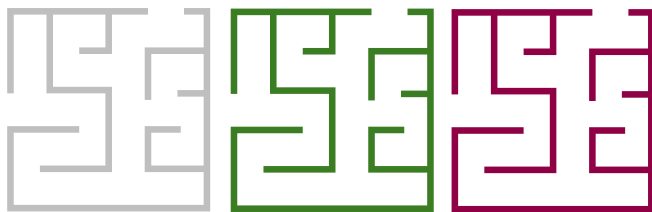




Confederation of
Organisations in
Road
Transport
Enforcement



CORTE HOW TO #2

Identify Applicable Rules for Goods Transport: EU/TCA/AETR

WHY IT IS IMPORTANT

To avoid facing challenges in court, it is important to apply the correct legal basis and rules to detect infringements and issue fines.

Depending on the journey, the following rules can apply to the transport of goods by road:

- EU regulations (Regulation (EC) No 561/2006)
- European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR)
- The EU-UK Trade and Cooperation Agreement (TCA)

HOW TO IDENTIFY WHICH RULES APPLY

<p>STEP 1: Consider the whole journey</p>	<ul style="list-style-type: none"> • Establish starting point and end point of the journey undertaken to perform transport operations. • Also consider the countries transited during the journey (including in the past, at present or in the future) as this can impact the applicable rules. • Check the journey details including loading and unloading, by examining on-board documentation and by consulting the driver. <p>The <u>whole journey is to be considered</u> and not the splits caused by national borders or rest periods.</p>
<p>STEP 2: Use the tables below to determine which rules to apply</p>	<p>In the tables below, note that:</p> <ul style="list-style-type: none"> • EU = European Union • EEA = European Economic Area (Iceland, Lichtenstein, Norway) • CH = Switzerland • AETR Country = Countries party to the AETR, except EU, EEA, CH and UK. • 3rd countries = Countries not party to the AETR • UK = United Kingdom <p>The tables relate only to international transport of Goods.</p>

TABLE 1* – When Regulation (EC) No 561/2006 applies

Start/End Country	Transit Country	End/Start Country	Applicable Law	Basis
EU	-	EU	Regulation 561	Article 2 (2) of Reg. 561
EU	-	EEA/CH	Regulation 561	Article 2 (2) of Reg. 561**
EU	EU	EU	Regulation 561	Article 2 (2) of Reg. 561
EU	EEA/CH	EU	Regulation 561	Article 2 (2) of Reg. 561**
EU	EEA/CH	EEA/CH	Regulation 561	Article 2 (2) of Reg. 561**
CH/EEA	EU	CH/EEA	Regulation 561	Article 2 (2) of Reg. 561**

NOTE: In this table, Regulation (EC) No 561/2006 applies *irrespective of the country of registration of the vehicle*, to carriage by road exclusively undertaken within the EU, Switzerland and EEA. Hence, for example, if a vehicle registered in Turkey (an AETR country) loads goods from an EU member state and unloads them in another EU member state then Regulation (EC) No 561/2006 will apply as per its **article 2(2)**.

However, in such cases, the vehicles registered in AETR countries (excluding EU Member States, the UK, Switzerland, and EEA countries – Iceland, Lichtenstein, and Norway) can continue to use tachographs as per the AETR agreement (i.e., they can use analogue or Generation 1 tachographs) and they do not need to be equipped with a Generation 2 (Smart) tachograph. This is because **Article 10** of AETR agreement requires vehicles registered in AETR contracting parties to install and use a control device as prescribed in the AETR agreement and, as the AETR has not yet been updated to introduce Generation 2 (Smart) tachographs, the obligation to fit a Generation 2 (Smart) tachographs does not apply to AETR contracting parties (except for EU Member States, Switzerland, EEA countries and the UK).

*This Table does not relate to journeys from undertakings registered in UK. Please see Table 4 for these.

**In the event the control takes place in CH, the legal basis to apply Regulation 561 would be the bilateral agreement signed between CH and EU ([Accord sur les transports terrestres; RO 0.740.72](#))

TABLE 2 - When AETR applies

Start/End Country	Transit Country	End/Start Country	Applicable Law	Basis
EU	-	AETR Country	AETR	Article 2 (3) (a) of Reg. 561 and Article 2(1) of AETR agreement
EU	AETR Country	EU	AETR	Article 2 (3) (a) of Reg. 561 and Article 2(1) of AETR agreement
EU	AETR Country	EEA/CH	AETR	Article 2 (3) (a) of Reg. 561 and Article 2(1) of AETR agreement
EU	EEA/CH	AETR Country	AETR	Article 2 (3) (a) of Reg. 561 and Article 2(1) of AETR agreement
AETR Country	EU	AETR Country	AETR	Article 2 (3) (a) of Reg. 561 and Article 2(1) of AETR agreement
EEA/CH	EU	AETR Country	AETR	Article 2 (3) (a) of Reg. 561 and Article 2(1) of AETR agreement
EU	EEA/CH/AETR Country/3rd Country	UK	AETR	Article 465 (2) of the TCA and Article 2(1) of AETR agreement
EU	UK	EEA/CH/AETR Country/3rd Country	AETR	Article 465 (2) of the TCA and Article 2(1) of AETR agreement
EEA/CH/AETR Country/3rd Country	EU	UK	AETR	Article 465 (2) of the TCA and Article 2(1) of AETR agreement

NOTE: This table relates to vehicles registered in countries which are contracting parties to the AETR (including EU countries).

TABLE 3 - When 3rd Countries (non-AETR) are involved, AETR applies with limitations

Start/End Country	Transit Country	End/Start Country	Applicable Law	Basis
EU	-	3rd Country	AETR	Article 2 (3) (b) of Regulation 561 and Article 3(1) of AETR
EU	3rd Country	EU	AETR	Article 2 (3) (b) of Regulation 561 and Article 3(1) of AETR
3rd Country	EU	3rd Country	AETR	Article 2 (3) (b) of Regulation 561 and Article 3(1) of AETR
EU	3rd Country	EEA/CH	AETR	Article 2 (3) (b) of Regulation 561 and Article 3(1) of AETR
EU	EEA/CH	3rd Country	AETR	Article 2 (3) (b) of Regulation 561 and Article 3(1) of AETR
EEA/CH	EU	3rd Country	AETR	Article 2 (3) (b) of Regulation 561 and Article 3(1) of AETR

NOTE: This table relates to vehicles registered in a 3rd country which is not a contracting party to the AETR.

AETR applies with the two following limitations:

1. AETR applies only on the territory of AETR contracting parties (including EU countries).
2. Article 3 (1) of the AETR says that ‘with respect to vehicles registered in a third country, that are controlled in AETR territory (including EU) the conditions applied should not be less strict than those laid down in articles 5, 6, 7, 8, 9 and 10 of AETR’. As per Article 3(2) (a) and (b) of AETR, vehicles registered in third countries can have, in lieu of a control device conforming to the specifications in the Annex to AETR, daily record sheets completed manually by each crew member for the period from the moment of entry into the territory of the first Contracting Party. For this purpose, each crew member shall write on his record sheet the information concerning his professional activities and rest periods, using the appropriate graphic symbols as defined in article 12 of the Annex to this Agreement’.

Table 4 - When TCA applies

Start/End Country	Transit Country	End/Start Country	Applicable Law	Basis
EU	-	UK	TCA	Article 462 (1) (a) and Article 1(2) of Section 2 of Part B of Annex 31 to the TCA
EU	UK	EU	TCA	Article 462 (1) (b) and Article 1(2) of Section 2 of Part B of Annex 31 to the TCA
UK	EU	UK	TCA	Article 462 (1) (b) and Article 1(2) of Section 2 of Part B of Annex 31 to the TCA

NOTE: This table relates only to journeys undertaken by *vehicles from undertakings registered in either EU or UK*, which are the contracting parties to the TCA. TCA applies only on the territories of TCA contracting parties.

Article 462 of TCA allows the undertakings from each party to conduct limited number of cross-trade and cabotage transport operations within the territory of the other. For such transport operations TCA would apply as per *Article 1(2) of Section 2 of Part B of Annex 31 to the TCA*.

Hence for example, if a vehicle from UK undertaking performs an operation from one EU country to another (a cross-trade operation) or an operation within an EU member state (a cabotage operation) then this is possible as per Article 462 of TCA subject to certain limitations.

In such cases TCA would apply.

Legal Text and References:

- Article 2(2) of Regulation (EC) No 561/2006** – This Regulation shall apply, irrespective of the country of registration of the vehicle, to carriage by road undertaken: (a) exclusively within the Community; or (b) between the Community, Switzerland and the countries party to the Agreement on the European Economic Area.
- Article 2(3) of Regulation (EC) No 561/2006** – The AETR shall apply, instead of this Regulation, to international road transport operations undertaken in part outside the areas mentioned in paragraph 2, to: (a) vehicles registered in the Community or in countries which are contracting parties to the AETR, for the whole journey; (b) vehicles registered in a third country which is not a contracting party to the AETR, only for the part of the journey on the territory of the Community or of countries which are contracting parties to the AETR.
- Article 3 (1) of AETR** (*Application of some provisions of the Agreement to road transport performed by vehicles registered in the territories of non-Contracting States*) - Each Contracting Party shall apply in its territory, in respect of international road transport performed by any vehicle registered in the

territory of a State which is not a Contracting Party to this Agreement, provisions not less strict than those laid down in articles 5, 6, 7, 8, 9 and 10 of this Agreement.

4. **Article 3 (2) (a) and (b) of AETR** – (a) However, it shall be open to any Contracting Party, in the case of a vehicle registered in a State which is not a Contracting Party to this Agreement, merely to require, in lieu of a control device conforming to the specifications in the Annex to this Agreement, daily record sheets completed manually by each crew member for the period of time from the moment of entry into the territory of the first Contracting Party; (b) For this purpose, each crew member shall write on his record sheet the information concerning his professional activities and rest periods, using the appropriate graphic symbols as defined in article 12 of the Annex to this Agreement.
5. **Article 462 (1) of EU-UK TCA** (*Transport of goods between, through and within the territories of the Parties*) – Provided that the conditions in paragraph 2 are fulfilled, road haulage operators of a Party may undertake: (a) laden journeys with a vehicle, from the territory of the Party of establishment to the territory of the other Party, and vice versa, with or without transit through the territory of a third country; (b) laden journeys with a vehicle from the territory of the Party of establishment to the territory of the same Party with transit through the territory of the other Party; (c) laden journeys with a vehicle to or from the territory of the Party of establishment with transit through the territory of the other Party; (d) unladen journeys with a vehicle in conjunction with the journeys referred to in points (a), (b) and (c).
6. **Article 465 (2) of EU-UK TCA** – (*Requirements for drivers*) 1. Drivers of the vehicles undertaking journeys as referred to in Article 462 shall: (a) hold a Certificate of Professional Competence issued in accordance with Section 1 of Part B of Annex 31; and (b) comply with the rules on driving and working time, rest periods, breaks and the use of tachographs in accordance with Sections 2 to 4 of Part B of Annex 31. 2. The European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR), done in Geneva on 1 July 1970, shall apply, instead of point (b) of paragraph 1, to international road transport operations undertaken in part outside the territory of the Parties, for the whole journey.
7. **Article 1 (2) of Section 2 of Part B of Annex 31 to the EU-UK TCA** – Where a driver undertakes a journey referred to in Article 462 of this Agreement, the rules in this Section apply to any road transport operation undertaken by that driver between the territories of the Parties and between Member States.
8. **Article 2(2) of Regulation (EC) No 561/2006** – This Regulation shall apply, irrespective of the country of registration of the vehicle, to carriage by road undertaken: (a) exclusively within the Community; or (b) between the Community, Switzerland and the countries party to the Agreement on the European Economic Area.
9. **Article 2(1) of AETR agreement** – This Agreement shall apply in the territory of each Contracting Party to all international road transport performed by any vehicle registered in the territory of the said Contracting Party or in the territory of any other Contracting Party.
10. **Article 10 of AETR agreement** – The Contracting Parties shall prescribe the installation and use on vehicles registered in their territory of a control device according to the requirements of this Agreement and the Annex and Appendices thereto.
11. **List of AETR Contracting Parties** - EU Member States, EEA signatories (except Iceland), Switzerland (CH), United Kingdom (UK), Albania (AL), Andorra (AND), Armenia (ARM), Azerbaijan (AZ), Belarus (BY), Bosnia and Herzegovina (BIH), Georgia (GE), Kazakhstan (KZ), Kyrgyzstan, North Macedonia (MK), Moldova (MD), Monaco (MC), Montenegro (MNE), Russia (RUS), San Marino (RSM), Serbia (SRB), Tajikistan (TJ), Türkiye (TR), Turkmenistan (TM), Ukraine (UA), Uzbekistan(UZ).

DISCLAIMER: This CORTE document consolidates existing knowledge and provides recommendations to support national authorities and the road transport community in harmonized enforcement of road transport rules. It remains for National Courts and ultimately the European Court of Justice to interpret the Law.