1. BACKGROUND OF PAPER

This paper is mainly based on the outcomes of a study that was performed for the European Commission in 2005 and 2006. The study focused particularly on the training of enforcement officers in relation to the road transport acquis. On the basis of a cross comparison analysis of the training practices in Member States, the study aimed to offer a range of options for improving the training of enforcement officers on a national basis while at the same time promoting the advantages of further international cooperation between Member States in this respect. These two issues are of great importance because targeted, effective and efficient enforcement of the rules in place form one of the corner stones of any road safety policy.

The study was executed by NEA in co-operation with AFT-IFTIM (France), TIS.pt (Portugal), CESMAD (Czech Republic), VTL (Netherlands) and Ramboll (Belgium).

2. INTRODUCTION

The aim of this paper is to give an overview of the current status of enforcement in the area of road transport legislation, and to provide insight in the effectiveness of enforcement activities while at the same time giving some recommendations on how to better train enforcement officers in order to make them better suited for their difficult task.

In order to do so it is of interest to give a brief introduction to the role of road transport in the European Union and the main trends that are currently taking place in the European transport market. Road transport remains an important economic activity in the EU market. Freight flows are constantly increasing, particularly within new Member States. Partly due to these developments there is a tension between the short term interests of road haulage companies in a very competitive market and the more long term social pressure to increase road safety and thus truck safety as well. The fundamental challenge is to balance the interests of the sector against the importance of road safety. This balance is presently too much driven by competition, often at the cost of safety. This is proven by a consistent non-compliance with fundamental rules for weights, driver’s hours etc and the reluctance of operators to invest in safety equipment.
and training. In general society can however not blame the individual operators for this. The operators respond to a demand for their services in an environment in which price is decisive to attract customers.

Due to the difficult economic circumstances in which road transport takes place it is of key importance that a serious enforcement effort is made. Without enforcement it is safe to say that most transport operators would be focusing on the economic viability of their companies while disregarding road safety issues or the working conditions of their staff. Enforcement is therefore a prerequisite for improving the road safety situation where it involves professional transport.

Realizing this, both the European Parliament and the Council continue to advocate a strengthening of enforcement bodies and their activities in the road transport sector. Recent enlargement has only made this even more urgent as it is widely known that most of the new Member States, notwithstanding the substantial progress that has been made, still have large difficulties in implementing the Acquis in real life.

Specific difficulty for putting things into practice – and this applies for all the EU 25 Member States – is the lack of transparency as far as the competencies of enforcement bodies are concerned. Usually a significant number of competent bodies report to/fall under the competencies of different Ministries. This leads, amongst others, to a lack of co-ordination of checks within the Member States and complicates international co-operation as the activities/competencies of sister organisations do not match. However the lack of co-ordination is gradually being acknowledged more as problem area and Member States are working on improvements.

3. CURRENT ORGANIZATION OF ENFORCEMENT STRATEGIES ON A NATIONAL AND AN INTERNATIONAL LEVEL

An important part of this study was dedicated to a cross-comparison of roles and activities of the control and enforcement authorities in 25 Member States in relation to the road transport acquis.

In general, the competent authorities in relation to the enforcement of the road transport acquis are broadly similar in the various Member States. The Ministry of Transport is usually the Contracting Authority, either via a hierarchical situation relative to the other entities or through the overseeing of coordination of the various entities. The Ministry of Transport is responsible for both goods and passenger transport divided over different directorates for land transport. However other ministries are involved as well. The Ministry of Labour is usually responsible for policy and law development in the field of working hours although tachographs are usually the exclusive field of Ministries of Transport. Even though it is mainly the Ministry of Transport that is involved in policy and law
development other ministries are also drafting policy guidelines that sometimes overlap or contradict the policy set out by the Ministry of Transport. The difficulties with the number of ministries involved and the subsequent problems with different interpretations of the rules in place are clear factors that hamper enforcement activities. Furthermore there is little cooperation and coordination between the various Ministries.

The organisations in charge of the enforcement of the acquis are quite diverse. As it is in general the Ministries of Transport that are responsible for the policy and law development, on the enforcement side of the various aspects of the acquis other ministries come into play. First of all in most member states the Police, which generally resides under the responsibility of the Ministry of Interior, is mainly in charge of the enforcement of the transport acquis. Sometimes different branches of the police are involved in the enforcement of the acquis. In the extreme this leads to a situation in which 6 different police forces falling under three different Ministries are involved in the enforcement of the transport acquis. Furthermore, in most countries labour inspectors (residing under Ministries of Labour) are involved in working hours regulations as these are not exclusive for the transport sector. Other agencies are Customs, falling usually under the Ministries of Finance. If a Member State has a transport inspectorate it is usually part of the Ministry of Transport. Because of the rather large variety of organisations involved there is in general little cooperation and coordination. Many of these organisations have overlapping competencies as well while at the same time these competencies are generally not very well defined. Another problem is posed by for example the federal setup of some Member States, leading to a number of different police forces all responsible for their own region, without much coordination with the other regions.

When considering cooperation on a national level the first issue is whether such cooperation actually takes place. In general it can be said that cooperation, coordination and communication between the various policy makers and executive bodies is not entirely sufficient. This hampers a uniform and transparent approach towards the enforcement of the rules related to road transport, resulting in multiple and overlapping checks that even occasionally contradict each other. Another difficulty is posed by the fact that in most countries quite a number of organisations are involved that each have their own procedures for decision making. The diversity in organisations involved in control and enforcement also leads to diverse interpretations of the rules, in other words there is no common perception concerning the basic premises of the road transport acquis. Finally it should be mentioned that the different enforcement agencies do not always show a willingness to cooperate with other enforcement agencies because of a fear of handing over jurisdiction over certain offences.

Fortunately there are some developments that indicate at least an awareness of the limitations of the current systems and a willingness to tackle these shortcomings. These developments include the definition of clear competencies
of each control and enforcement body and linking information systems. Other developments include the organisation of central meetings in which representatives of different organisations take part to better coordinate enforcement activities and to ensure that they work according to a common policy.

The training of enforcement officers is of great importance because of the complexity of the road transport legislation, the highly technical aspects of road transport and the role of road transport in traffic safety. Another important aspect of especially international training is the fact that international training programs provide a unique opportunity to develop a common interpretation of the rules in place. Unfortunately the importance of training is not always reflected in the approach countries take towards setting up training programmes for enforcement officers. It appears that there are for example only a few countries in which the training of enforcement officers (except police officers) is defined in national law, although a number of enforcement bodies have described the need for training in company regulations.

Some countries have set up training schemes which are aimed at different target groups with different competencies focusing on either initial training for new enforcement officers or on new legislation and ongoing training such as refresher courses etc. In these cases generally budget is specifically allocated for training, and the training mostly takes place in-company and is performed by experienced staff. In other countries training takes place whenever the need presents itself. The fact that in many of the Member States it is not entirely clear what the training budget is, either because it changes every year or because there is no fixed budget at all, also gives an indication of a rather laid back approach these countries seem to take towards the training of enforcement officers.

Training practices vary considerably among the Member States. The training practices for road traffic police are normally more standardized than the practices for transport inspectors. The training practices are very diverse in contents, duration, methodologies and testing procedures. In some Member States there are minimum entry requirements for becoming a transport inspector; in others none. Some countries do organize initial training for control and enforcement officials to meet the entry requirements. Most Member States have training-on-the-job and are organizing training programmes for control and enforcement staff on a regular basis. This on-going training is necessary to discuss amendments and changes to relevant national and international legislation and regulations and its impact on control and enforcement procedures. However, there seems to be an increasing need for developing investigative skills and attitudes of control and enforcement officers to increase the capabilities of the staff for effective enforcement of the law. The diversity in training practices reflects to a certain extent the variety of responsibilities of different control and enforcement bodies in the Member States.
International cooperation is increasingly reflecting the growing international dimension of control and enforcement of the Road Transport Acquis in the Member States of the European Union. International organizations as ECR, CORTE and TISPOL, though different organizations with differing objectives, are expanding their activities and are attracting more participating members such as national control and enforcement bodies or other institutions and organizations (CORTE). The major barriers for international cooperation are mainly connected to: interpretation and application of European regulations; national regulations; administrative organisations; available human and material means; legal organisation, prosecutions and punishments; and the language barrier.

4. CONCLUSIONS AND RECOMMENDATIONS

Based on the research that was conducted within the scope of the study various recommendations can be made. The recommendations are aimed at actions that can be taken on a Member State level as well as on a European level. In some cases the recommendations are aimed at both the level of individual Member States and a more international or European level. Because of the diversified set up of the enforcement practice in Europe some recommendations might be more suited for particular Member States then others. Furthermore some of the recommendations on the European level might not necessarily be aimed at the European Commission but can also be directed at international institutions or organisations.

The practical organization of enforcement, the coordination of enforcement activities on both the national and the international level and the exchange of information between various enforcement agencies are areas where quite a lot of action can be taken. The practical organization of enforcement provides many opportunities for training, especially if one takes into account that traditionally most enforcement bodies work to at least some extent with practical training on the job.

The control and enforcement of the road transport acquis is a subject that involves a great deal of specific items. Among these are the dispersion of the authorities involved in the enforcement, their varying competencies, different interpretation of the rules in place and very different sanctioning regimes. Other issues are the difficulties of cross-border enforcement and its underlying of problems of data and information exchange. Training is one of the ways to approach these issues and provides a starting point for the development of an improved and smoother enforcement of the road transport acquis.

Recommendations on a Member State level

• First and foremost an integrated and coordinated road transport policy needs to be developed in the Member States. The study has shown that although it
is mainly the Ministries of Transport that are involved, there are quite some other ministries involved in the policy and law development of the road transport acquis as well, such as Ministries of Labour, Environment or Internal Affairs (Police). The correct and fair enforcement of the road transport acquis is hampered by this diversified setup. Better coordination among the Ministries involved in policy development in the field of transport and transport safety in a structural way will diminish the risk of uncoordinated policy guidelines which overlap or even contradict each other. A more coordinated policy would directly benefit the enforcement since it would provide clarity as to which rules need to be applied and why. In terms of creating favourable market conditions, the transport sector itself will benefit greatly from a uniform policy towards transport activities on a national level since the rules in place would be clear and straightforward for both enforcement bodies and transport companies alike. Although better coordination in a structural way among the Ministries involved in the policy and law development in some countries is not an easy task, a first step could be the establishment of national transport councils (as far as these do not exist already), consisting of key representatives from the ministries involved, charged with developing a unified transport policy with a common interpretation of EU and national legislation.

- Benefits can be gained from coordinating enforcement activities as well. The study has shown that the variety of bodies involved in the control and enforcement of the road transport acquis is quite large. A multitude of police agencies, transport and labour inspectorates, vehicle inspectorates and others all take responsibility for the control and enforcement of (parts) of the road transport acquis. Unfortunately in most countries, there is only limited coordination of the enforcement activities of the various bodies and the information that is gained from these activities is hardly exchanged between enforcement bodies. The diversified enforcement practice in most Member States hampers a fair and equal transport market on the national level since it confronts companies with repetitive and (sometimes) contradictory checks. The historical role of the different authorities poses a problem in those situations where competencies need to be handed over to another authority. Taking these issues into account, the idea of setting up an enforcement council or designating one authority who takes charge in coordinating the enforcement activities on a national level as was proposed in the process leading up to the new directive, Directive 2006/22/EC on minimum conditions for the implementation of Council regulations (EEC) No 3820/85 and No 3821/85 concerning social legislation relating to road transport activities, is not entirely unfounded. Setting up a national enforcement council or designating one enforcement authority which coordinates all enforcement activities on a national level and ensures cooperation and the proper exchange of information, would bring considerable advantages towards the proper application of road transport laws with clear enforcement policies and in creating a level playing field for transport operators. It is however very
important to note that this recommendation is not focused on limiting the number of enforcement bodies, on the contrary, different enforcement bodies have differing mandates which are not always related to the road transport acquis but that does not mean that activities can not be coordinated through one council. At a later stage these enforcement councils could be the main contact points for setting up an international EU wide network of enforcement councils that coordinate cross-border enforcement activities.

- Member States should recognize the fact that it is not sufficient to simply attach importance to enforcement in policy guidelines. If enforcement is considered to be an important aspect of a national transport policy this position should be reflected in the approach that is taken towards implementation of transport policy and control and enforcement by the inspectorates. An approach which reflects this position would designate clear cut complementary competencies for inspectorates which are recognised by all stakeholders. It would also ensure sufficient funding of inspectorates, ensuring that these are not the first organisations subject to cuts in the budget. Some inspectorates had no budget for training since the overall budget from the Ministry of Transport did not have room for this. If a Member State on the one hand advocates effective enforcement as a cornerstone of its national transport policy it should at least ensure that this effective enforcement is possible through sufficient funding. Limited financial resources are repeatedly mentioned by enforcement bodies as being one of the main difficulties in the development of training programs and international cooperation.

- Transport is more and more an international activity. Transporting goods by road from one point in the European Union to another involves numerous border crossings and Member States should therefore recognize the inherent international nature of transport operations. There are different types of problems in this area. First of all, some member states do not approach transport as an international activity and are therefore not focused on exchange of information concerning foreign companies that violate the laws. Secondly, even if a Member State approaches transport as an international activity, in most cases the inspectorate does not know which foreign organisation and which person within that organisation to contact with information on companies that time and again do not comply with the law. The establishment of an international network facilitating an exchange of information with sister organisations in other Member States would improve the quality of enforcement. The coordination committees that will be set up in the scope of the new social legislation will provide a first step in this direction. There is an overall need for the installation of a system of ‘knowledge management’ in all Member States. This system of ‘knowledge management’ may include databases of relevant information. This would greatly enhance enforcement effectiveness because the infringements of a transport company in another country will not remain without consequences in the home country.
It would allow in the future a situation in which the company whose trucks are often breaking rules and regulations in other countries might lose their license in their home base country.

- There are rather large differences in the requirements that control and enforcement staff need to meet before they are deemed qualified for entering the profession of enforcement officer ranging from high school diplomas to university degrees. As said, in most Member States the police usually does have a rather clear definition of the standards one must meet before joining the force but even these standards differ considerably among countries. The differences in the entry requirements for control and enforcement staff of the transport inspectorates are even larger. The professionalism of the enforcement authority is in particular important when it comes to its dealings with the transport sector. Transport companies are expected to meet all requirements of the European Transport Acquis, but in some countries no qualitative entry qualifications are required for the enforcement staff which is supposed to ensure compliance with that same acquis. This leads to a situation in which a transport inspector is not regarded as a knowledgeable specialist by the transport sector. A clear definition of the competencies and entry requirements for enforcement officers could provide a quality guarantee of enforcement staff while at the same time enhancing the professionalism of the enforcement authority.

Recommendations on a European level

- The European Commission should actively promote and support the establishment of an EU wide knowledge platform for control and enforcement staff of the road transport Acquis to facilitate uniformity in the interpretation of the road transport acquis and exchange of information and best practices. ECR, TISPOL and CORTE may play an important role in the management of this platform.

- Membership of international organisations such as TISPOL, ECR and CORTE brings a number of advantages to individual Member States. TISPOL represents the interest of police organisations and has therefore a broader scope then the ramifications of the transport acquis. The three main areas of interest of TISPOL are currently drink driving, speeding and seatbelts, only one of which (seatbelt wearing) is directly part of the road transport acquis. ECR represents the inspectorates of Ministries of Transport of ten countries while other countries have an observer status. CORTE is mainly focused on advisory services in relation to European transport legislation and technical matters and counts representatives from the automotive industry among its members. First of all these organisations and their work provide an excellent platform for sharing information and exchange of best practice. Furthermore these organisations are involved in policy research and development, the development and execution of joint enforcement operations and finally they all...
attach great importance to international training activities. The European Commission should endorse membership of organisations such as TISPOL (police), ECR (transport inspectorates) but also of CORTE. The EC has the possibility to promote the work of these organisations through the endorsement of international training initiatives and the exchanges of best practices.

- Based on the framework for the definition of competencies of enforcement officers that was presented as part of the study, the European Commission could define or recommend to its Member States in a Communication the minimum level of knowledge and skills of control and enforcement staff of the road transport acquis. Examples of topics that may be included are: professional context; criminal law and procedures; transport sector economy; commercial and company law; regulations regarding the transportation of goods; European labour legislation; knowledge of the control and enforcement IT tools; road traffic rules and regulations; regulations on hazardous materials; human relationships; anti-fraud activities; accounting and financial analyses; regulations regarding passenger transport; labour law; etc.

- The European Commission should strongly support Member States in achieving further internationalisation of enforcement activities. The first steps are being taken in this field at border crossings or along major transport corridors, where the enforcement bodies from various countries “track” a vehicle along the route and check it for example on rest and driving times. These activities lead to exchanges of information and best practices, which are essential elements for an international enforcement approach to make Europe’s roads safer.

- There are various types of tools that have been developed for use in control and enforcement. Some of these tools are based on the rules and regulations for transport such as legal newsletters that include explanations of legal texts with a short summary of the background of the law. Others are focused on the items that need to be controlled and include checklists of items that should be covered in an inspection. Technical control tools include the digital tachograph, container scans and other tools aimed at integrated controls. A tool that takes into account the international aspect of transport is the lexicon which translates several key regulations and transport terms in several languages. Also computer programs with specimens of the different documents used in international transport provides a useful tool for enforcement. On the European level a strategy could be implemented that combines these tools. First of all the lexicon with key concepts and terms of international transport should be developed for all languages of the European Union. Such a document would allow enforcement officers in different Member States to use the same terms during control activities thus reducing the chances for confusion and misunderstandings. First steps towards the
development of such a lexicon are already taken by individual Member States. Also a computer program with specimen of all documents used in the different Member States, driver’s licenses, operator’s licenses etc would be a great step ahead. The differences between these documents make it difficult to check for fraud and counterfeits. A regularly updated European database on licenses and other documents used in transport should support such a measure. During a training these tools could be used as a reference to practical enforcement situations offering the benefits of introducing their use while at the same time making enforcement officers aware of the possible difficulties they might encounter in their work.

- The development of multilateral training programs would be beneficial for the cooperation and exchange of information between various member states. Along with the implementation of further reaching international training programs, the establishment of a system that accredits enforcement officers would not only make the status of the enforcement officer transparent for other organizations, it would also, and that is even more important, provide proof of a high level of expertise of enforcement officers and the status that goes with that towards the transport sector.

Recommendations aimed at both Member State level and European level

- Concerning the issue of uniformity of interpretations of the regulations derived from the road transport acquis, each Member State should make a constructive effort towards finding one common interpretation which is in line with the interpretations of the rest of the Union. This requires structural communication channels between the Member States to exchange interpretation schemes. Although this appears to be a responsibility of the European Commission, which may use the instrument of providing guidance for interpretation of the road transport acquis, the role that Member States could and should play in this process is probably the main precondition for achieving one EU wide interpretation. Member States should play an active role in developing this common interpretation speaking from their national experience concerning transport operations, its organisation and the enforcement of the rules in place. The European Commission could play an important role by initiating such a process.

- When defining a training curriculum it is of great importance to first establish what the most adequate job description is of an enforcement officer. It is of key importance to find a common concept for the definition of a job description, because the organization and competencies of the different enforcement bodies in the Member States are very different. At the moment there is no common perception of what an enforcement officer should do, therefore, it is not possible to draft a training program that fits the actual practice on the roads. There are already existing job descriptions in some
member states and these should be used as a starting point. However since these job descriptions are either for police officers or for transport inspectors it is quite important to take the organizational background of the job description into account and consider the fact whether it is aimed at in-company checks or roadside checks.

• Simultaneous with the process of drafting a common job description, the actual activities of enforcement officers and the competencies these activities require, need to be defined. An alternative approach towards devising a training curriculum is to take the actual enforcement activities as a starting point and narrow these activities down to specific tasks. Each of these tasks can then be performed because an enforcement officer has the right knowledge of the law, the skills to enforce the law and the attitude to do this in an effective and fair way. A common list should be developed in which all enforcement bodies agree on basic common activities to be performed. Country specific situations can always be added when a Member State wishes to do so. This should be performed on a national level and is the responsibility of the various enforcement bodies. The international organizations such as TISPOL, ECR and CORTE should be fully involved in the drafting of this framework.

• The abovementioned tools could provide the basis for an even further reaching concept: the development of a unique methodological document for enforcement that describes a step by step approach for both on the road controls as well as company visits. Such a document would address two needs that have been expressed by various enforcement bodies during the course of the study: a uniform methodology and a document that lists all relevant terms and their mutual dependency in all languages of the European Union. Such a methodology should deal with all the steps that are part of a roadside check or company visit. This methodology would also form the basis for all training programs for enforcement officer in the Member States.