

INFORMATION

TRANSPORT POLICY

Working conditions in waterway transport

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The EEC Commission has put forward to the Council of Ministers a draft for a new regulation aimed to put the rules about working conditions in internal waterway transport on the same footing. It represents a further stage in the formation of a common market in transport; and it is a step towards a Community more advanced in its labour regulations than hitherto.

The object of the draft regulation is to introduce satisfactory safety rules and social security for workers in a complex and scattered industry hitherto governed by regulations and national agreements of very unequal impact. In some countries, for example, the "amplitude" (the duration of the day's stint) is determined by legislation; but in other countries it is not regulated at all. Belgium, Germany and Italy are the only countries with national regulations governing the composition of the crew; and in the Netherlands, France and Great Britain regulations to this effect simply do not exist.

In proposing legislation to provide satisfactory social protection and harmonised safety standards in all the Community countries, the Commission was primarily motivated by considerations of the "quality of life"; but it has also succeeded in suggesting a far from negligible step towards harmonising the conditions of competition in the transport sector.

It is a known fact that the disparity in the relevant regulations acts as a check on the trade in goods across the frontiers, and is thus a matter for the competition policy. It often happens that the absence of any joint

regulation leads the member countries to take unilateral steps restricting the free circulation across the Community frontiers of the vehicles in which the goods are carried.

There is only a short list of cases to which the new regulation would not apply. These are, vessels of less than 150 t.gross; vessels not used for carrying merchandise; those operating in the public service (police, waterway administration, armed forces and fire brigades); those using internal waterways solely for proceeding to or from the ports of loading or discharge of the merchandise carried; and certain classes of tug. Rhine navigation will also be subject to the new regulation. Indeed, it could hardly be otherwise, for 60 % of the goods traffic on all the Community waterways is carried on the Rhine.

If and when the new regulation is approved by Council, there will be an interval of 18 months before it is brought into force. This is intended to enable the member countries to eliminate any incompatibilities between the new Community regulation and international conventions they may previously have signed with non-member countries. This problem will arise more particularly in the case of Switzerland which has two agreements on Rhine navigation linking it with Germany, Belgium, France and the Netherlands. The agreement by which there is most danger of incompatibilities is that of 1954, rather than the "inspection regulation" which was introduced by the Central Commission for the Rhine in 1947. A great number of the rules actually in force for Rhine navigation are repeated in the EEC Commission's draft. These are rules, the usefulness of which has been abundantly proved through the years and which call for no substantial amendment. On the labour side, however, the Community regulation is much more advanced, especially on questions of amplitude, daily and periodic rest times and annual holidays. A need will arise for negotiating amendments to previous agreements, in conformity with Article 234 of the EEC Treaty. In case of necessity, too, the Community will be able to enter into negotiation with outside countries to find solutions for any problems raised by the implementation of the proposed regulation.

The latter will come into force 18 months after its approval by Council. Its basis of operation will be territorial, which means that it will apply to all vessels used for the transport of merchandise on the internal waterways of the Community, whatever be the nationality of their proprietors or their crews and whatever be their place of registration.

An initial group of provisions has already been approved by both sides of the industry at a meeting held in November 1974. This will lay down the details regarding the composition of the crew and the qualifications and age-minimum required for workers in this sector. The composition of the crew will vary according to the type of vessel, the complexity of the apparatus carried and whether the sailings are for daytime (14 hours), semi-continuous (18 hours), or continuous (24 hours) navigation. Thus, for barges between 150 and 750 t. in daytime navigation, a crew of only two would be required; whereas continuous navigation for a vessel of over 1 000 tons would call for a crew of at least nine.

In order to allow for variations in conditions of navigability the draft regulation would give each member country the right to enact derogatory clauses for the rules about crew composition, to apply solely in its own territory and only for a transitional period. The adoption of these clauses would have to have its justification in well defined circumstances and would be subject to various conditions, including due observance of the safety rules then in force and the rules affecting working conditions. These derogations, which are not to be allowed for Rhine navigation, will require authorisation by the Commission which, in making up its mind, will have to consult both sides of the industry, national experts from the country making the application and, if necessary, experts from other countries. Once the derogations have been authorised by the Commission they will apply only inside the country in which they have been enacted, and again the principle will be territoriality -- which means that they will apply to all vessels using the navigable waterways of the country, whatever be the nationality of their crews and wherever they may be registered. They will apply only through a transitional period, the

duration of which will be determined by the Council on a proposal by the Commission. In this way it will be possible for the rules on crew composition to come into force gradually.

In addition to the derogation clauses there is another exception to the proposed rules about crew composition, aimed at avoiding the setting up of any obstacle to technical progress. Every member country is given the right to reduce the number of crew members required, if this should be made possible by the introduction of more advanced instrumental techniques permitting a higher degree of automation. With this exception, the vessel is not allowed to sail without having its full established crew, except in exceptional and unexpected circumstances.

There is also an article about women aboard. The Commission has abandoned all discriminatory rules on this subject, but has also taken the view that it would not be suitable for women to be given unduly tough work.

The proposals also contain detailed rules about the effective working time, rest time and annual holidays. The amplitude, though slightly less onerous than at present, is nevertheless quite long. The Commission was anxious to avoid an abrupt upsetting of the financial balance for fleet owners; but it explicitly states its intention to make further regulations, calling for more reductions at a later stage. In daytime navigation the amplitude is not allowed to exceed 14 hours between March and October, or 12 hours in the other four months. In semi-continuous navigation the amplitude must not be more than 12 hours; and in continuous navigation the limit is to be eight hours. Continuous steersman duty must not continue for more than 4 hours; but observation at the radar screen may run for as long as 7 hours, so long as the radar operator is given half an hour off every 2 hours.

The arrangements for weekly rest periods had to take account of the special conditions in this industry, because the crews are often aboard for more than a week, and a weekly rest period would have involved requiring them to take it afloat. The draft regulation accordingly provides for 78 rest days during

the year; and the crews must be given the opportunity of spending at least half of them at home.

This of course does not include the annual holidays. The arrangements proposed under this head are without prejudice to the Commission target (agreed by Council, which recently approved a recommendation to member countries) of securing a 40-hour week and paid holidays of four weeks annually. The Council recommendation foresaw the possibility of exceptions in specific sectors, including transport.

The regulation proposed would fix the annual holidays at a minimum of 30 days, including the normal festivals and general holidays, the number of which differs considerably from country to country. Apart from the 78 days of occasional holiday, some degree of latitude is allowed to non-wage earning independent barge operators. For the most part these are very small family undertakings, and it would have been virtually impossible to enforce the proposed holiday regulations in their case.

The rules it is proposed to lay down are minima, applicable to all persons employed in internal waterway transport anywhere in the European Community. They are not intended to obstruct the obtaining of more advantageous working conditions, or the continuation of such conditions if they already exist. A right for individual countries to maintain or enact working conditions more favourable to the worker, is specifically provided in Article 20, which applies even if the conditions concerned amount to a derogation of the rules. The Commission proposals include provision for a periodic reexamination of the position, so that the scheme will start on a basis which will enable it to keep in line with the general progress of the EEC in the economic and social fields. Even at the outset, the regulation governing work in the ports provides that local rules shall apply insofar as they are more advantageous for the bargees.

The enforcement of the provisions will be made easier by requiring the completion of a ship's log and individual record booklets for each member of the crew. The Commission has asked the Council for instructions to draw up these booklets so that the procedure can be simplified and speeded up. Each member country will then act on the same lines as the Rhine Inspection Committee by appointing officers to check the observance of the crew membership rules.

The legal basis for the proposed regulation is in Article 75 of the EEC Treaty and Articles 10 to 13 of the Council decision dated May 13 1965 on the harmonisation of various rules and provisions relating to transport. It is an important stage in the execution of the working programme for 1974-76 laid down by the Commission in its communication to Council on the common transport policy under date of October 24 1973.

In preparing the regulation, the Commission had advice from government experts and was able to use a series of studies carried out jointly with both sides of the industry in the joint consultative Committee for Social Problems in internal waterway navigation. Preparation has taken a considerable time, making it possible for a balanced set of rules to be produced, taking account of the experience of member countries and in road and railway transport.

The further stages towards the adoption of the regulation require its submission to the European Parliament and the Economic and Social Committee. The advices from these bodies are expected during the first half of 1976; so that it should be possible for Council to adopt the text towards the end of the same year.

In the next phase of the same work the Commission expects to harmonise a number of existing provisions on working hours and overtime. This work presents a number of difficulties which, in the opinion of the Commission, should be easier to overcome in the light of experience accruing from the enforcement of the rules now proposed.