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The road haulage cabotage

The principles

The creation of the European single market leads to the removal of restrictions on market access. This development takes place gradually taking into account the harmonization of rules, in particular in the field of social legislation and safety. Thus, the Regulation provides for a transitional regime for the cabotage operations with Chapter III (Articles 8, 9 and 10) of Regulation (EC) n°1072/2009 of 21 October 2009. French legislation incorporates these standards in Articles L 3421-3 to L 3421-10 of the Transport Code.

Definitions and access conditions

Cabotage operation is a national public transport (place of loading and place of unloading of goods located in the same country) carried out by a haulier in a Member State other than that in which it is established. Cabotage operations may only be carried out on a temporary basis.

To carry out cabotage operation, the haulier must be established in an EEA (European Economic Area) country and hold a **Community license** and a **driver attestation** if the driver is a national of a third country.

The EEA area includes the 28 Member States of the European Union as well as Iceland, Norway and Liechtenstein. The only exception concerns hauliers established in Croatia who are allowed to carry out cabotage operation in France until 30 June 2017.

Implementation of cabotage operations

The Community Regulation describes strictly the conditions to be allowed to carry out cabotage operations :

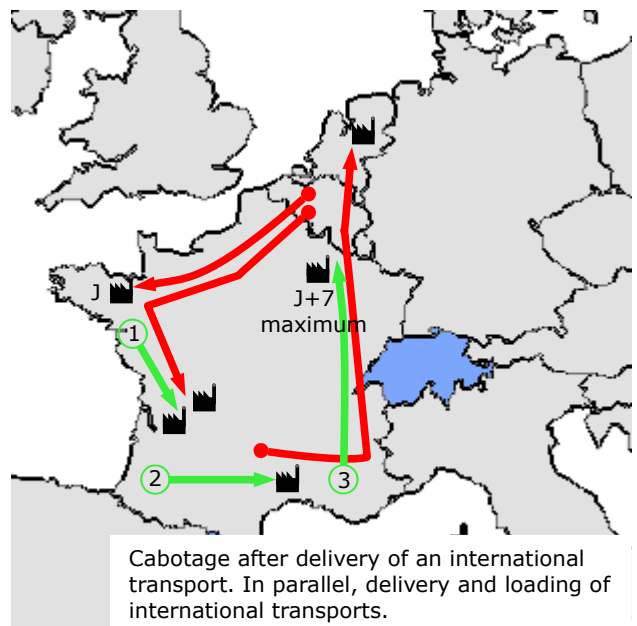
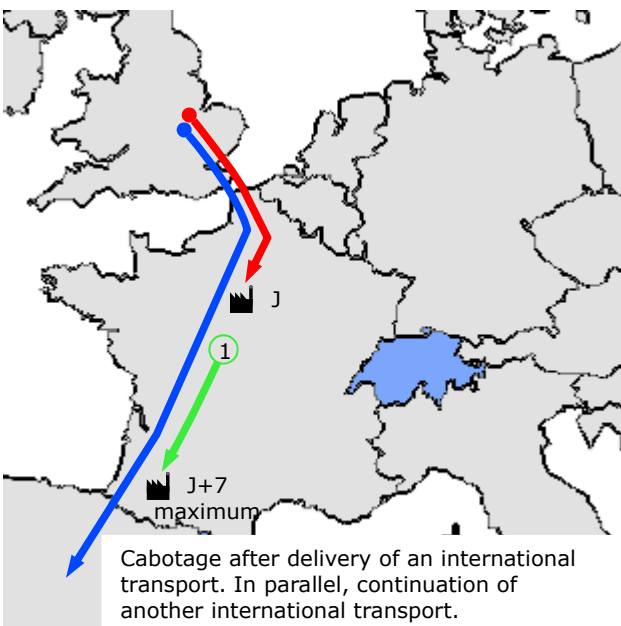
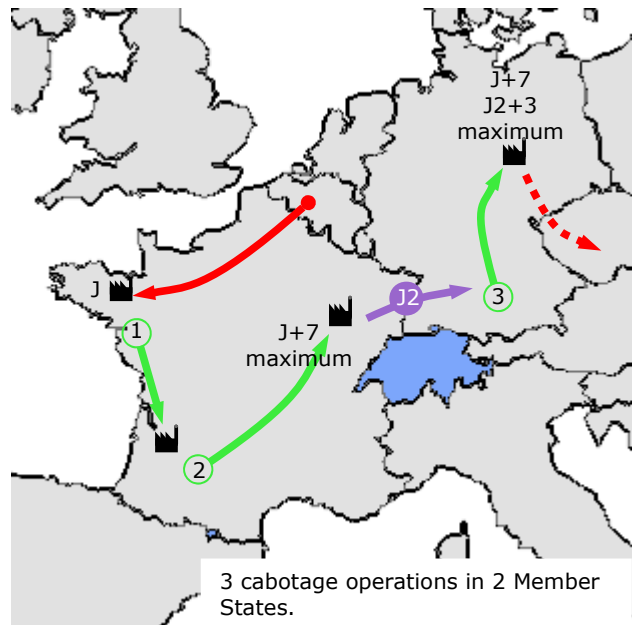
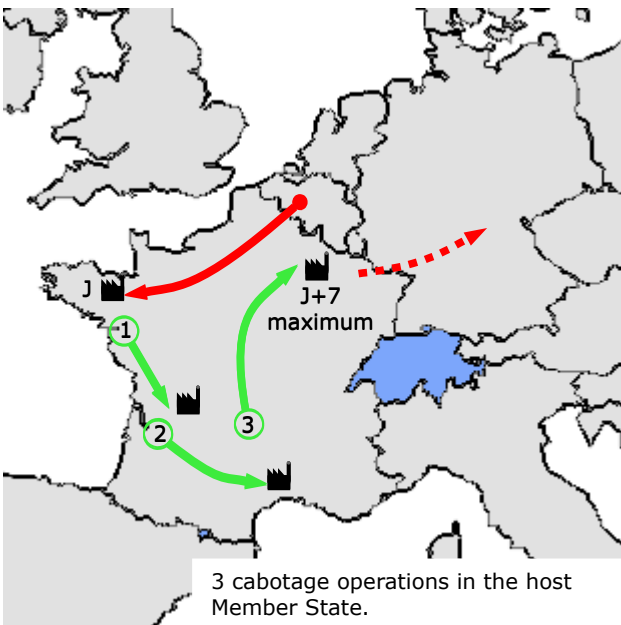
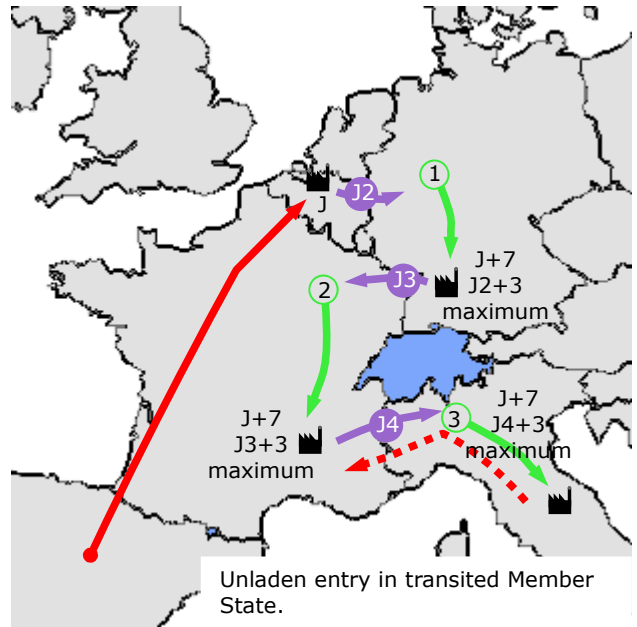
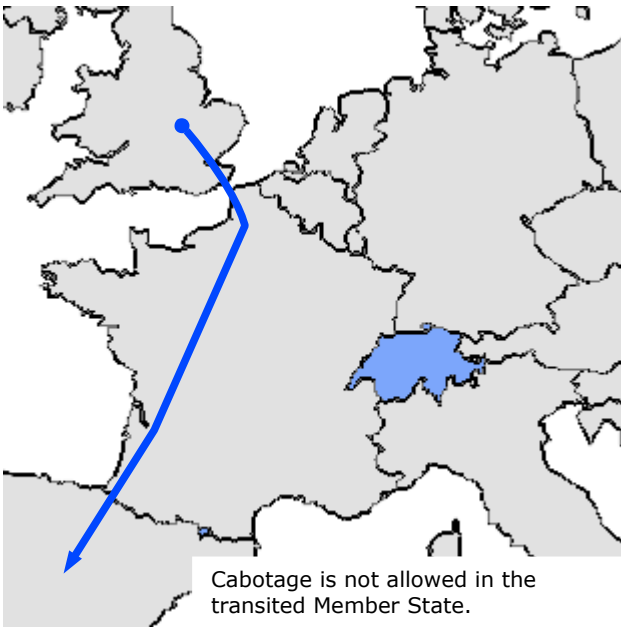
- Cabotage operations must be preceded by an **international transport** from the EEA zone or a third Country. When the international transport goods are **delivered** in the host Member State, the haulier can carry out to **3 cabotage operations** using the same motor vehicle (lorry or road tractor), the trailer or semi-trailer not being taken into account by the regulations.
- The unloading of the last cabotage operation before to leave the host Member State must take place not later than **7 days** after the unloading of the prior international transport.
- Cabotage operations may be carried out in several Member States within the **7 days** time limit between the unloading of prior international transport and the unloading of the last cabotage operation. In this case, their number shall be limited to **1 cabotage operation** per country in which the vehicle enters unladen. This transport must be carried out within **3 days** of the **unladen entry** in the Member State.

According to these conditions, 3 cases are possible :

- a vehicle carrying out an international transport who transit through a Member State. It does not enter unladen in the transited State and does not perform a delivery. Therefore, cabotage operation is prohibited in that Member State ;
- a vehicle enters unladen in a Member State and can proof the delivery of prior international transport to another Member State. It can carry out a single cabotage operation within the 7 days from the delivery of the prior international transport and 3 days from the unladen entry ;
- a loaded vehicle enters in the host Member State and performs the delivery of an international transport. It is authorized to carry out cabotage operations.

Member States may not impose additional conditions other than those provided for in Articles 8 and 9 of Regulation (EC) n°1072/2009. Consequently, it is possible in the latter case seen **to carry out cabotage operation and international transport at the same time**. The vehicle may enter in the host Member State with several international transports to that Member State or several others. Once the first international transport has been delivered, the haulier may carry out maximum of 3 cabotage operations in the host Member State while continuing to deliver or load international transports on the sole condition of the 7 days time limit between the delivery of the prior international transport and delivery of the last cabotage operation.

The following diagrams show some examples among others because the possibilities of organization are multiple.



Proofs of conformity of cabotage operations

The haulier must be able to prove compliance with the rules by retaining on board of the vehicle the proof of the prior international transport and each consecutive cabotage operation. Each document must include the following :

- the name, address and signature of the sender ;
- the name, address and signature of the haulier;
- the name and address of the consignee as well as his signature and the date of delivery once the goods have been delivered ;
- the place and date of taking over of the goods and the place designated for delivery ;
- the description in common use of the nature of the goods and the method of packing and, for dangerous goods, their generally recognized description as well as the number of packages, their special marks and numbers ;
- the gross mass of the goods or their quantity otherwise expressed ;
- the number plates of the motor vehicle and trailer.

Rules applicable to the haulier

The haulier performing a cabotage operation must comply with the regulations of the host Member State with regards to the following :

- the conditions governing the transport contract ;
- the weights and dimensions of road vehicles ;
- the requirements relating to the carriage of certain categories of goods, in particular dangerous goods, perishable foodstuffs and live animals ;
- the driving times and rest periods.

In the case of cabotage operation, the provisions of Directive n°96/71/EC of 16 December 1996 concerning the posting of workers in the framework of the provision of services shall apply. *"- You need a representative in France – contact us -"*

Particular cases

Transport without a Community license

Article 1 (5) of Regulation (EC) n°1072/2009 of 21 October 2009 provides that 5 categories of international transports may be carried out without a Community license. Such transports may also be carried out in the context of cabotage.

Cabotage operations of the following 3 categories must be carried out in accordance with the same rules as for Community license holders :

- carriage of mail as a universal service ;
- carriage of vehicles which have suffered damage or breakdown ;
- carriage of goods by motor vehicle the permissible laden mass of which, including that of trailers, does not exceed 3,5 tonnes.

Cabotage operations of the following 2 categories are carried out without any restriction :

- carriage of goods in own-account ;
- carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters.

Combined transports

Cabotage operations carried out in the context of an initial or final leg of a combined transport between EEA States are liberalized under certain conditions provided in Directive n°92/106/EEC of 7 December 1992 and Ministerial Order of 25 September 1991 amended.

Principal

The French regulations (Article L 3421-7 of the Transport Code) stipulate that a principal (haulier, freight forwarder, sender) can not entrust to a haulier more than 3 cabotage operations on the same motor vehicle over a period of 7 days from the first cabotage loading. The non-resident haulier must then prove that his vehicle has carried out an international transport before the principal entrusts him again cabotage operations within the limit of 3 operations over a period of 7 days from the unloading of the

international transport.

The principal who fails to comply with these provisions is liable to a fine of up to € 15.000. The court may impose the additional penalty of prohibiting to carry out or to entrust transport operations on the national territory for a maximum period of one year.

The principal must also retain for at least 2 years the transport contracts and any documentary evidence relating to the vehicles used. Failure to present these documents to the control officers is punishable by a 5th class fine (maximum € 1.500).

Control

In the case of a roadside check, the driver must prove the conformity of cabotage operations by presenting the consignment note of the prior international transport and the consignment note of each cabotage operation carried out and in progress. Failure to present one of these documents or the absence of a mandatory mention is punishable by a 5th class fine (maximum € 1.500).

The fact of carrying out a cabotage operation without respecting the conditions of number of operations, time limit and prior international transport is penalized by a delictual offense, the penalty of which is up to € 15.000. The immobilization of the vehicle may be imposed until termination of the infringement.

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Article written by Jean-Pierre Laffitte on 29/11/2016