

“Fair Mobility”

Clear and balanced rules
for international transport



'FAIR MOBILITY' - CLEAR AND BALANCED RULES FOR INTERNATIONAL TRANSPORT

Clear and more balanced rules for posted workers is needed. Also in the transport sector. The new rules on posted workers and the Mobility Package proposed by the European Commission are important steps in the right direction towards better working conditions and fair competition.

As the trade union representing drivers in Denmark, we agree with the Commission, and a number of important stakeholders in the transport sector, that the rules for posted workers must be adapted to fit the highly mobile and cross-border nature of international transport – whilst maintaining the aim of ensuring clear, fair and enforceable rules.

In this context 3F Transport proposes a new approach to bridging the posting of workers directive to the transport sector. 3F Transport believes that this proposal accommodates the various concerns and needs that have been voiced in the debate since May 2017.

The proposal targets international transport. But it cannot stand alone. Clear and balanced rules for international drivers must be backed by rules on driving time and rest periods, tachographs, cabotage and combined transports, which all facilitate better enforcement in the Member States – not least digitally.



Yours sincerely,

Jan Villadsen,
President of 3F Transport

THE 'PRINCIPLE OF NEXT DESTINATION'

Third country operations are types of international transport operations, where the driver, employed in country A (the home country of the transport company), conducts an operation from country B to country C.

Such drivers are neither working from nor guaranteed to return to the country of employment. They are de facto working as posted workers. Therefore, a new set of rules should enter into force, that brings international 'third-country' carriage operations under the scope of the Posting of Workers Directive.

The individual operation begins and ends with the loading of goods. Unloading does not end the individual operation and as a consequence the individual operation may comprise an unladen journey.





EXEMPTION OF SIMPLE EXPORT-IMPORT OPERATIONS

Simple ‘export-import operations’ are types of international transport operations, that either begin or end in the Member State where the driver is employed. This includes simple operations, where a driver drives goods from country A, the country of employment (the home country of the transport company), to country B, a destination in a different EU country and directly returning to country A.

Such transport operations should be carried out as a minimum according to the employment conditions of the country of employment of the driver.

This type of international transport is not a result of business models extorting the market, it does not entail problems with ‘nomadic drivers’ and unfair business practices; neither does it cause insecurity regarding tax or insurance.



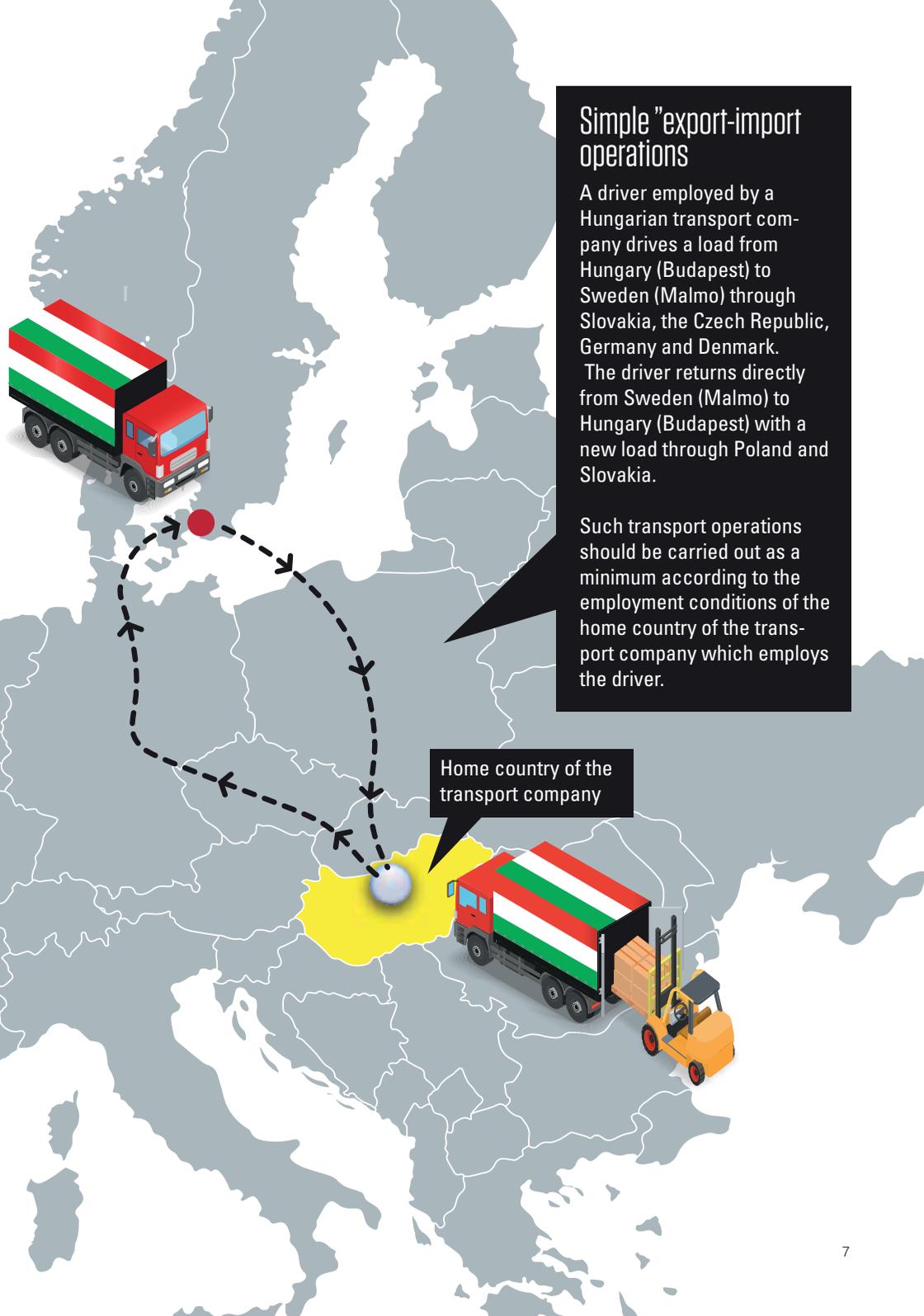
Simple "export-import operations

A driver employed by a Hungarian transport company drives a load from Hungary (Budapest) to Sweden (Malmo) through Slovakia, the Czech Republic, Germany and Denmark.

The driver returns directly from Sweden (Malmo) to Hungary (Budapest) with a new load through Poland and Slovakia.

Such transport operations should be carried out as a minimum according to the employment conditions of the home country of the transport company which employs the driver.

Home country of the transport company



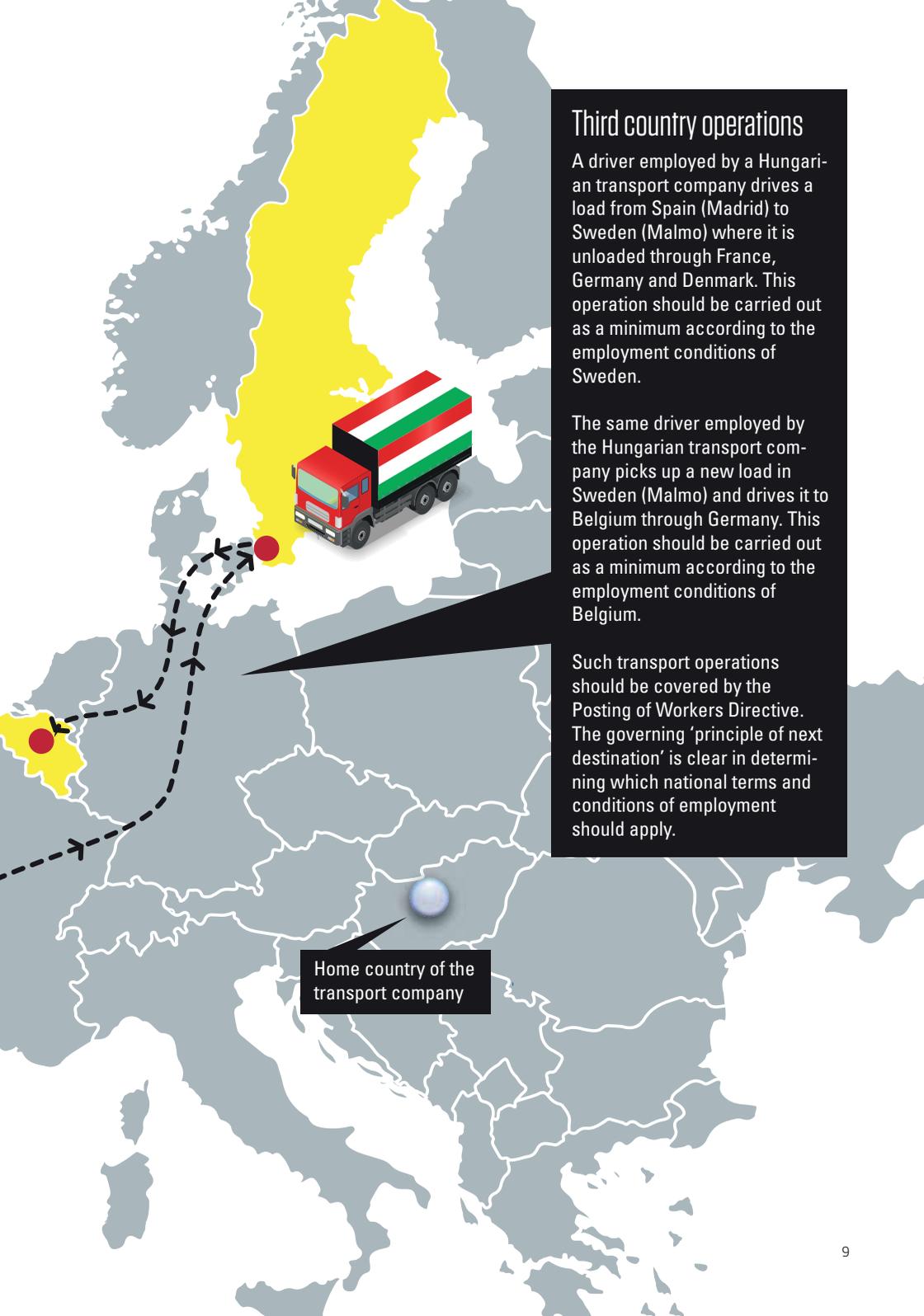
FULL COVERAGE OF OTHER 'THIRD-COUNTRY OPERATIONS'

Third country operations are types of international transport operations, where the driver, employed in country A (the home country of the transport company), conducts an operation from country B to country C.

Such drivers are neither working from nor guaranteed to return to the country of employment. They are de facto working as posted workers. Therefore, a new set of rules should enter into force, that brings international 'third-country' carriage operations under the scope of the Posting of Workers Directive.

The individual operation begins and ends with the loading of goods. Unloading does not end the individual operation and as a consequence the individual operation may comprise an unladen journey.





Third country operations

A driver employed by a Hungarian transport company drives a load from Spain (Madrid) to Sweden (Malmo) where it is unloaded through France, Germany and Denmark. This operation should be carried out as a minimum according to the employment conditions of Sweden.

The same driver employed by the Hungarian transport company picks up a new load in Sweden (Malmo) and drives it to Belgium through Germany. This operation should be carried out as a minimum according to the employment conditions of Belgium.

Such transport operations should be covered by the Posting of Workers Directive. The governing 'principle of next destination' is clear in determining which national terms and conditions of employment should apply.

Home country of the transport company

4 AIMS OF THE PROPOSAL:

1

Aim: To make rules clear and balanced with a simple and enforceable approach

Solution: Exempting ‘simple export-import operations’ from the Posting of Workers Directive. All other international transport operations (i.e. third country operations) must be covered by the Posting of Workers Directive from day 1.

In order to ensure clear rules and avoid misinterpretation of the definition of the length of an operation, any individual operation begins and ends with the loading of goods.

For each operation, the governing principle in determining which national rules applies under the Posting of Workers Directive is the ‘principle of next destination’.

2

Aim: To make rules for land transport enforceable and controllable

Solution: The logic of the ‘principle of next destination’ flows from the fact that a transport operation is planned ahead, and therefore the most natural way is to carry out control retrospectively at the point of unloading.

Today, the price of a transport operation is determined ahead, by taking into account the national prices of fuel, national road taxes, national rules and so forth. It is logic to include the driver’s remuneration in this calculation.

In terms of control, a CMR (consignment note) follows the goods in the truck today informing about the sender, recipient, and country and address of delivery.

It is proposed that in implementing the ‘principle of next destination’, it is proposed that the use of an electronic CMR (eCMR) is made mandatory and that this document includes information on the contract of employment, as well as the calculation of the driver’s remuneration.

Important for ensuring control is the use of digital tachographs, which makes it easy for national authorities to control that the recorded driving corresponds to the information provided in the eCMR.

It is therefore proposed that the phase-in and use of eCMR and digital tachographs in all vehicles happens within 3 years of the adoption of the relevant legislation.

In terms of the costs, the purchase and montage of a new digital tachograph costs maximum around 1800Eur (based on an offer from Volvo in Denmark).

3

Aim: To eliminate the most pressing incentives to establish and make use of so-called letter box companies

Solution: With the principle of ‘next destination’, the basis for the current practice of establishing and using letter-box companies to exploit loopholes in existing rules will largely be eliminated.

All EU operators can drive freely on the European market, and will enjoy the certainty of knowing which rules will apply when according to the principle of same pay for the same work at the same place. While there is no clear definition or count of so-called ‘letter box’ companies, a report from the Danish employer’s organisation ITD, show that in 2013 49 per cent of Eastern European trucks crossing the border in between Denmark and Germany are owned by Danish subsidiary companies.

4

Aim: To eliminate incentives for practices that results in so-called ‘nomad-drivers’ and to improve the basis for a better work-life balance for drivers

Solution: With the ‘principle of next destination’, the incentives for companies established with the aim to exploit loopholes in existing legislation is minimised. By applying the rules of posting of workers to all third country operations, this proposal targets the improvement of the working conditions for the so-called nomad-drivers, who will be ensured the local conditions of employment in the countries they operate in.

The issue of nomad-drivers is significant. According to a COWI-report from Denmark ”Byways in Danish Transport - COWI, 3F Transport and DTL 2016”, 88 per cent of Romanian, Bulgarian and Macedonian drivers, driving in Denmark, have been away from their home country in at least 2 weeks and live and sleep in the truck at average for 7 consecutive weeks. They never drive in their country of employment and 77 per cent of them are employed in a company registered in Romania or Bulgaria, from where they also receive instructions. The average pay is below 50 per cent of the normal pay level in Denmark.



TRANSPORT

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