**

The content of both laws should become part of a comprehensive EU UK land transport agreement post Brexit.

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