

CABOTAGE GUIDELINES

Guidelines on the rules on road cabotage in Regulation No. 1072/2009 of the European Parliament and of the Council on common rules for access to the international road haulage market

1. What defines a cabotage operation

A cabotage operation is defined as national carriage for hire or reward carried out on a temporary basis in a host Member State in conformity with the regulation. Cabotage can only be carried out in connection with an international carriage.

The nature of the international carriage preceding the cabotage operation shall be such that its primary purpose is not to provide an opportunity to apply the rules for cabotage.

2. To whom do the cabotage rules apply

The cabotage rules apply to the specific vehicle, or, in the case of a coupled combination, the motor vehicle of that same vehicle.

Hauliers from the following EU and EEA countries are entitled to perform cabotage operations in Denmark: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom.

Hauliers from Croatia are covered by a ban on cabotage until the end of June 2017.

3. What is regarded as a cabotage operation

A cabotage operation is defined as national carriage of a consignment from the picking up of the goods until their delivery at the consignee as specified in the consignment note. An operation can involve several loading points or several deliveries as the case may be.

No restrictions apply to access to cabotage for hauliers operating a transport service with their own products (own account transport).

A haulier which in the Member State of registration has the right to carry out transport services for hire in motor vehicles with total permissible laden mass, including trailers, not

exceeding 3,5 tonnes, may carry out cabotage operations on the same terms as are applied to lorries.

4. The rules governing cabotage

Cabotage may only be carried out in connection with an international carriage.

- Once the goods carried in the course of the incoming international carriage have been delivered, up to 3 cabotage operations may be carried out within 7 days.
- The 7 days shall be understood as calendar days. The starting time shall be calculated from 00.00 hours of the day following the last unloading in the course of the incoming international carriage. If unloading took place at 12.00 hours on the 3rd, the seven days will thus start from 00.00 hours of the night between the 3rd and the 4th.

The last unloading in the course of the final cabotage operation must consequently take place at 24.00 hours on the seventh day at the latest.

- The incoming international carriage and the cabotage operations must be carried out with the same vehicle, or in the case of a coupled combination, the motor vehicle of that same vehicle.
- Where a vehicle enters Denmark unladen following an international carriage that has been delivered in another Member State, one cabotage operation may be carried out with that vehicle within 3 days of entry into Denmark. This cabotage operation must also be completed no later than the seventh day after the goods carried by means of the international carriage using the relevant vehicle have been delivered. This applies irrespective of the country in which the international carriage was completed.
- The 3 days shall be understood as calendar days. The starting time shall be calculated from 00.00 hours of the day following the entry into Denmark of the unladen vehicle. The last unloading in connection with this one cabotage operation must have been completed by 24.00 hours on the third day at the latest.

There is no requirement for the vehicle to return to the country of registration before being able to commence a new international carriage with 3 subsequent cabotage operations.

5. Specific requirements for an international carriage

The international carriage is a prerequisite for a cabotage operation.

Transport of empty containers and empty returns (pallets, flower transport stands or the like) into Denmark does not give access to legally perform cabotage operations, if the carriage of

the empty containers and return packaging is not considered an actual carriage, cf. § 16 b, subsection 1 in ministerial order on haulage.¹

Therefore, an international carriage does not give access to perform cabotage operations if it is not considered an actual carriage.

6. Specific requirements for cabotage operations in Denmark

A foreign haulier's transport of empty containers, empty trailers, empty returns within Denmark is regarded as transport of goods and is counted as a cabotage operation.

It should be noted that transport of empty containers, empty trailers, empty returns in connection with an international carriage to Denmark is not considered a cabotage operation. If e.g. a carriage of a container with goods is carried out between Germany and Denmark, the empty container can be driven to the designated location stated in the consignment note after unloading of the goods.

7. Documentation requirements

In vehicles with a permissible laden mass exceeding 3.5 tonnes, a certified true copy of the haulier's Community licence shall accompany the vehicle. In addition, documents for the international carriage must be available, regardless of the Member State in which it was completed, as well as documents for each subsequent cabotage operation carried out in Denmark. This requirement also applies to haulage of empty trailers, empty containers, and packaging returns in Denmark.

Documentation is to be available at the time the vehicle is stopped and is to be presented to the enforcement authorities on demand, cf. § 16 a in the ministerial order on haulage. This means that documentation should be able to be presented within a reasonable time after the stopping of the vehicle. Electronic forwarding within a quite short time is accepted. However, providing of documentation must not cause a considerable delay of the inspection of the police.

Such documentation need not necessarily be provided by one document but must include the following information about each carriage:

- a) the name, address and signature of the sender;²
- b) the name, address and signature of the haulier;¹

¹ Ministerial order nr. 724 of 27th, June 2012 on haulage, as changed by ministerial order no. 377 of 12th April, 2013 and ministerial order no. 891 of 2nd, June 2013.

² Sender and haulier's signatures can be printed or replaced by stamps.

- c) the name and address of the consignee as well as his signature and the date of delivery once the goods have been delivered;
- d) the place and the date of taking over of the goods and the place designated for delivery;
- e) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognized description, as well as the number of packages and their special marks and numbers;³
- f) the gross mass of the goods or their quantity otherwise expressed;
- g) the number plates of the motor vehicle and trailer.

The documentation can be a CMR consignment note or some other freight document, provided that it contains the requisite information. The documentation can also be in electronic form.

No additional documentation shall be required in order to prove the international carriage and the cabotage operations.

However, this does not mean that use cannot be made of other documentation as required by the transport legislation to determine if the cabotage operation was carried out in accordance with the rules.

This may be, for example, data from monitoring devices used in connection with driving and rest time rules, or road toll data.

8. Sanctions in connection with breach of cabotage rules

Breach of the cabotage rules is an offence, cf. § 17, subsection 1, nr. 3, in Law on Road Haulage.

Fines for breach of cabotage rules start at DKK 5.000 for minor infringements (e.g. lack of information about specifications of goods), at DKK 15.000 for serious infringements (e.g. lack of documentation for the international carriage) and at DKK 35.000 for very serious infringements (e.g. illegal cabotage operations).

The fine may be doubled or tripled if aggravating circumstances are present. This will be based on a specific assessment of each individual case.

The police may retain the vehicle if deemed necessary in order to ensure payment of fine and costs, or to ensure confiscation, including value confiscation, however only until the amounts mentioned are paid or secured.

³ In the case of carriage of dangerous goods, this documentation can also be shown by a separate transport document in accordance with ADR, Part 5.4, or documentation in accordance with Section 19 of Danish Executive Order (BEK) No. 617 of 26.6.09.

Depending on the circumstances, a freight forwarder will be able to be penalized for complicity in a foreign haulier's illegal cabotage operation, cf. the general rules on complicity in the Code of Penal Law, paragraph 23.

9. Further information

If additional clarification is needed, please contact:

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