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**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN
PARLIAMENT**

on the application of Regulation (EC) No 2679/98

(Text with EEA relevance)

LIST OF CONTENTS

1.	Introduction.....	4
2.	General framework.....	4
2.1.	Context and objectives.....	4
2.2.	The provisions set out in the Regulation.....	5
2.3.	The undertakings listed in the Resolution.....	6
3.	implementation of the regulation and the resolution.....	7
3.1.	By the Commission.....	7
3.2.	By the Court.....	7
3.3.	By the Member States.....	8
4.	application of the regulation.....	9
4.1.	Cases of application.....	9
4.2.	Findings.....	9
5.	assessment	11
5.1.	The weaknesses of the Regulation.....	11
5.2.	Opinions on the Commission's action.....	11
6.	main issues and avenues for further reflection on improving the regulation.....	12
6.1.	The importance of the political aspect	12
6.2.	Limits to intervention by the Commission and the Member States.....	13
6.3.	Conclusions: three possible scenarios.....	14
6.3.1.	Maintaining the status quo	14
6.3.2.	A more dynamic approach in applying the Regulation and compliance with the Resolution.....	15
6.3.3.	Amendment of the Regulation to extend and improve its scope	15

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1. INTRODUCTION

Two years after the entry into force of Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States (hereinafter referred to as "the Regulation")¹, the time has come to assess progress in its application in the light of the experience gained.

In so doing, the Commission is thus responding to the invitation which the Council and the representatives of the governments of the Member States meeting within the Council had addressed to it in their Resolution adopted on the very day of the adoption of Regulation (EC) No 2679/98 (hereinafter referred to as "the Resolution")².

2. GENERAL FRAMEWORK

2.1. Context and objectives

- The European Council in Amsterdam on 16 and 17 June 1997 noted the limits to the infringement proceedings under Article 226 EC in the case of serious obstacles to the free movement of goods requiring urgent rectification. It underlined the crucial importance of establishing *ad hoc* procedures capable of responding rapidly and effectively to the restrictions on the free movement of goods resulting from such obstacles. The European Council therefore asked the Commission to look into ways of ensuring effectively the free movement of goods, including the possibility of imposing penalties on the Member States.
- In response to this remit, the Commission presented to the Council and the European Parliament, on 18 November 1997, a proposal for a Council Regulation (EC) setting up a specific mechanism for rapid intervention by the Commission³. Under this mechanism, the Commission would have requested the Member State concerned, by means of a Decision, to take the measures necessary to remove a clear and unmistakable obstacle to the free movement of goods within the meaning of Articles 28 to 30 EC. Individuals could have had the Decision rapidly enforced before the national courts and could, by means of national redress, have obtained provisional measures, combined with penalty payments or fines, to

¹ OJ L 337 of 12.12.1998, p. 8.

² OJ L 337 of 12.12.1998, p. 10.

³ Proposal for a Council Regulation (EC) creating a mechanism whereby the Commission can intervene in order to remove certain obstacles to trade. COM (97) 619 final – 97/0330 (CNS), OJ C 10 of 15.1.1998, p. 14.

prevent extension or aggravation of the obstacle, to end the alleged infringement and, if appropriate, obtain compensation for the loss suffered.

- This proposal was not accepted by the Council⁴, which preferred a compromise solution consisting of two components:
 - a Regulation⁵ based on three approaches: an early warning mechanism in the event of an obstacle or the risk of an obstacle, an obligation on the Member States to take the necessary and proportionate measures needed to ensure the free movement of goods, and Commission action notifying the Member States and urging them to take such measures; and
 - a Resolution⁶ reaffirming the Member States' undertaking to respond rapidly to any move by the Commission and to ensure compensation for losses incurred by individuals.
- The European Parliament held several debates on the scope of the Regulation, its value added and its impact on the right to strike. It proposed three amendments⁷, one of which was accepted by the Council⁸.
- While the discussions were being held in the Council and the Parliament, the Court of Justice of the European Communities (hereinafter referred to as "the Court") handed down a judgment relating to serious obstacles to the free movement of goods⁹. In that judgment, the Court found that a Member State was failing to comply with the obligations deriving from Article 28 EC, in conjunction with Article 10 EC, "since the measures adopted to deal with actions by private individuals which create obstacles to the free movement of certain [...] products [...] were manifestly inadequate to ensure freedom of intra-Community trade in [...] products on its territory by preventing and effectively dissuading the perpetrators of the offences in question from committing and repeating them"¹⁰.
- More recently, the Court has been asked for a preliminary ruling on a national dispute involving an application for compensation for losses suffered as a result of the blocking of a motorway by a demonstration authorised by the authorities of a Member State¹¹.

2.2. The provisions set out in the Regulation

- Article 1 of the Regulation defines the obstacles to the free movement of goods on which its application is based. They must be likely to constitute a breach of Articles 28 to 30 EC¹², lead to serious disruption of the free movement of goods,

⁴ Cf. opinion of the Council's legal service of 4 February 1998, 5731/98 JUR 53.

⁵ Annex to 9348/98 MI 66.

⁶ Annexe to 8902/98.

⁷ 12752/98 PE-RE 76.

⁸ An amendment to the wording of Article 5(5) of the Regulation.

⁹ Judgment of the Court of 9 December 1997, Commission/France (C-265/95, Rec. p. I-6959), hereinafter referred to as the "strawberries" judgment.

¹⁰ Cf. summary of the judgment.

¹¹ Case C-112/00, Eugen Schmidberger, Int. Transporte / Austria.

¹² The Regulation thus applies only to intra-Community trade, and not to trade in goods between Member States and third countries, which is governed by the relevant international agreements (in particular the

cause serious loss to the individuals affected and require immediate action in order to prevent any continuation, increase or intensification of the disruption or loss in question. It is immaterial whether the obstacles are the result of action or inaction by a Member State, since the latter is defined according to the terms of the aforementioned case law of the Court.

- Article 2 of the Regulation makes it clear, however, that it does not affect the exercise of fundamental rights, including the right to strike.
- The warning mechanism is defined in Article 3 of the Regulation. It must be implemented in the event of an obstacle or the threat of an obstacle and involves the Member States transmitting information to the Commission which the latter passes on to all the other Member States.
- Article 4 of the Regulation requires the Member States, in the event of an obstacle, to take all necessary and proportionate measures so that the free movement of goods between Member States is assured in its territory, and to inform the Commission of such measures.
- Where an obstacle occurs, the Commission must, pursuant to Article 5 of the Regulation, notify the Member State concerned of the reasons for its action and request it to take the necessary and proportionate measures to remove the obstacle. This notification may be published in the OJEC and is transmitted to any party which requests it.

2.3. The undertakings listed in the Resolution

- The Member States undertook to maintain the free movement of goods and to deal rapidly with the obstacles defined in the Regulation, to inform their economic operators in this respect, to ensure that rapid and effective procedures are available to compensate any person who has been harmed as a result of such obstacles, and to take the necessary steps to have the matter discussed swiftly within the Council, should the circumstances warrant this.
- The Council and the Member States took note of the tight deadlines for infringement proceedings in cases falling within the scope of the Regulation and of the fact that the time set by the Commission for submission of observations may be as short as five working days, as may also the time for response to a reasoned opinion.
- The Council invited the Court to consider whether cases within the scope of the Regulation could be expedited and indicated its readiness to examine urgently and with an open mind any proposals to amend the Rules of Procedure of the Court of Justice.

association agreements and the GATT)).

In this context, it should be noted that the extension of the Regulation to the entire territory of the European Economic Area has still to be the subject of a Decision by the Joint Committee of the European Economic Area.

3. IMPLEMENTATION OF THE REGULATION AND THE RESOLUTION

3.1. By the Commission

- In order to ensure a rapid response, processing of cases falling within the scope of the Regulation has been centralised in one Directorate-General of the Commission¹³. That Directorate-General is responsible for coordinating the application of the Regulation with the other associated departments of the Commission (Agriculture, Fisheries, Enterprise, Transport, Legal Service, Employment and Social Affairs).
- In April 1999, the Commission invited the Member States to designate contact points so that the network thus established¹⁴ could ensure the rapid transmission of the information submitted under the early warning mechanism set up by the Regulation. The Commission also expressed its wish for such information to be transmitted to it by fax or electronically, in order to avoid the situation arising where letters arrive only after disappearance of the obstacle had disappeared. This wish was received favourably by the Member States. The same applies to the requests for information sent by the Commission to the contact points in the Member States.
- The information exchanged between the Commission and the Member States through the early warning mechanism was initially transmitted to all the Member States and distributed within the Commission by fax and, as from 2000, on the basis of an electronic distribution list.
- The Commission has worked to arrive at a common interpretation of the provisions of the Regulation throughout the Member States. To this end, at a meeting with the Member States¹⁵, a working document was distributed on the experience acquired in applying the Regulation, together with a questionnaire on various aspects relating to application of the Regulation.
- With regard to the notification provided for under Article 5 of the Regulation, the Commission noted that this is an act which must be adopted by the College. In principle, the Rules of Procedure of the Commission¹⁶ do not stand in the way of the rapid adoption of such an act. If actual practice, of which there is as yet none, shows this not to be the case, there would be grounds for looking into an adaptation of the internal rules of the Commission, while informing the Council in accordance with the provisions of point 5 of the Resolution.

3.2. By the Court

- On 4 July 2000, the Court presented to the Council a proposal for amendments to its Rules of Procedure¹⁷, one of the aims of which is to introduce an expedited procedure for references to the Court for preliminary rulings. The Court recognises that this expedited procedure applies only to disputes involving the

¹³ Internal Market Directorate-General

¹⁴ Cf. Annex 1.

¹⁵ Meeting of the chairmen of the "Internal Market package" meetings held in Brussels on 13 April 2000

¹⁶ JO L 308 du 8.12.2000, p. 26.

¹⁷ <http://europa.eu.int/cj/en/txts/propositions/txt5a.pdf>

application of the Regulation in which a swift decision on the existence of an obstacle to the free movement of goods in a Member State is required. According to the Court, "Under the provision proposed [...], the procedure is to be expedited by attaching greater importance to the oral stage of the proceedings, which will become obligatory, and by limiting the written procedure to a single exchange of written pleadings between the parties".

- With the unanimous approval of the Council having been given on 16 November 2000, the amendments to the Rules of Procedure were adopted by the Court on 28 November 2000¹⁸.

3.3. By the Member States

- Cooperation between the Member States and the Commission has been of limited effectiveness as regards setting up the network of contact points and responding to the questionnaire on seeking to arrive at a common interpretation of the Regulation.
- The process of designating contact points was lengthy, and certain Member States (Belgium and Ireland) never set them up. Moreover, when a designated contact point ceases to function, the Member States do not immediately appoint a new one.
- The questionnaire mentioned above produced no response from several Member States (Austria, Denmark, Finland, France, Greece, Italy, Luxembourg and the Netherlands).
- Nor have the Member States communicated to the Commission the arrangements for implementing the undertakings assumed in the Resolution. In particular, on the basis of the information available to the Commission, there have been difficulties in transmitting the content of the information exchanged under the early warning mechanism to the economic operators, who also consider the national compensation procedures, where they exist, to be very lengthy and complicated¹⁹.
- Nevertheless, the "Transport" Council of 20 September 2000 confirmed "the need, in the event of obstruction of traffic in a Member State, for an effective mechanism allowing undertakings, the public, the Commission and the other Member States to be immediately informed and specific measures to be taken to remedy such situations, taking into account the arrangements that have existed since 1998".

¹⁸ OJ L 322 of 19.12.2000, p. 1.

¹⁹ Common position of the International Road Transport Union , UNICE and the European Shipowners' Council, transmitted to the Commission on 1 December 2000.

4. APPLICATION OF THE REGULATION

4.1. Cases of application

- The Regulation was applied four times in 1999 and 18 times in 2000²⁰. Only the early warning mechanism was used in those cases, as it has never proved necessary to notify the Commission under the terms of Article 5 of the Regulation in view of the short duration of the incidents concerned.
- Most of the cases concerned blockades of roads in one or other Member State. Apart from a request for information addressed to all Member States on the occasion of the day of action by road hauliers in Europe on 5 October 1999, the early warning mechanism was activated for road blockades occurring in the following Member States: Belgium and France (three times each), Austria, Spain, Italy, Luxembourg, the Netherlands and Sweden. Intervention was also required four times for blockades of ports (Spain, France, Greece and Ireland). In addition, air traffic restrictions were the subject of requests for information from France and Italy.
- To these cases must be added two more special cases concerning the interception and destruction of the loads of Spanish trucks in France and Portugal. Finally, Belgium asked the Commission to apply the Regulation on the occasion of the restrictions on Belgian products in certain Member States during the dioxin crisis of 1999.

4.2. Findings

- Only Austria, Belgium, Luxembourg and Spain communicated to the Commission, under Article 3(1)(a) of the Regulation, information which they held on any obstacle or the threat of an obstacle; in most cases, no information was transmitted. The ignoring of this provision by Member States is all the more disturbing in that such information was frequently public knowledge several days before the obstacle materialised²¹.
- Where this information was sent to the Commission, it generally arrived too late to justify any action by the Commission, as the obstacle had meanwhile disappeared. The only exceptions to this tendency were the information sent by Austria about the blockade of the Brenner motorway in June 2000, and by Luxembourg about the blockade of its frontiers on the occasion of the "Transport" Council in September 2000.
- The information transmitted by the Member States to the Commission under Article 3(1)(a) and 3(2) of the Regulation raised the question of the confidentiality of any data it might contain, in particular whether information reflected complaints by identifiable economic operators, since the Commission has to transmit this information to the other Member States.

²⁰ Cf. list attached.

²¹ For instance, the announcements of road blockades during the protests against the 35-hour week or against fuel price increases.

- After examining this question with the contact points in the Member States concerned, it was established that the role of the Commission was limited to that of an intermediary, with no involvement in the content of the information transmitted by the Member State concerned, which remained wholly responsible for the consequences of divulging confidential data. The Member States approved this finding at the meeting of 13 April 2000. The Commission therefore limited itself to forwarding the information in its original form.
- The deadlines set by the Commission for the Member States to reply to its requests for information varied from case to case. In most cases, it was 48 hours. The deadline was set at 24 hours in particularly serious or urgent cases.
- The responses to requests for information seldom arrived within the deadline set. The delays ranged from several hours to several days. Reminders had to be sent in two cases (one each for France and Italy). The most serious failure occurred in the case of the day of action by road hauliers in October 1999: only 7 Member States (Austria, Finland, Germany, Luxembourg, the Netherlands and Spain) replied to the request for information sent to all Member States.
- As regards the content of the information, it must be said that the quality of the responses received by the Commission varies considerably from one Member State to another, and from one case to another. While some Member States transmit detailed information and update it as the situation concerned by the request evolves, other Member States send only laconic and brief replies. In such cases, it has been necessary to send requests for further information (France and Italy).
- Thanks to the introduction of an electronic distribution system, the Commission has ensured the rapid transmission of the information exchanged under the early warning mechanism. However, the Commission has never been informed of the action taken in response to this information transmitted by the Member States.
- The Commission has established that, in most cases, the Member States have not made provision for taking measures, in the event of an obstacle, to restore as soon as possible the free movement of goods in their territory in order to avoid the risk that the disruption or loss in question will continue, increase or intensify and that there may be a breakdown in trade and in the contractual relations which underlie it²². They have negotiated the removal of the obstacle itself in a more global framework²³, without at the same time ensuring the free movement of goods in their territory.

²² Cf. recital 8 of the Regulation.

²³ It should be noted that some of the measures taken may prove to be contrary to Community rules, in particular as regards State aid.

In this respect, it must be stressed that the measures which the Member States are called upon to adopt under the Regulation must comply with Community law. A Member State cannot therefore cite its obligations under the Regulation in order to justify measures which run counter to Community law.

5. ASSESSMENT

5.1. The weaknesses of the Regulation

- As regards the information obligations of the Member States, no penalty is provided for by the Regulation when a Member State which holds information on an obstacle does not communicate it to the Commission under Article 3(1)(a) of the Regulation, either in the event of the threat of an obstacle or where it has materialised and/or is continuing. Nor is any penalty provided for in the absence of a reply to a request from the Commission for information under Article 3(2) of the Regulation or of a notification under Article 5 of the Regulation. Finally, when a Member State takes the measures needed to ensure the free movement of goods but omits to inform the Commission under Article 4(2), the Regulation does not provide for any penalty for this absence of information.
- In general terms, monitoring Member States' compliance with their obligations as regards both informing the Commission and taking the necessary and proportionate steps to ensure the free movement of goods in the event of an obstacle should be enshrined, at the very least, in the Regulation. As things stand, depending on whether the obstacle is imminent, is materialising or has materialised, and on the type of obligation incumbent on the Member State, the provision applying is either Article 5 of the Regulation or Article 226 EC. However, the scope of Article 5 is currently too limited, since it can be applied only when the obstacle is in place.
- The definition of the scope of the Regulation, as set out in Article 1, is abstract and open to varying interpretations. Moreover, the Regulation does not specify the type and nature of the necessary and proportionate measures which the Member State must take to ensure the free movement of goods in the event of an obstacle. This question is of major importance, as the Commission has to assess whether such measures are proportionate, while taking account of two elements: the choice of measures is a matter for the Member States²⁴ and the Commission has to monitor whether the Member State is taking all the necessary and proportionate measures.
- The Regulation does not effectively resolve the question of speedy and effective complaint procedures for compensating the economic operators, as such compensation is governed the national law of the Member States, while respecting Community law and the undertakings embodied in the Resolution.

5.2. Opinions on the Commission's action

- The Member States and the European Parliament have always targeted the Commission when there were obstacles within the meaning of the Regulation. Parliamentary questions²⁵ and letters to the Commission have called on it to take firmer action. There are three strands of opinion:

²⁴ Cf. recital 6 of the Regulation.

²⁵ P-0153/00, P-0168/00, P-0331/00, P-0347/00, P-0370/00, P-0413/00 and P-2422/00

- The first merely calls for stricter application of the Regulation as it currently stands (swift despatch of notifications, activation of the ex-Article 226 procedure for failure to cooperate on the part of the Member States, etc.).
 - The second appears to disregard the fact that the Commission has only limited means of action and proposes, sometimes in emotive terms, that it intervene on the site of the obstacle, impose penalties on the Member State where the obstacle occurs, and itself call for compensation.
 - The third recommends that the Regulation should be amended to give the Commission more powers.
- In contrast to the above current of opinion, there are those who consider that, by merely sending a request for information under the early warning mechanism, the Commission is already interfering excessively in the existence and exercise of the right to strike, as recognised in the Member States - as witnessed by the questions put by some Members of the European Parliament²⁶.
 - The Commission is also targeted by individuals affected by obstacles. The fact is that the Member States have not put in place effective compensation procedures as they undertook to do in the Resolution. This means that compensation is governed by common law, which requires proof of the existence of an obstacle and of damage caused by the obstacle, and this is difficult to establish. That is why the individuals and businesses affected continue to turn to the Commission in this regard.

6. MAIN ISSUES AND AVENUES FOR FURTHER REFLECTION ON IMPROVING THE REGULATION

6.1. The importance of the political aspect

Businesses and the public in Europe continue to appreciate the advantages of the internal market, since it plays a crucial role in the general strategy of the European Union aimed at fostering competitiveness, economic growth and employment.

However, as the Council and the Member States reiterated in the Resolution, "Severe obstacles to the free movement of goods impose significant economic costs on individuals, obstruct modern distribution and production methods [... and ...] cast strong doubt on the credibility of the Single Market, the effective functioning of which has become increasingly important in view of the Economic and Monetary Union and enlargement".

Community intervention to deal with such obstacles is thus of fundamental importance and requires maximum cooperation between the Commission and the Member States.

²⁶ H-0708/99, P-3079/00 and H-0877/00

6.2. Limits to intervention by the Commission and the Member States

The experience gained in applying the Regulation has shown its limits. Although it is an instrument born of political will, the Member States have not given it any teeth by including effective means of intervention in the text.

- It has to be noted that the Commission does not itself have the necessary means to remove the obstacles. This is the task of the Member States, which are responsible, under the supervision of the Commission and the Court, for choosing the most appropriate measures in each individual case. In this context, considerations of the maintenance of public order, safeguarding internal security and the exercise of fundamental rights²⁷ play a crucial role.
- When an obstacle arises, the Regulation only allows the Commission, apart from making the request for information under Article 3, to send the notification under Article 5 and to publish it in the Official Journal of the European Communities. When the obstacle is of short duration and has come to an end, even this possibility does not exist.
- In any event, if the Member State in question has not taken the necessary and proportionate measures to ensure the free movement of goods while the obstacle was arising, the Commission can initiate infringement proceedings against it. However, this procedure is based directly on Article 226 of the Treaty and not on the Regulation. The Commission could therefore, on the basis of this provision, also initiate infringement proceedings against Member States which are not complying with their obligation of informing the Commission under the various provisions of the Regulation.

However, experience has shown that initiating infringement proceedings under the Regulation (obligations to provide information and to respond to the Commission's request and obligation to take steps to ensure the free movement of goods) runs into difficulties when the situation which gave rise to the obstacle has disappeared. These difficulties arise from the legal uncertainty as to the case law of the Court. On the one hand, as regards the active behaviour of the Member States, the Court has considered that infringement proceedings are inadmissible if the infringement has already come to an end and there is no longer any dispute between the Commission and the Member State concerned²⁸. On the other hand, as regards omissions or failure to take action on the part of the Member States, the Court has established infringements with regard to past events, even when the Member State had subsequently remedied the situation, since the steps which the Member State was supposed to take had not been taken in good time²⁹.

Whatever the case, the final outcome of such a procedure can never go beyond a judgement of the Court establishing the past infringement by the Member State

²⁷ On this point, the Commission draws attention to the adoption of the Charter of Fundamental Rights of the European Union, Article 28 of which recognises the right of workers and employers, in accordance with Community law and national legislation, to take collective action in defence of their interests, including the right to strike.

²⁸ See judgment of the Court of 31 March 1992 *Commission v. Italy* (C-362/90, ECR p. I-2353).

²⁹ See, in particular, the judgment of 1 February 2001, *Commission v. France* (C-333/99, not yet published in the Reports

concerned - a judgement which will always take some time to reach, even though the procedures before the Commission and the Court are being considerably shortened.

- Nor is the Commission in a position to demand that the damage suffered by individuals in the event of an obstacle be compensated. Under certain circumstances, such compensation is the logical consequence of failure to comply with the provisions of Community law, even if this has not been established by the Court. However, the procedures to be applied for demanding such compensation are governed by the national law of the Member States. The Member States have undertaken to ensure that, for cases covered by the Regulation, these procedures are rapid and effective, and that the economic operators are informed of them. However, the operators still complain that the procedures are too long and complicated, and that compensation is limited to operators blockaded on the territory of the Member State concerned and does not cover those who, as a result of the obstacle, were prevented from entering its territory³⁰. Moreover, when operators encounter repeated but short-lived obstacles, they prefer not to embark upon lengthy procedures where the damage suffered in each specific case is not insurmountable (although it may become so if all obstacles are taken as a whole).
- In view of this situation, the despatch by the Commission of a notification to the Member State concerned and its publication in the Official Journal of the European Communities may prove useful for economic operators in their cases before the national courts, while not in any way directly resolving all their problems.

6.3. Conclusions: three possible scenarios

6.3.1. Maintaining the status quo

Economic operators recognise that the information exchange system, as enshrined in the Regulation and the Resolution, has on the whole functioned fairly well over the last two years. However, there are doubts about the real effectiveness of these two legal instruments in preventing or eliminating obstacles. The only thing that can be established is the existence of short-lived obstacles.

The Commission feels that the existing legal framework requires genuine cooperation with the Member States at several levels:

- prompt information on the threat of obstacles,
- detailed and prompt responses to the Commission's requests for information, and
- the adoption, on an *ad hoc* basis, of supporting measures to restore the free movement of goods as soon as possible on their territory, in order to avoid the risk that the disruption or loss in question will continue, increase or intensify and that there may be a breakdown in trade and in the contractual relations which underlie it.

³⁰ The Court should investigate the questions relating to the procedural rules for the responsibility requirement in the aforementioned and pending Eugen Schmidberger case.

The Commission considers that the Member States are directly responsible for improving this cooperation.

6.3.2. *A more dynamic approach in applying the Regulation and compliance with the Resolution*

Without having to amend the existing legal framework, the Commission could take the following initiatives:

- Adoption of a vade-mecum intended for the Member States and economic operators, explaining and setting out the obligations laid down by the Regulation.
- Establishment of an ad hoc system of regular information for the Council and the European Parliament on the course of each case of application of the Regulation.
- Use of existing structures at Community level, such as the social dialogue committees³¹
- Raising awareness in the media and amongst economic operators, in particular through the creation of a specific Internet site.
- In order to maintain the main thrust of the Regulation, initiation of infringement proceedings on the basis of Article 226 EC against Member States infringing one of the provisions of the Regulation³².

6.3.3. *Amendment of the Regulation to extend and improve its scope*

In view of the unanimity rule governing any amendment to the Regulation, a broad political consensus is required if the Commission is to be given effective means commensurate with the Member States' determination to eliminate serious obstacles to the free movement of goods effectively. The Commission intends to examine certain developments which would lead to an amendment to the Regulation to improve its operation:

- Elimination of any ambiguity in the definition of obstacles requiring rapid intervention under the Regulation.
- An illustrative list of the necessary and proportionate supporting measures to restore as soon as possible the free movement of goods in the territory of the Member States, in order to avoid the risk that the disruption or loss in question will continue, increase or intensify and that there may be a breakdown in trade and in the contractual relations which underlie it.
- An extension of the scope of Article 5 of the Regulation to include situations which are not currently covered, and in particular the failure to comply with the information obligation incumbent on the Member States in the case of an obstacle.

³¹ Cf. Commission Decision 98/500/EC of 28 May 1998 on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level (OJ L 225 of 12.8.1998, p. 27).

³² I.e. failure to comply with the information obligations and failure to take the supporting measures needed to ensure the free movement of goods.

- The introduction of an accelerated procedure for bringing proceedings before the Court of Justice in the absence of a reply from a Member State to a notification under Article 5 of the Regulation, along the lines suggested by the Commission in its proposal³³.
- The insertion of a provision in the Regulation requiring Member States to adopt swift and effective ways and means of compensating individuals damaged by an obstacle.

* * *

The Commission invites the Council and the European Parliament to take note of this report.

³³ Cf. footnote on page 3.

ANNEX 1

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ANNEX 2

- 1999/I Blockade of certain highways in Belgium as a result of action by road hauliers (4 June 1999)**
The Commission, informed by the Member State concerned, asked for further information. The response indicated that the blockade had finished
- 1999/II Blockade of certain highways in Belgium as a result of action by farmers during the dioxin crisis (10 June 1999)**
As above.
- 1999/III Obstacles to the distribution and marketing of Belgian products in other Member States at the time of the dioxin crisis**
The Commission, informed by Belgium, did not request information from the other Member States under the Regulation, and limited itself to passing on the Belgian request to the contact points. The reason was that the matter had already been under examination for a month on the basis of several complaints under Article 28 EC.
- 1999/IV Day of action by road hauliers in Europe on 5 October 1999**
At its own initiative, the Commission asked for information from all Member States. It received few more or less detailed responses (FIN, L, A, S, E, D and NL), which indicated that the action had ended.
- 2000/I Blockage, as from 10 January 2000, of roads in France as a result of action by employers in the road haulage sector against the 35-hour week**
At its own initiative, the Commission asked for information. It received some replies, by which time the blockade had ended.
- 2000/II Blockade, as from 31 January, of roads in France as a result of action by trade unions in the road haulage sector against the 35-hour day**
At its own initiative, the Commission asked for information. After receiving an unsatisfactory response, it asked for further information. By the time the response to that request arrived at the Commission, and when it was considering sending a notification, the blockades had been dismantled.
- 2000/III Blockade of the Brenner motorway in Austria organised by an NGO (23-24 June 2000)**
The Commission, informed by the Member State concerned, asked for further information. The response was considered satisfactory.
- 2000/IV Pickets organised by Italian road hauliers at the Alpine frontiers as part of a strike in June 2000**
At its own initiative, the Commission asked for information. In the absence of a response, it sent another request. The response arrived late, and the blockades had meanwhile been lifted.
- 2000/V Incidents in Portugal, where Spanish trucks were attacked at Matosinhos on 23 June 2000**
The Commission, informed by Spain, asked the Portuguese authorities for further information. The response, which was considered satisfactory, pointed out the one-off nature of the incidents and the specific measures taken to avoid their recurrence.
- 2000/VI Strike of air traffic controllers in France on 26 June 2000**
At its own initiative, the Commission asked for information. It received a satisfactory response to the effect that minimum services were being maintained.
- 2000/VII Blockade of the port of Castletown in Ireland (14-16 July 2000)**
The Commission did not ask for information, as the blockade had occurred well before it had been informed about it by the Member States. It did, however, remind the Irish authorities of its obligation to provide information in the future.
- 2000/VIII Strike of Italian air traffic controllers on 27 July 2000**
As in case 2000/VI.
- 2000/IX Blockade of ports by French fishermen protesting against the increase in the price of fuel (August 2000)**

At its own initiative, the Commission asked for information. Although the response was far from satisfactory, the conflict was soon over.

2000/X Interception at the French frontier of Spanish trucks with loads of garlic (August 2000)

At its own initiative, the Commission asked for information. The response arrived late, but the incidents had been sporadic for only one day.

2000/XI Widespread blockades in France in protest at the increase in the price of fuel (August-September 2000)

At its own initiative, the Commission asked for information. Although the response was far from satisfactory, the conflict was over before a notification could be considered.

2000/XII Widespread blockades in Belgium in protest at the increase in the price of fuel (September 2000)

At its own initiative, the Commission asked for information. A satisfactory response was received after a second request for information.

2000/XIII Widespread blockades in the Netherlands in protest at the increase in the price of fuel (September 2000)

At its own initiative, the Commission asked for information. The problem had been resolved by the time of the reply.

2000/XIV Widespread blockades in Sweden in protest at the increase in the price of fuel (September 2000)

At its own initiative, the Commission asked for information. The response was satisfactory, and the conflict was soon over.

2000/XV Widespread blockades in Spain in protest at the increase in the price of fuel (October 2000)

As in the previous case.

2000/XVI Blockade of the frontier in Luxembourg at the time of a Transport Council (October 2000)

The Commission, informed by the Member State concerned, did not consider it necessary to activate the Regulation.

2000/XVII Blockade of the port of Patras in Greece in protest at the increase in the price of fuel (October 2000)

At its own initiative, the Commission asked for information. The response indicated the absence of an effective blockade.

2000/XVIII Blockade of ports by Spanish fishermen protesting against the increase in the price of fuel (October 2000)

At its own initiative, the Commission asked for information. A very detailed response was followed by further information.