



PRESS RELEASE

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Technical Notice

Road Haulage

Background

On 31 December 2020, EU law stopped applying to Gibraltar. Therefore, as from that date, all rights and obligations arising from EU law in respect of market access for services linked to the international transport of goods by road ceased.

Position until now

Since 1 January 2021, and despite having no obligation to do so, HM Government of Gibraltar ("HMGoG") unilaterally decided to preserve domestic legislation giving effect to EU rules in this area.

This has allowed road haulage operators licensed in Spain and the EU to carry passengers by road between Spain and the EU and Gibraltar.

This was done on the basis of assurances provided by the Government of Spain that, at least in so far as the territory of Spain was concerned, reciprocal treatment for Gibraltar operators would be provided for as long as negotiations concerning Gibraltar's future relationship with the EU were ongoing.

Regrettably, and despite the fact that negotiations have not concluded, the Spanish Government has decided that, as from 1 March 2022, such reciprocal treatment in Spain is to be withdrawn.

It will be recalled that the Government met individually with different road hauliers in the run up to 31 December 2020 both to warn them of the consequences that a non-negotiated outcome would have on their capacity to operate in the EU in future and to inform them of the basis on which they would be able to temporarily to operate in Spain.

Position in Spain going forward

The Spanish border authorities have indicated to the drivers of Gibraltar-registered commercial vehicles that as from 1 March they may be able to operate in Spain if they register with "extranjeria" and have an employment contract in Spain.



There has also been an indication that EU nationals resident in Spain and working for a Gibraltar haulier would be allowed to continue to cross the border with their commercial vehicle and operate in Spain.

HMGoG, through the UK Embassy in Madrid, continues to seek greater clarity on the new requirements.

In any case, and as stated above, HMGoG maintains that the imposition of these new requirements means that Spain will not be providing reciprocal treatment to Gibraltar based hauliers as compared to the treatment afforded by Gibraltar to EU based hauliers.

The possibility of an alternative legal framework

An alternative legal framework would have been provided by the European Conference of Transport Ministers (“ECMT”) and the Agreement on the international carriage of passengers by coach and bus, known as the Interbus Agreement.

The United Kingdom applied to extend this alternative legal framework to Gibraltar in the same way as has happened with other international conventions on other matters.

However, on 18 December 2020, the EU objected to this particular extension through a Note Verbale deposited by the European Commission, on behalf of the EU, with the General Secretariat of the Council of the European Union.

Therefore the negative impact of Spain’s decision to withdraw reciprocal treatment for Gibraltar hauliers has been exacerbated by the fact that the EU has objected to the application to Gibraltar of the only other international legal framework which would have allowed for such services to continue as between Gibraltar, Spain and the EU.

Position in Gibraltar going forward

HMGoG will operate on the principle of reciprocity, which means that permits will also be required for EU and Spanish hauliers in order to be able to operate in Gibraltar.

These new permits will **NOT** be required for Gibraltar operators, who will be able to continue to operate locally as they have until now.

In light of the above, HMGoG is devising a new legal regime to regulate the operations of EU licence holders in Gibraltar. This will at first apply to EU road haulage operators of goods and may be extended to coaches and buses too at a later stage.

The new Gibraltar haulage permit regime

The new regime will see the introduction of a new permit system which will be administered by HMGoG’s Driver and Vehicle Licencing Department (the “DVLD”).



EU licensed road haulage operators **will not** be able to operate in the territory of Gibraltar unless they have been issued with a Gibraltar permit as from the date that the new regime enters into force.

In order to be issued with a local permit, and to therefore be authorised to provide services in Gibraltar, EU operators will need to satisfy the DVLD that they meet the usual conditions attached to permits of this nature such as the need to be of good repute, to have appropriate financial standing and have requisite professional competence.

However, an additional requirement will be imposed. This requirement will require EU operators to satisfy the DVLD that the business that they conduct in Gibraltar pursues an objective that is in the public interest of Gibraltar.

The criteria which will be applied by the DVLD to assess whether this test is met will be published in the draft legislation which HMGoG is already drafting.

Once the new regime enters into force, EU licensed road haulage operators which **do not** hold a local permit will be required to offload goods introduced into Gibraltar in secure areas which will be designated for these purposes in the vicinity of the land border. Once in these areas, arrangements can be made by those authorised to operate in Gibraltar to collect the goods so that they can continue with their onward journey in Gibraltar.

This will provide a degree of business for those Gibraltar based hauliers who have been excluded from operating in the EU.

HMGoG aims to be in a position to publish draft legislation setting out the regime described once the legislation, the administrative processes, the public information campaign and the logistics have been prepared. The regime will then enter into force 30 days later.

This period will allow stakeholders to further familiarise themselves with the draft legislation and start to gather the information which will be required to be submitted in support of applications. The DVLD will start to accept applications for permits from the date that the legislation enters into force.

The new proposed measures will only be introduced after allowing time for a communication campaign and for consultation between the Government and Gibraltar haulage companies.

Agreement on the future relationship with the EU

In future, should a legal framework which provides a satisfactory level of EU market access for Gibraltar operators be agreed in the context of Gibraltar's future relationship with the EU, the new regime which HMGoG plans to introduce will be abrogated.

The public will recall that in the Political Framework agreed with Spain on 31 December 2020 it was agreed that the treaty which will govern Gibraltar's future relationship with the EU will contain a chapter on road transport similar to that agreed between the UK and the EU in Trade and Cooperation Agreement.

It is deeply regrettable that, despite the political understanding reached on the application of bridging measures which would apply whilst negotiations are ongoing, it has not been possible to



maintain a practical arrangement which was of significant benefit to citizens and businesses on either side of the border.

In the meantime, and despite this setback, HMGoG continues to work, unabated, towards securing a deal with the EU that is in line with what was agreed in the Political Framework.

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