

Committee B Report on the Impact of the HGV Road User Levy Act 2013 on the Free Movement of Goods on the Island of Ireland.

Introduction

This report by Committee B is a follow up supplementary report to Committee B's November 2010 Report, "British and Irish Regional Economic Space".

In November 2010, the British Irish Parliamentary Assembly adopted the report of Committee B titled, "British and Irish Regional Economic Space". In that report, Committee B assessed the move towards regional economic spaces, which was a direction of travel that was gaining widespread support and could therefore be an important part of the future development of the European Union. They also assessed whether the British and Irish Isles were a suitable economic space and, therefore, whether the UK, Irish and devolved Governments should be pursuing this concept as a policy priority. The report outlined a view that further assessments should be conducted to ascertain whether a British-Irish macro region would be better served by a more flexible approach to its geographical base, with its boundaries determined by the common problems to be resolved through collaboration and co-operation.

It must be noted that since the passage of this report, co-operation and collaboration between the British and Irish Governments has grown immensely. In 2012 Taoiseach Enda Kenny TD and Prime Minister David Cameron issued a Joint Declaration following their first Annual Summit. The Joint Declaration set out the key areas for British-Irish co-operation over the next decade and called for deeper economic co-operation and part of the follow up saw the two governments commission in 2012 a joint evaluation of the British-Irish economic relationship. The British Irish Joint Economic Study Report was published on 18 July 2013 and outlined opportunities for closer collaboration between the UK and Ireland in Research and Development, the Agri-food sector, Energy, Professional and Financial Services, Construction, Tourism and Transport.

It is this last category, transport, which has instigated this follow up report.

Following the passage of the UK's Road User Levy Act 2013, Committee B has decided to issue a supplementary follow up report arising from concerns raised about the effect of the new levy on cross border trade on the Island of Ireland.

The HGV Road User Levy Act 2013

The UK's HGV Road User Levy Act 2013, in force since 1 April 2014, provides that all vehicles of a gross weight of 12 tons or more must pay a charge for using the UK's roads. They can pay daily, weekly, monthly or annually. The fees depend on the time covered and the weight of the vehicle. The maximum charge for the largest vehicles is £10 a day. For smaller vehicles up to 25 tons, it is £1.70 a day. The largest annual charge is £1,000 a year for the heaviest vehicles. The charges are set to give some reflection of road wear created by the numbers of axles, weights and so on.

The levy is a tax, so it is an excepted matter under the Northern Ireland Act 1998, and accordingly, it therefore applies to all roads in Northern Ireland as well as to the rest of the UK.

As is well known, there is an extensive network of roads that cross the border between Ireland and Northern Ireland used on a daily basis by Irish and Northern Irish hauliers. For example, road hauliers from Co. Donegal travelling to Dublin port or other destinations invariably use the A5 without stopping within Northern Ireland. Similarly, Irish road hauliers, particularly those operating in border counties, tend to drive into parts of Northern Ireland on roads other than the A5, particularly the A4/A509 Route, often numerous times daily, and will be obliged to pay the levy.

Hauliers in the North West of Ireland are almost unique in the EU in having to transit the jurisdiction of another member's state in order to access ports in their own state. The A5 is the primary trunk route along which Irish hauliers must transit Northern Ireland in order to access the North West region. Given its importance as a transit route, then Minister for Transport, Tourism and Sport, Leo Varadkar TD, committed to spend £50 million of Irish tax payer's money on the A5 at the North South Ministerial Council meeting on 28 November 2013. The A5 is thus a unique case.

This levy will result in a net increase in costs for HGV operators from Ireland using roads in Northern Ireland. Hauliers operating in these cross border regions are concerned that this onerous levy will affect their ability to trade across the border and will ultimately result in a loss of employment in Ireland.

Discussion and Debate on the Bill

The Bill was presented to the UK Parliament in the House of Commons on 23 October 2012, and received its Second Reading on 20 November 2012. The issue of the levy's application to the Irish border was raised during the Committee stage. The Minister said, "To be clear, there are already tolls on several motorways in the Republic of Ireland. It seems completely reasonable, therefore, to have a form of road-user charging in Northern Ireland", and "The discussions with the Irish Government have been clear. They have suggested that the whole of Northern Ireland be exempt from this levy on the basis that the Irish Government already put some money into the roads in Northern Ireland. The counter to that is that Irish lorries using those roads are causing considerable wear and tear so we have rejected that suggestion ... We are in continuing discussions with the Irish Government, principally about possible exemptions for a small number of roads that may criss-cross the border".

The Bill concluded its Commons stages on 29 January 2013, and as a Money Bill it went through all its stages in the House of Lords on 7 February. It received Royal Assent on 28 February 2013.

Discussion and Debate following Passage of the Act

Irish concerns about the effects of this Act were raised regularly and at various levels of Government, including by Taoiseach Enda Kenny at the Annual Summit with Prime Minister Cameron, by Minister for Transport, Tourism and Sport, Leo Varadkar TD with his counterpart and at transport meetings of the North South Ministerial Council. Protestations supported by Irish Ministers, Oireachtas members and industry groups over the enforcement

of the levy or concessions or exemptions of other roads to protect cross-border trade, largely fell on deaf ears.

On 12 February 2014, the House of Commons debated the draft HGV Road User Levy (Exemption of Specified Roads) Order 2014. The Minister said the draft order was about ensuring that the levy is fair and reasonable, particularly with respect to Northern Ireland. The draft order contained two small exemptions for Northern Ireland, for a few roads that go back and forth across the border. The first such road is the A37, which is used by vehicles travelling from Dundalk to Castleblayney. The second is the A3 to the west of Clones, where the road crosses into Northern Ireland twice over a short distance. The total length of the exemptions in Northern Ireland is about 7 miles. This Order was passed on 24 February 2014.

Enforcement in Northern Ireland

Despite the myriad debates and questions raised over the anticipated negative effects of this levy on cross border trade and travel, the levy is to be implemented without exception apart from the 7 miles of exempted border roads.

The Northern Ireland Assembly Committee for the Environment received a briefing from officials from NI Department of Environment (DOENI) on 11 September 2014 on the matter of the UK HGV road user levy. Five months since the UK legislation was commenced and following many heated debates and Assembly Questions in Northern Ireland, and similar protestations in the Oireachtas in Dublin, the DOENI has now conceded that it has reached the end of the road regarding its protestations to London over enforcement of the levy and shall now commence enforcement of the legislation.¹

The Northern Ireland Assembly Committee for the Environment heard that the reality of the situation was such that if DOENI did not commence enforcement of the levy then the UK Department of Transport would enforce it in Northern Ireland themselves.

¹ Briefing from DOENI to NI Assembly Committee for the Environment, 11 September 2014.

EU Cabotage Rules

Closely linked to the HGV Road User Levy is the matter of cabotage. The EU rules on cabotage and access to the international road transport market are laid out in Regulation 1072/20091. According to the Regulation, hauliers may carry goods without restrictions from their country to another or between two Member States, even if these Member States are not their country of registration. Hauliers are however still limited when they wish to go from one point to another in a Member State other than the one where they are registered. In this case, called cabotage, hauliers are restricted to three transport operations in the seven days following an unloaded international carriage.

These rules present a number of problems such as:

- Hauliers are not free to carry out transport operations freely, which can force hauliers to travel home or elsewhere with empty vehicles, or stop them from loading their vehicles in an optimal way and which creates efficiency losses.
- Enforcement of the cabotage rules vary from one Member State to another, meaning that the conditions for carrying out cabotage also vary from one State to another.
- The existing rules have proved challenging for Member States to apply, particularly regarding the number of cabotage operations carried out.
- Concerns also exist as to the availability of manpower in the sector, and the capacity of the road transport industry to take up innovative solutions.

Conclusions

The conclusion of Committee B's 2010 Report stated, "The formation of a regional economic space by members of the BIPA, whether alone or in concert with other administrations, may provide possibilities to create economies of scale and streamlining of social, economic and other functions". However, the implementation of policies such as the UK's HGV levy would restrict these possibilities, and hinder not just cross border co-operation but also cross border trade.

Therefore, the Committee recommends that the UK Minister for Transport should reconsider the decision not to provide exemptions to Northern Ireland roads, particularly the A5. An exemption for the A5 would provide some comfort to Irish hauliers travelling to, and from, the North West region.

Furthermore, the Committee calls on both Governments, in responding to this Report to, firstly, provide an assessment of how the HGV Road User Levy is compatible with the EU cabotage rules. Secondly, the response shall include details of how both Governments are assisting the haulage industry, not least by resolving the problems with the current cabotage rules, highlighted in this Report.