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REPORT

drawn up on behalf of the Committee on Transport

on the proposal from the Commission of the European Communities to the Council (Doc. 1-167/84 - COM(84) 147 final) for a Regulation amending Regulation (EEC) No. 543/69 on the harmonization of certain social legislation relating to road transport and Regulation (EEC) No. 1463/70 on the introduction of recording equipment in road transport

Rapporteur: Mr John L. MARSHALL

PE 93.505/fin.

Or. En.

3.-ems.

At its sitting of 9 April 1981, the European Parliament referred the motion for a resolution tabled by Mr Cottrell, Mr Forth, Mr C. Jackson, Mr Hord, Mr Moreland, Mr Spencer, Mr Simpson, Mr Howell, Mr Dalziel, Mr Turner and Mrs Ewing on exemption of non-commercial vehicles from tachograph legislation (Doc. 1-114/81) pursuant to Rule 47 of the Rules of Procedure to the Committee on Transport.

At its meeting of 15 May 1981 the committee decided to draw up a report on driving time and rest periods and tachograph legislation, and on 26 June 1981 Mr De Keersmaeker was appointed rapporteur. Following the latter's resignation from Parliament, Mr Vandewiele was appointed rapporteur on 29 March 1982.

The topic was discussed in committee on various occasions and at the meeting of 14 July 1982 it was decided that the matter should be held over pending a proposal from the Commission of the European Communities, which had promised to make a detailed study of existing legislation with a view to its reform. Developments in the situation were discussed on 17 March 1983, 2 November 1983 and 20 March 1984.

By letter of 9 April 1984, the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission for a Council regulation amending Regulation (EEC) No. 543/69 on the harmonization of certain social legislation relating to road transport and Regulation (EEC) No. 1463/70 on the introduction of recording equipment in road transport.

On 22 April 1984 the President of the European Parliament referred this proposal to the Committee on Transport as the committee responsible and to the Committee on Social Affairs and Employment for an opinion.

On 24 April 1984, the Committee on Transport confirmed the appointment of Mr Vandewiele as rapporteur, but decided at the same meeting to defer drafting the report on the proposals until after direct elections and to recommend that the new Committee on Transport should give the matter priority.

In accordance with Rule 116 of the European Parliament's Rules of Procedure, the request for an opinion was deemed to have lapsed after 25 May 1984. By letter of 20 June 1984, however, the Council informed the President of the European Parliament that it was maintaining its request for the European Parliament's opinion on the above-mentioned Commission proposal.

On 11 September 1984, the European Parliament established the re-submission of the proposals in accordance with the interpretation of Rule 116 of the Rules of Procedure and confirmed their referral to the committees concerned.

At its meeting of 13 September 1984, the Committee on Transport appointed Mr Marshall rapporteur. The committee discussed the topics covered by the report at its meetings of 25 September, 30 October, 23 November and 18 December 1984 and considered the draft report at its meetings of 29 January, 21 February and 21 March 1985.

At the meeting of 21 March 1985, the committee decided by 15 votes to none, with 5 abstentions, to recommend to Parliament that it approve the Commission's proposals in an amended form. The committee then adopted the motion for a resolution by 15 votes to none, with 5 abstentions.

The following took part in the vote: Mr Anastassopoulos, chairman; Mr Klinkenborg and Mr Huckfield, vice-chairmen; Mr Marshall, rapporteur; Mr Carossino, Mr Cornelissen (deputizing for Mr Baudis), Mr Cryer, Mr Ebel,

Mrs Faith, Mr Hitzigrath (deputizing for Mr Lagakos), Mr K.-H. Hoffmann, Mr Lalor (deputizing for Mr Roux), Mr Newton Dunn, Mr Rossetti, Mr Stevenson, Mr Stewart (deputizing for Mr Fatous), Mr Topmann, Mr Visser, Mr Wijsenbeek and Mr Zahorka (deputizing for Mr Starita).

The opinion of the Committee on Social Affairs and Employment is attached.

The report was tabled on 28 March 1985.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Committee on Transport hereby submits to the European Parliament the following amendments to the Commission's proposal and motion for a resolution together with explanatory statement:

Proposal for the Commission for a regulation amending Regulation (EEC) No. 543/69 on the harmonisation of certain social legislation relating to road transport and Regulation (EEC) No. 1463/70 on the introduction of recording equipment in road transport

Text proposed by the Commission
of the European Communities

Text as amended by the
Committee on Transport

Preamble and recital 1 unchanged

Whereas the aim of Council Regulation (EEC) no. 1463/70 on the introduction of recording equipment in road transport is to improve the enforcement of the provisions on the working and rest activities of vehicle drivers;

Amendment No. 1

Whereas the aim of Council Regulation (EEC) no. 1463/70 on the introduction of recording equipment in road transport is to improve the enforcement of the provisions on the driving and rest activities of vehicle drivers;

recitals 3 to 6 unchanged

Whereas in the interests of obtaining greater flexibility for transport undertakings and, at the same time, furthering social progress, it seems appropriate to increase the daily driving period whilst reducing weekly driving;

Amendment No. 2

Whereas in the interests of obtaining greater flexibility for transport undertakings and, at the same time, furthering social progress, it seems appropriate to increase the daily driving period whilst reducing weekly driving maxima, which have to be considered in a period of 2 consecutive weeks;

recitals 8 and 9 unchanged

Whereas, for the purposes of this Regulation, it does not appear necessary to maintain the present ban on certain payments made according to distances travelled or the amount of goods carried;

Amendment No. 3

Whereas bonuses or wage supplements, related to long distance transport or the amount of goods carried, should in no way endanger road safety;

recitals 11 to 19 unchanged

Article 1 Amendments to Regulation (EEC) No. 543/69

Article 1 (1) to (4) unchanged

(5) 'Driving' means time which is spent behind the wheel of a vehicle;

Amendment No. 4

(5) 'Driving' means time which is spent at the wheel of a vehicle;

(6) 'Rest' means any uninterrupted period of at least nine hours, other than a break in which a crew member may freely dispose of his time;

Amendment No. 5

(6) delete the phrase 'other than a break

Article 1 (7) to (9) unchanged

Articles 2 and 3 unchanged

Article 4(1) unchanged

(2) vehicles used for the carriage of passengers, with a maximum seating capacity of nine persons, including the driver, unless such vehicles are carrying goods other than passengers' personal effects;

Amendment No. 6

(2) vehicles used for the carriage of passengers, with a maximum seating capacity of ten persons, including the driver; (~~rest deleted~~)

Article 4 (3) to (5) unchanged

(6) vehicles when used in temporary emergencies or in the course of rescue operations;

Amendment No. 7

(6) This amendment does not apply to English text.

Article 4 (7) to (9) unchanged

(10) vehicles used to transport goods for private purposes, including the use of hired vehicles without a driver;

Amendment No. 8

(10) vehicles used by private persons to transport goods for their own private purposes, including the use of hired vehicles without a driver;

Article 5 unchanged

Article 6 (1) unchanged

(2) The driving time in any one week shall not exceed 45 hours;

Amendment No. 9

(2) Driving time should not, as a rule, exceed 45 hours in any one week and shall in no circumstances exceed 90 hours in any 2 consecutive weeks.

Article 7

On any day when a crew member is driving, no period of continuous work shall exceed 4 1/2 hours, excluding waiting time;

Article 8

1. On any day when a crew member is driving, there shall be a break of either:
(a) at least one hour after a period of continuous work, or
(b) several periods of a minimum of 20 minutes or, in the case of regular passenger services a minimum of 15 minutes, amounting to at least one hour for every 4 1/2 hours of work;

Article 9 (1)

1. Crew members shall have a minimum daily rest period of 12 consecutive hours in any period of 24 hours. The daily rest period may be reduced to nine hours not more than three times in any one week. Any reduction in the daily rest period shall be compensated by an equivalent amount of additional rest period, at the latest by the end of the following week;

2. Where a vehicle is manned by two drivers = 3 - unchanged and has a bunk, they shall have a daily rest period of not less than nine consecutive hours in any 30-hour period;

Amendment No. 10

On any day a crew member is driving, no period of continuous driving shall exceed 4 1/2 hours, excluding waiting time;

Amendment No. 11

1. On any day when a crew member is driving there shall be a break of at least one hour after a period of driving of not more than 4 1/2 hours.

This break may be repeated by four breaks of at least 15 minutes each to be taken at such times during the daily driving time that the period of 4 1/2 hours is not exceeded;

2. In the case of regular passenger services the break specified in par. 1 may be replaced by breaks of at least 15 minutes each, as long as these breaks together amount to more than one sixth of the daily driving time;

3. Where a vehicle is manned by two drivers the provisions in par.1 may be deemed to have been met if the driver who is taking the break undertakes no activity other than being on stand-by. This shall be without prejudice to national legal provisions on rest periods;

Amendment No. 12

1. Crew members shall have a minimum daily rest period of 12 consecutive hours in any period of 24 hours. The daily rest period may be reduced to eight hours ...

(rest unchanged)

Amendment No. 13

(new) 2. Where a vehicle is manned by two drivers and does not have a bunk they shall have a daily rest period of at least 10 consecutive hours in any 27-hour period;

Text proposed by the Commission
of the European Communities

3. The daily rest period shall be taken outside the vehicle, except where a vehicle has a bunk, when the rest period may be taken on that bunk provided that the vehicle is stationary;

Article 10 unchanged

Article 11 (1) unchanged

2. The weekly rest period may be reduced to a minimum of 36 consecutive hours if this has to be taken at home or to 24 consecutive hours when this has to be taken away from home, provided that the remaining hours of rest are taken in bloc, at the latest by the end of the following week;

Text as amended by the
Committee on Transport

Amendment No. 14

4. add at the end '... and is adequately equipped, the heating system does not constitute a risk to the crew and no better overnight accomodation is available';

Amendment No. 15

5. Crew members of vehicles engaged in the carriage of goods who regularly spend their rest periods away from home shall not be required to take part in loading and unloading activities; exceptions may be authorized by the parties to the collective wage agreements

Amendment No. 16

2. The weekly rest period may be reduced to a minimum of 40 consecutive hours ...
(rest unchanged)

Amendment No. 17

3. The weekly rest may be considered over a period of 2 weeks, with a view for allowing to begin the weekly rest before the end of a fixed week and end at the beginning of the following week; provided that a minimim of 24 hours is taken before the end of the first week;

Amendment No. 18

4. The minimum weekly rest period referred to in par. 1 hereof may, during the period between 1 March and 30 September, be replaced, for drivers of vehicles used for irregular international transport of passengers, by a rest period of not less than 72 consecutive hours in 2 consecutive weeks and on the condition of an equally long additional rest period outside the period referred to. This does not apply to drivers of regular passenger services;

Amendment No. 19

SECTION Va

Prohibition of certain types of payment.

Article 11a

1. Payments to wages earning crew members, even in the form of bonuses or wage supplements, related to distances travelled and/or the amount of goods carried shall be prohibited.
2. Bonuses and wage supplements which do not endanger road safety are a matter for the parties to the collective wage agreements.

Article 12(1) unchanged

2. From the date of entry into force of this Regulation, the Commission shall, every 5 years, submit to the Council a report on the development of the situation in the field covered by this Regulation.

Amendment No. 20

2. From the date of entry into force of this Regulation, the Commission shall, every 2 years, submit ...

(rest unchanged)

Article 13

Provided that there is not detriment to road safety, the driver may depart from the provisions of this Regulation in case of danger, in circumstances outside his control to render aid, or as a result of a breakdown, and to the extent necessary to ensure the safety of persons, of the vehicle or its load, to enable him to reach a suitable stopping place or the end of his journey. The driver shall indicate on the sheet or his recording equipment the nature of, and reason for, his departure from those provisions.

Amendment No. 21

delete the words 'in circumstances outside his control';

Article 14

1. Member States may grant exemptions from any provisions of this Regulation for transport falling within any of the following categories and carried out on their own territory or between adjacent Member States in conformity with bilateral agreements.

unchanged

Text proposed by the Commission
of the European Communities

(a) vehicles used for the carriage of passengers with a seating capacity of not more than 17 persons, including the driver;

Article 14(1) b

(c) vehicles belonging to, or hired by, agricultural, horticultural or forestry undertakings, when travelling within a 50-km radius of and to or from such undertakings; and vehicles transporting fish within a 50-km radius of the port.

Article 14(1) d

(e) vehicles used for carrying animal carcasses or waste when these are not intended for human consumption.

(f) vehicles used at markets, as mobile shops, for door-to-door selling, for mobile banking, exchange or saving transactions, worship, the lending of books, records or cassettes, cultural events or mobile exhibitions, and specially fitted for such uses.

Article 14(1) g

(h) vehicles driven exclusively by electricity.

Article 14(1) i

Article 14(2)

Article 15(1)

2. The transport undertaking shall organize the work of crew members in such a way that they are able to comply with the provisions of the present Regulation and of Regulation (EEC) No. 1463/70.

Articles 16 to 18

Text as amended by the
Committee on Transport
Amendment No. 22

replace '17' with '15';

unchanged

Amendment No. 23

(c) vehicles belonging to, or hired by, agricultural, horticultural or forestry undertakings, when travelling exclusively in connection with work in these undertakings within a 50-km radius of ...

(rest unchanged)

unchanged

Amendment No. 24

(e) vehicles used exclusively for ...

(rest unchanged)

Amendment No. 25

delete the words 'at markets';

Amendment No. 26

(h) vehicles driven exclusively by electricity with a permitted maximum speed not exceeding 50 km.p.h.;

and rest unchanged

unchanged

unchanged

Amendment No. 27

2. replace 'transport undertaking' with 'undertaking';

Article 19

This Regulation will enter into force on 1st January 1986. unchanged

This Regulation shall be binding in its entirety and directly applicable in all Member States. unchanged

Amendment No. 28

After the entering into force of this Regulation and before the end of the first two-year period, referred to in Article 17, the Commission shall submit to the institutions mentioned in the same article an assessment of the application of the hereby modified provisions, with a view of proposing, if useful, amendments, so as to ensure correct and uniform implementation in all Member States of the provisions governing driving and rest periods and social progress. In this case the Commission shall have prior consultations with representatives of the relevant trade unions, employers' and self-employed drivers' organizations;

Article 2 Amendments to Regulation (EEC) No. 1463/70

Preamble and articles 1 to 15 unchanged

Article 16

1. The employer shall issue sufficient record sheets to crew members, in numerical sequence, bearing in mind the fact that these sheets are personal in character, the length of the period of work and the possible need to replace sheets which are damaged, or have been taken by an authorised inspecting officer. The employer shall issue to crew members only sheets of an approved model suitable for use in the equipment installed in the vehicle.

Amendment No. 29

1. The employer shall issue a sufficient number of record sheets to each crew member, bearing ...

(rest unchanged)

Article 16(2) and (3) unchanged

Article 17(1) unchanged

2. Crew members shall use record sheets in numerical order for every day on which they are driving, starting from the beginning of their period of work. When the crew members are away from the vehicle and therefore unable to operate the equipment fitted to the vehicle themselves, the various periods of time indicated under (a) to (c) below shall, whether manually, by automatic recording or otherwise, be entered on the sheet in a legible manner and without the sheet being dirtied.

Amendment No. 30

2. Each crew member shall, for each day of working on one of the vehicles covered by this Regulation, use consecutive record sheets in numerical order from the start of the working period. If the crew members leave the vehicle and are therefore unable to operate the equipment fitted to the vehicle themselves, the periods referred to shall on their return to the vehicle be entered by hand in a legible manner without soiling the sheet, or recorded automatically in some other way;

Article 17(3) (a) to (e) unchanged

Amendment No. 31

(f) on finishing work, the time of the start of the weekly rest period and, on the new record sheet with the next number, when recommencing work, the time at which the weekly rest period ended;

Article 17(4) unchanged

5. Crew members must be able to produce on request by any authorised inspecting officer a record sheet of that day and, where applicable, of the preceding day of that week giving full details of the period referred to under 2 (a) to (c).

Amendment No. 32

5. Each crew member must be able, during traffic checks, to produce on request by the authorized inspecting officer the record sheet of that day, and, where applicable, of the preceding days of that week giving full details of the period referred to under 2(a) to (c);

Article 17(6) unchanged

Articles 18 to 23 unchanged

Annex I, Chapter IV (a) to (d) unchanged

Annex I, Chapter IV (e)

(e) Registering of the record sheets. The transport undertaking shall keep a register of the numbers of all the record sheets. The register must contain the names of the crew members who have received sheets, their signatures confirming receipt, and the date of receipt. The register must be kept by the undertaking for two years and must be produced at the request of any authorised inspecting officer.

Amendment No. 33

(e) Replace the word 'transport undertaking' with 'undertaking'

Article 3

This Regulation shall enter into force
on 1 January 1986.

unchanged

This Regulation shall be binding in its
entirety and directly applicable in all
Member States.

unchanged

A.

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a regulation amending Regulation (EEC) No. 543/69 on the harmonization of certain social legislation relating to road transport and Regulation (EEC) No. 1463/70 on the introduction of recording equipment in road transport

The European Parliament,

- having regard to the proposal from the Commission to the Council¹,
 - having been consulted by the Council pursuant to Article 75 of the EEC Treaty (Doc. 1-167/84),
 - having regard to the report of the Committee on Transport and the opinion of the Committee on Social Affairs and Employment (Doc. 2- A2-9/85)
 - having regard to the result of the vote on the Commission's proposal,
- A. judging that every effort must be made to draw up as soon as possible at Community level rules on driving and rest periods for drivers of commercial vehicles that are more satisfactory and better suited to the actual needs of road transport, the working conditions and social provisions of employees, the paramount need for safety in the public interest, and the need for much greater enforcement;
- B. fully aware of the difficulties in reaching a compromise that is acceptable to all parties concerned, given, on the one hand, the divergent interests and viewpoints of the two sides of industry and, on the other, the particular characteristics of this transport sector,
- C. having heard the relevant statements made on 30 October 1984 by representatives of the employers' and employees' organizations concerned, and the views of the rapporteur of the Economic and Social Committee on 21 February 1985;
- D. whereas the current social regulations and the provisions governing the use of tachographs need revising, to ensure more effective and more uniform compliance with Community road transport regulations,
- E. most alarmed at the numerous breaches of the rules governing driving and rest periods, frauds involving tachographs and the marked differences in the procedures relating to checks and penalties from one Member State to another, as revealed in the annual reports by the Commission on the implementation of Regulation No. 543/69,
- F. wishing to make a contribution to social progress, better harmonization of competition conditions, more efficient and rational road transport operations and increased road safety,
1. Expresses its appreciation of the Commission's great efforts over the last two years to adjust the existing social regulations relating to road transport to developments on the transport market and of its unsparing efforts to reach an agreement with the two sides of industry;

¹ OJ No. C 100, 12 April 1984, page 3

2. Notes however, with regret, that despite these efforts the present Commission proposal is a matter of dispute on several points, both for the employers' organizations and for the employees' organisations concerned;
3. Is fully aware that the unbending attitudes adopted by the employers' organizations and trade unions will simply make compliance with the social regulations more difficult in future and therefore calls on them to persevere in their efforts to reach a greater measure of unanimity;
4. Shares the Commission's view that Community decisions in this area must be taken at the earliest possible moment, in the interest of the employees and employers in this transport sector;
5. Is firmly convinced that a satisfactory Community solution must pursue the following main objectives:
 - the improvement of living and working conditions for drivers of commercial vehicles
 - an improvement in the competitiveness of the transport companies concerned
 - easier road transport conditions within the Community
 - increased road safety;
6. Draws attention, however, to the fact that road transport is characterized by:
 - a number of factors over which drivers and transport operators have no control, such as a rapidly changing market situation (sharp fluctuations in supply and demand), unforeseeable loss of time in unloading and loading goods or as a result of roadworks and unfavourable weather conditions, delays at frontiers frequently caused by administrative red tape and arbitrariness,
 - the co-existence of large transport undertakings, small firms and companies which carry out transport operations on their own account, which are engaged in a tough competitive battle to win business,
 - marked seasonal variations, to which by the nature of things non-regular passenger services (peak tourist season traffic) are the most susceptible;
7. Points out that the existing social provisions have been and continue to be infringed to an alarming degree;

8. Believes that the Commission's proposal goes a long way to satisfying the wish for more flexibility and takes satisfactory account of the above basic principles, while displaying a number of serious shortcomings;
9. Therefore approves the broad lines of the current proposal revising the rules governing driving and rest periods and breaks;
10. Considers it necessary, however, to incorporate the following amendments in that proposal:
 - (i) the term 'working time' should be replaced by 'driving time' because
 - there are still no uniform rules as regards working hours at Community level,
 - consequently this matter is settled nationally and is covered by collective agreements and arrangements between the two sides of industry,
 - working time which is not spent behind the wheel can, of course, not be monitored by the tachograph,
 - the principles applied to the transport sector must not differ from those applied to the other sectors of industry,
 - (ii) a period of two consecutive weeks should be taken as a reference basis for calculating and laying down maximum driving periods and minimum rest periods; in this way a more flexible distribution would be possible and the weekly rest period would not necessarily coincide with the weekend, a factor which is extremely important for long-distance transport,
 - (iii) the weekly rest period may be reduced to a minimum of 40 consecutive hours if taken at home, provided that the remaining 8 hours of rest are taken in bloc at the latest by the end of the following week,
 - (iv) as regard spending the daily rest period in vehicles which have a bunk, such vehicles must be adequately equipped, the heating system must not constitute a risk to drivers and there must be no better overnight accommodation within reach,
 - (v) the provisions on compulsory breaks for drivers should be wider in scope,
 - (vi) with regard to non-regular passenger services, the weekly rest period during the tourist season (from 1 March to 30 September) should be reduced to 72 consecutive hours in a period of 2 weeks (instead of the normal 96 hours);
11. Is of the opinion that bonuses for drivers based on the number of kilometres travelled and/or the amount of freight carried should be abolished, and consequently advocates the retention of Art. 12a of Regulation No. 543/69;

12. Notes with satisfaction that the current proposal contains a number of different provisions relating to certain special categories of vehicle and considers that this can only be beneficial as regards observance of Community provisions;
13. Takes the view that crew members of vehicles engaged in the carriage of goods who regularly spend their rest periods away from home shall not be required to take part in loading and unloading activities;
14. Is firmly convinced that these amendments not only make the driving and rest period system much more flexible and thereby enable it to be implemented more fairly, but that they also represent a significant improvement in the standards currently in force both for drivers, who are thus able to spend longer rest periods at home, and for operators who are thus given greater scope for the more efficient management of their undertaking and optimum use of their vehicles, without creating any additional road safety problems or holding up social progress;
15. Attaches great importance to the strict observance of Community social provisions relating to road transport and to more uniform checking and penalty procedures in the various Member States so as to prevent distortions of competition even within this sector;
16. Addresses an urgent appeal to this effect to the responsible authorities of the Member States
 - (i) to bring the number and powers of the personnel responsible for carrying out checks (both on the road and in the undertaking) more closely into line with requirements,
 - (ii) when carrying out checks, to make more use of data-processing facilities, particularly by using computers to process data gathered during inspections,
 - (iii) not to distinguish in the carrying out of inspections or imposition of penalties for infringements, between their own nationals and operators and/or drivers from other Member States,
 - (iv) to ensure that the fines are, at any rate, higher than the financial advantages of non-compliance,
 - (v) to work towards a better exchange of information, more intensive contacts and farther-reaching coordination and collaboration with the relevant departments in the other Member States,
 - (vi) to provide the Commission with earlier and more detailed information on the implementation of Regulation No. 543/69;
17. Also advocates stricter penalties, especially for serious breaches of these regulations or repeated non-compliance, and believes that undertakings which persistently resort to illegal practices or impose unauthorized duties on their drivers should be barred from the market, for instance by withdrawing their operators' licences; abuses involving tachographs must also be penalized more severely;
18. Expresses its satisfaction at the draft recommendation designed to improve the enforcement of the social regulations;
19. Considers it absolutely essential that the Commission should assess the effects of the new provisions on driving and rest periods within two years of the entry into force of the regulation and submit its findings to the Council and Parliament; if it is considered necessary, this document may contain new amendments on which there must, however, be prior consultation with the two sides of industry;

20. Asks the Commission to include these amendments in its proposal pursuant to Article 149, second paragraph, of the EEC Treaty;
21. Instructs its President to forward to the Council, the Commission and the parliaments of the Member States, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

EXPLANATORY STATEMENT

I. INTRODUCTION

1. The present Commission proposal relates to one of the most important and at the same time most controversial aspects of road transport, namely the regulation of driving and rest periods for drivers of commercial vehicles.
2. Community rules in this sphere, based on the Council Decision of 13 May 1965 on the harmonization of certain provisions affecting competition in transport by rail, road and inland waterway¹, were introduced under Regulation No. 543/69 on 25 March 1969².

In order to have more effective supervision and consequently closer compliance with the rules laid down by the Community for maximum driving periods and minimum rest periods the Council introduced a mechanical control instrument or tachograph on 20 July 1970³.

3. In the light of experience the Commission is now proposing the revision of both the abovementioned regulations in order not only to improve the rules at present in force but also to ensure more precise application of these rules in practice.
4. The Commission's document also contains a proposal for a recommendation, the aim of which is a joint effort by the Governments of the Member States to improve monitoring of the regulations and the enforcement of penalties in the event of infringement and to ensure that this is done in the same way in the various Member States.

¹OJ No. 88, 24 May 1965, p. 1500

²OJ No. L 77, 29 March 1969, p. 49

³OJ No. L 164, 27 July 1970, p. 1

5. The European Parliament and its Committee on Transport attach great importance to this issue as is evident from the large number of questions on this subject put to the Commission and the Council and the many discussions which have been held during recent years on the subject with representatives of both institutions at meetings of the committee¹.
6. The Committee on Transport is also fully aware of the controversial nature of this problem and has therefore preferred to wait for a proposal from the Commission rather than producing its own report. It has also arranged a special hearing on 30 October 1984 in which representatives of the employees and employers' organizations concerned took part and explained their views²;
7. As a result of the discussion on his first draft at the committee meeting in Genoa on 23 November 1984 and in order to follow up the many useful suggestions in writing sent by a number of organizations³, your rapporteur has revised and expanded his report of 9 November 1984; he also wished to take Mr BROK's draft opinion on behalf of the Committee on Social Affairs and Employment fully into account (PE 93.680 of 15 November 1984)⁴.

It was decided in Genoa that the deadline for tabling amendments should be 28 January 1985, which was confirmed on 18 December 1984. On the latter occasion it was decided, on Mr HOFFMAN's proposal, to invite Mr L. J. SMITH, the Economic and Social Committee's rapporteur on this subject, to explain the Committee's opinion.

There were ninety-two amendments to the Commission's proposal and your rapporteur's motion for a resolution, tabled by Mr VISSER, Mr WIJSENBECK, Mr HOFFMAN, Mr STEVENSON and Mr HUCKFIELD⁵.

See working document of 4 February 1985 (RE 95.593).

¹ Inter alia 15 May and 24 November 1981, 29 March and 14 July 1982, 17 March and 2. November 1983, 20 March, 24 April, 25 September, 30 October, 23 November and 18 December 1984, 29 January and 21 February 1985.

² In particular Mr IDDON (Secretary of the Committee of Transport Workers' Unions in the EC), Mr DELSEAUX and Mr FAHRY of the IRU (International Road Union).

³ Your rapporteur would like to take this opportunity to express his gratitude to all the organizations and associations that made written contributions.

⁴ See revised text of draft report, dated 4 December 1984 (PE 93.505/rev.). It should also be recalled that a working document was submitted on 27 July 1984, which gave a brief outline of the historical background and included a table showing the amendments proposed by the Commission to the existing driving and rest periods (PE 90.518).

⁵ 19, 12, 19, 41 and 1 respectively. In fact there were more, because certain amendments proposed a completely new formulation of particular articles with their various paragraphs, subparagraphs and indents. 104 amendments were tabled to the Commission's proposal alone, including 24 by your rapporteur.

On 21 February there was an exchange of views with Mr SMITH, during which the wish was expressed that both institutions should adopt similar positions on this complex subject, as this would considerably further the Council's decision-making. With this end in view, it was decided, in a second working document (PE 96.264 of 27 February), to drop all amendments that were not in accordance with the Economic and Social Committee's opinion (CES 906/84 final), as adopted by the Section for Transport and Communications on 13 February by 35 votes to nil with 1 abstention.

In this way it was possible to reduce the number of amendments to 56¹. At first sight this may still seem a lot; it should however be remembered that firstly the ESC compromise was confined exclusively to a number of fundamental points in the Commission proposal and consequently - unlike the amendments - completely disregarded a number of other points, and secondly many amendments relate to less controversial aspects of the matter or are purely editorial.

II. GENERAL REMARKS ON THE COMMISSION'S PROPOSAL

8. The Committee on Transport decided in mid-1981, after a motion for a resolution on exemption of non-commercial vehicles from tachograph legislation (Doc. 1-114/81 - see annex) had been referred to it, to make a thorough investigation of all the problems connected with the Community system of driving and rest periods and the tachograph provisions and to draw up an own-initiative report on possible improvements to existing Community rules.
9. As the Commission also considered that the regulations required revision and for this purpose intended to consult in the near future the appropriate government experts and employers and employees, the Committee on Transport then decided, on a proposal by the rapporteurs, Mr DE KEERSMAEKER and MR VANDEWIELE, not to pre-empt the work of the Commission.

¹It should be pointed out that only the amendments to the draft regulation are concerned here and thus the 27 amendments to the motion for a resolution remain unchanged. Nevertheless this move reduced the number of amendments from 131 to 83, i.e. 48 amendments were dropped.

10. For two years (February 1982 - February 1984) the Commission made every effort to create a workable compromise which would be acceptable to all parties.

The starkly divergent views and desires of the trade unions and the employers organizations made it impossible however to reach unanimity, as a result of which the Commission - partly under pressure from the Committee on Transport which repeatedly asked for early revision of the regulations¹ - then decided simply to submit a proposal for an amendment: several points in this are the subject of dispute between the employers and employees.

11. It goes without saying that respect of the rules depends to a great extent on their acceptance by those directly concerned. As inadequate compliance with the social provisions and the poor functioning of supervision and penalty procedures are amongst the main weaknesses of the present Community system, there is naturally a great temptation to request the Commission to resume its negotiations with the employers and employees in order to be able to submit a compromise which is acceptable on all points to all parties².
12. Your rapporteur thinks it completely utopian to believe that such a compromise is in fact attainable especially in the near future. The complexity of the road transport market, the difficulty of reconciling the objectives of this legislation and the very divergent views held on the matter offer no prospect of such an ideal solution. If no agreement has been reached after two years of intense consultation based on several drafts, negotiations to bring the points of view closer to each other might go on forever. Meanwhile, however, the situation gives rise to legal uncertainty and even less satisfactory rules remain in force. To delay matters further for what is in any case an uncertain conclusion would have no purpose and the time has come to take political action.
13. For this the Commission's proposal forms a sound basis which should however be amended on certain points as set out in the following chapter.

¹ See inter alia the oral question by Mr VANDEWIELE (H-739/83 of 16 February 1984).

² This doubtless explains Mr VISSER's amendment (No. 19) that 'it would much prefer the present regulations to be extended for a maximum of two years, as it is confident that the employers and employees concerned could agree within that period on changes to the existing legislation.

14. The Commission proposal does largely meet the main requirements of:

(i) healthier competition conditions or in other words the removal of artificial operating differences as a result of divergent national social provisions; here it should be borne in mind that wages form a not inconsiderable part of the operating costs of road transport undertakings¹;

(ii) social progress in the sense of better living and working conditions for drivers of commercial vehicles;

(iii) increased road safety, to which Parliament attaches particularly great importance, as is clearly shown by its programme for Community measures to promote road safety², based on an own-initiative report³, to which the Council now appears to be giving the necessary priority to judge by its resolution of 19 December 1984⁴.

15. The proposal for a regulation, by making the present rules more flexible, also offers the following advantages:

(i) better deployment of vehicles and consequently greater possibilities for rational management of transport companies;

(ii) more streamlined operation of road transport, particularly long-haul transport, which should make it possible to increase the productivity and profitability of this industry to a not inconsiderable extent.

¹ It should be noted in passing that there are still no Community rules on the other conventional forms of transport. A parallel proposal on inland navigation on which Parliament had drawn up an extensive opinion, has never been passed by the Council: cf the Osborn report (Doc. 484/76) OJ No. C57, 7 March 1977, p. 9. Unfortunately no proposal has been submitted on railway traffic.

² EP resolution of 13 March 1984, OJ No. C 104, 27 April 1984, p. 38.

³ Baudis report, Doc. 1-1355/83.

⁴ OJ No. C 341, 21 December 1984, p. 1.

16. It must also be pointed out that the simpler and clearer the formulation of the rules, the greater chance they have of being complied with properly in practice. Despite several revisions¹ the text of the existing social regulations remains unnecessarily complicated and a source of confusion. This is doubtless one explanation of why the rules are infringed to such a large extent. The large number of offences, which are listed in the annual report on the enforcement of Regulation No. 543/69, tell their own story². Although still open to improvement the present proposal is couched in clearer terms³.

17. Before commenting on the main modifications made in the Commission proposal and the amendments proposed, your rapporteur would like to stress that all attempts to formulate Community rules on driving and rest periods and on compulsory breaks have met with opposition from the parties concerned.

The first proposals for Community rules in respect of the social aspects of road transport brought an avalanche of protests in the sixties both from the employers' organizations and from the trade unions, and the tachograph, instead of being seen as an aid for obtaining better working conditions, was condemned as a means of limiting freedom⁴.

18. Your rapporteur notes with satisfaction that fifteen years later the principle of the desirability of Community rules for driving and rest periods is no longer disputed and the criticism of the changes now put forward by the Commission is in no way comparable with the violent reactions provoked on previous occasions. In this respect he considers the compromise reached in the Economic and Social Committee particularly encouraging.

¹ See Regulations Nos. 514/72, 515/72, 2828/77 and 2829/77.

² cf inter alia the Tenth Report from the Commission to the Council (COM(83) 486 final).

³ Your rapporteur also regrets in this connection that the Commission has printed only amendments to Regulation No. 543/69 and not the revised version in toto.

⁴ See inter alia the written question by Mr ALBERS, OJ No. C 283, 3 November 1980, p. 45. The British press in particular regularly referred to 'the spy in the cab'.

19. This positive development strengthens your rapporteur's conviction that it must be possible in the short term to achieve Community rules on the basis of the present Commission proposal as amended by the Parliament. Indeed, the employers' and employees' organizations concerned believe that the existing rules are outdated in many respects and are inadequate for the needs of the present transport market; at the same time most of them believe that the new proposal taken as a whole provides a better solution for the specific requirements of road transport, as set out in paragraph 7 of the motion for a resolution. In this connection see par. 1.1. of Mr SMITH's opinion (CES 904/84 final), in which a similar view is expressed.
20. For the above reasons your rapporteur believes it to be desirable for the new rules to come into force as soon as possible and addresses an appeal to both sides of the industry to make an extra effort to bridge the last remaining differences. He also proposes that the text of the proposals should be amended to allow imperfections to be corrected and improvements to be made within two years of the entry into force of the regulation, and this naturally after consultation with the trade unions and employers' organizations concerned and with the organizations representing companies which carry out transport operations on their own account and independent drivers' organizations.

III. REMARKS ON THE PROPOSED MODIFICATIONS AND AMENDMENTS

21. As indicated above the existing social provisions for road transport are unnecessarily complicated, out of date in many respects and unrealistic; the consequence of this is that the seriousness and extent of detected offences have taken on appalling dimensions and the effectiveness of checks on compliance and the penalization of offences leave a great deal to desired.
22. The Commission's new approach is therefore also characterized by simplification on the one hand and on the other greater flexibility of Community rules on this subject.
23. This simplification is evidenced by a clear redefinition of certain concepts, the scrapping of superfluous or outdated provisions and editorial improvements.

Your rapporteur also welcomes the fact that exemptions and derogations are explicitly included in the proposal for a regulation, specifically in Article 14 (new).

All this will certainly contribute to removing completely a large number of difficulties of a practical nature in future.

24. The flexibility which is introduced into the provisions mainly concerns the maximum uninterrupted daily driving times, the minimum daily and weekly rest periods, the maximum weekly driving time and the compulsory breaks.

For a general survey and more specific details reference is made to the table printed below.

TABLE SHOWING THE PRESENT REGULATIONS AND THE PROPOSED MODIFICATIONS AND AMENDMENTS

	<u>Regulation No 543/69</u>	<u>Commission proposal</u>	<u>Amendments</u>
1. <u>MAXIMUM DRIVING TIME</u>			
- continuous	4 hours	4.5 hours ¹	4.5 hours
- daily: norm	8 hours	9 hours	9 hours
possible derogation from above up to twice per week ²	2 x 9 hours for passenger transport	2 x 10 hours	2 x 10 hours
- weekly	48 hours	45 hours	-
- over 2 consecutive weeks	92 hours	-	<u>90 hours</u>
2. <u>MINIMUM REST PERIOD</u>			
- daily			
(a) <u>one driver</u>			
- continuous (norm)	- passenger transport: 10 hrs - goods transport: 11 hrs	12 hours	12 hours
- possible derogation reduction per week to	- passenger transport: 11 hrs - can be reduced to 2x10 and 2x9 hours - goods transport: 2x9 hours at home and 2x8 elsewhere	reduction to 3x9 hours	3 x 9 hours
(b) <u>two drivers</u>			
- vehicle without bunk (per 27 hours)	10 hours	12 hours	<u>10 hours</u>
- vehicle with bunk (per 30 hours)	8 hours	9 hours	<u>8 hours</u> ²
- weekly	29 hours + daily rest periods for international passenger transport in the period from 1 April to 30 September:	48 hours	48 hours ³
- over 2 consecutive weeks	60 (+ 10) ² 70 hours 24 hours ²	-	for international non- regular and shuttle services with coaches in the period from 1.3. to 30.9: 72 hours
possible derogation		- 36 hours at home - 24 hours away from home ⁴	- <u>40</u> hours at home - <u>20</u> hours away from home ⁴
3. <u>BREAKS</u>			
minimum, on the basis of continuous driving	- for heavy vehicles: 60 mins. - for light vehicles and passenger transport: 30 mins. - or 2x20 or 3-15 mins.	60 minutes or 3 x 20 minutes or for regular passenger transport: 4x15 mins	60 minutes or - 4 x 15 minutes

¹ Driving and working time

² See par. 2.1.3 of the ESC's opinion CES 906/84 final

³ To be calculated over a period of two consecutive weeks

⁴ Provided adequate compensation is provided within 2 consecutive weeks

25. Your rapporteur believes however that the system now proposed can be made more flexible and more enforceable to the benefit both of drivers who would thus be given longer rest periods at home, and of transport companies which would thus have greater scope for the rational use of their vehicles and consequently be able to manage their operations more efficiently.

26. These amendments are however careful to ensure that neither social progress nor road safety is jeopardized.

27. In order to increase clarity the modifications in the Commission's proposal are commented together with your rapporteur's amendments, which take account of Mr SMITH's opinion (CES 906/84 final).

28. One amendment which must be stressed in particular concerns the term 'working time' which in the opinion of your rapporteur should be replaced systematically by the term 'driving time'. This is for the following reasons:

- there is as yet no Community legislation on uniform rules for the length of working hours, the working week, holidays, etc.;
- it would therefore be wrong to apply other basic principles to road transport and to place burdens on those operating in this sector of industry which do not apply to firms in other sectors of the economic system;
- working hours are regulated on a national basis by collective agreements or similar arrangements between the two sides of industry;
- working hours not spent behind the wheel cannot be recorded by the tachograph since the tachograph does not register other activities such as administrative work, loading and unloading, cleaning the vehicle etc (1).

(1) The IRU (in its opinions of 20 April and 14 October 1984) and the UNICE (Union of Industries of the European Community - in its letter of 24 October 1984) explicitly turned down an arrangement of this kind because of the difficulties and extra costs which would inevitably have to be borne by industry. The Economic and Social Committee also came to this conclusion.

29. In order to avoid excessive working hours being performed in combination with the permitted maximum driving hours, which is of course unacceptable from a social point of view and also represents a great danger to road safety, the rapporteur believes that a clause should be included in the regulation to the effect that drivers should not be allowed to load and unload vehicles during their rest periods or breaks. Compliance with this provision should be ensured by checks at work.

A ban of this kind is extremely important to protect road hauliers and bus drivers from excessive tiredness and stress as Mr HOFFMANN rightly stated at the meeting of the committee of 18 December 1984. Over-tiredness and lack of sleep do indeed seriously endanger the life and health of many people and should therefore be resolutely discouraged, on the basis of suitable legal provisions (1). Mr HOFFMAN's Amendment No. 6 deals with this.

30. A second important amendment concerns the reference basis for the calculation of driving and rest periods. In order to obtain greater flexibility it is better to take not simply one set week but a period of two consecutive weeks as the point of departure.

If the Commission's proposal accepts derogations from the minimum weekly rest period provided that the necessary compensation is given before the end of the following week, it is to be recommended that the concept of two-week periods should be taken as a basis from the start.²

(1) See in this connection the resolution by Mr SEEFELD, Mr KLINKENBORG and Mr GLINNE adopted in July 1983 on compliance with the regulations on rest periods for lorry and coach drivers (Doc. 1-535/83) and the oral question by Mr ALBERS (H-396/82) and the written question by Mr PROVAN, OJ No C 31, 6 February 1984, p. 7.

(2) In his Amendments Nos. 1, 2, 5, 8 and 11, Mr WIJSENBEEK proposed a period of four consecutive weeks, as did Mr SMITH in his opinion (par. 2.1.2.b). During the discussion in committee on 21 February 1985, a number of members pointed out the difficulties of enforcing such a regulation (e.g., checking on whether it was being complied with) and consensus was reached on retaining the period of two consecutive weeks. Mr SMITH had no objections to this.

31. The amendment seeking to make it possible for the drivers of commercial vehicles to shorten their compulsory uninterrupted weekly rest period away from home to 20 consecutive hours instead of 24 as proposed by the Commission has also been withdrawn so as to adopt a position similar to that of the Economic and Social Committee. The same applies to the reduction in the weekly rest period to a minimum of 40 hours if spent at home (Amendment No. 16).

32. With reference to the minimum weekly rest period for drivers of coaches operating non-regular international passenger services and shuttle services during the main tourist season, i.e. from 1 March to 30 September, a derogation is proposed under which during a period of 2 consecutive weeks this rest period can be reduced from 96 to 72 hours (60 hours + a normal daily uninterrupted rest period of 12 hours) on condition of an appropriate compensatory rest period outside the period referred to.

33. The amendments to Article 8 are intended to provide drivers with a more flexible arrangement for their compulsory break.

34. Amendment No. 14 provides that the daily rest period may be taken in a vehicle with a bunk on condition that there is no better overnight accommodation in the neighbourhood, conditions in the cabin are suitable for proper rest and it is without any danger for the driver (for instance because of lack of heating)¹.

35. The rapporteur is however unable to accept the deletion, in the Commission's proposal, of the ban on bonuses. The award of bonuses, mainly for the distance covered, is diametrically opposed to one of the main objectives of this Community regulation, i.e. road safety. Bonuses encourage excessive speeds and careless driving and should therefore be avoided. The reason given for this deletion in the Commission's explanatory memorandum is: 'is difficult to apply' and 'is out of place with present day realities of organization in the transport world' - which does not sound convincing at all.

¹This is pointed out in an opinion from the Committee of Transport Workers' Unions. See in this connection also the report by the House of Lords entitled 'EEC Social Regulations for Road Transport', dated 15 May 1984, No. 19, paragraphs 11 and 12.

Your rapporteur would therefore prefer to maintain the ban on bonuses and consequently proposes Amendments No. 3 (to the recitals) and No. 19 (formerly Article 12a of Regulation No 543/69)¹. The Economic and Social Committee was also in favour of retaining this article (par. 2.1.5 of Mr SMITH's opinion).

36. The amendment seeking exemption for privately-owned horse trailers as recommended in the motion for a resolution by Mr COTTRELL and others (see annex) has been withdrawn following an assurance from the Commission that such transport is already exempt under the provisions of the amended Article 14.

37. The last amendment provides, as explained above, for the correction of certain imperfections, i.e. the improvement of the new provisions, within a period of 2 years from the entry into force of the new regulation, in consultation with the bodies concerned. This is moreover in accordance with Mr SMITH's opinion, which in par. 2.1.3 also emphasizes the need for further talks with employers and employees.

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38. In his opinion drawn up on behalf of the Committee on Social Affairs and Employment Mr BROK dwells quite rightly at length on the non-compliance with Community rules and the huge number of offences which have been recorded down the years. He also advocates quite rightly that checks should be carried out in the same way in all the Member States. Furthermore he urges that not only the drivers but also the employers should be penalized for offences and he believes the provisions will be ineffective as long as the penalties are lower than the financial advantages accruing from frequent non-compliance.

¹It was not only the trade unions that protested strongly against this deletion but also, inter alia, the Group of Ten Railways of the European Communities and the CEEP (European Centre of Public Enterprises) in the papers they submitted in November 1984.

39. Your rapporteur is able to endorse these views completely. He is also concerned at the enormous scale on which the social provisions are neglected and the great divergence in policing and penalty procedures in the different Member States¹.

40. The large number of offences naturally undermines the very principle of social progress, represents a threat to road safety and has the effect of distorting competition².

41. The rapporteur is therefore of the opinion that the frequency and intensity of the checks should be increased and brought to a comparable level in the different Member States. This is a point which should have absolute priority. He goes into the matter at length in paragraphs 15 to 17 of the motion for a resolution and believes that his recommendations require no further explanation.

42. He would simply point out that, for evident legal reasons, the Community has no power whatsoever regarding penalties and - as Mr STEELE, Director-General for Transport, emphasized at the committee meeting of 18 December 1984 - the Commission has therefore had to restrict itself to a proposal for a recommendation on this subject. As a result your rapporteur attaches the utmost importance to his appeal to the responsible authorities of the Member States (see paragraph 16 of the motion for a resolution).

¹The number of written questions on this subject is considerable and shows that Parliament is seriously concerned about it.

²For example there are regular controls and substantial fines in the Federal Republic of Germany, whilst on the other hand this is far from the case in Italy.

IV. CONCLUSIONS

43. The formulation of an effective system of driving and rest periods for road transport in the Community is a particularly difficult task in view of the specific characteristics and requirements of this transport sector and of the underlying objectives which are often difficult to reconcile with each other, i.e. social progress, fair competition conditions, greater road safety and increased productivity in this transport sector.

44. The basic regulation dating from 1969 represented a first step in the right direction although it is insufficiently respected and urgently requires revision. This also applies to the tachograph regulation of 1970.

45. Despite the reservations expressed by the trade unions and employers' organizations concerned, the present proposal can be seen as a sound and useful compromise. It makes the common social rules considerably more simple and flexible.

46. This however does not mean that there is no room in the Commission proposal for improvement with a view to better compliance with Community rules on a number of points. Your committee has adopted a number of amendments to this effect which are explained in a previous chapter.

47. Your rapporteur is delighted that not only has the Economic and Social Committee arrived at similar views on the draft regulation but Mr SMITH has adopted similar amendments to his own in his opinion (CES 906/84 final) on the most important aspects of this complex issue.

48. He would like to finish by expressing the wish that employers and employees and the responsible national bodies will continue to make every effort to ensure that these provisions are complied with as fully as possible in the interests of intra-Community trade and transport relations in general and of Community road transport in particular.

MOTION FOR A RESOLUTION (Doc. 1-114/81)

tabled by Mr COTTRELL, Mr FORTH, Mr C. JACKSON, Mr HORD, Mr MORELAND, Mr SPENCER, Mr SIMPSON, Mr HOWELL, Mr DALZIEL, Mr TURNER and Mrs EWING

pursuant to Rule 25 of the Rules of Procedure

on exemption of non-commercial vehicles from tachograph legislation

The European Parliament,

- welcoming the wider introduction of the tachograph throughout the Community as an aid to greater efficiency and road safety,
 - observing in particular the implementation of the Ruling No. VII/296/78-F Revision 1 RAV. 1/79 in the UK,
 - noting however that certain categories of vehicles are included in the provisions, despite the fact that they are not operating commercially or for hire or reward in any respect,
1. Observes that private-owner horseboxes fall into that category;
 2. Notes in addition that the owners of such vehicles are required to make a substantial investment in tachograph equipment, which is not necessary, bearing in mind the objective of the original legislation;
 3. Therefore requires the Commission to consider the possibility of a draft supplementary ruling, the effect of which would be to exclude from the tachograph legislation all vehicles, such as private-owner horseboxes, involved in travelling to and from events of a cultural nature, where no commercial interest is provenly involved;
 4. Requires the Commission to ensure that such a supplementary ruling would be fully applicable in all Member States of the EEC.

OPINION

(Rule 101 of the Rules of Procedure)
of the Committee on Social Affairs and Employment

Draftsman: Mr E. BROK

At its meeting of 21 November 1984, the Committee on Social Affairs and Employment appointed Mr E. BROK draftsman of the opinion.

The committee considered the draft opinion at its meetings of 21 November and 18 December 1984. On 18 December it adopted the conclusions unanimously.

The following took part in the vote: Mr Welsh, chairman; Mr McCartin, vice-chairman; Mr Brok, draftsman of the opinion; Mrs d'Ancona, Mr Bachy, Mr Cassidy (deputizing for Sir Jack Stewart-Clark), Mr Christiansen, Mr Ebel (deputizing for Mr Iodice), Mr Fitzgerald, Mr Hindley (deputizing for Mr Didò), Mr Megahy, Mr Pordea (deputizing for Mr Le Chevallier), Mr Raggio, Mrs Squarcialupi (deputizing for Mrs Hoffmann), Mr Tuckman and Mr Wawrzik (deputizing for Mr Chanterie).

I. INTRODUCTION

The Commission's new proposals amending the regulations on the harmonization of certain social legislation have been examined, with particular attention going to the provisions on driving periods, rest periods and compulsory breaks.

1. On the positive side, it should be noted that, as a result of technical advances in vehicle construction, there is no provision for distinguishing between vehicle categories as regards daily driving and rest periods. In addition the work of drivers of large vehicles will no longer be assessed differently from that of drivers of smaller vehicles, since this is no longer defensible.

2. On the negative side, however, it must be pointed out that the proposed regulation remains too inflexible to cope with the special conditions typically obtaining in road haulage. This lack of flexibility prevents hauliers from responding to market developments, and drivers from reacting to changing traffic situations, which is why the proposal has been rejected by both the International Road Transport Union (IRU) and trade unions.

II. THE COMMISSION'S PROPOSAL

3. Given that order flows fluctuate, traffic flows are imponderable and it is impossible to calculate in advance how long loading, unloading and customs clearance will take, both hauliers and drivers need more time at their disposal. However, the following example demonstrates that, by comparison with existing arrangements, the new regulation would reduce the total available driving time by 13 hours:

1 driver 1 vehicle, 20 tonnes

<u>Regulation (EEC) No 543/69</u>		<u>Commission proposals regarding Regulation (EEC) No 543/69</u>
Week	168 hrs.	168 hrs.
Weekly rest period	40 hrs.	48 hrs.
Daily rest period (5 x 11 hours)	55 hrs.	60 hrs. (5 x 12 hrs.)
Driving breaks	10 hrs.	10 hrs. (5 x 2 hrs.)
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	105 hrs	118 hrs.
Remainder	63 hrs.	50 hrs.

4. As a result, journey times will be shortened still further so as to recover the leeway previously obtaining. This will subject drivers to even more stress in their race against time, causing them to violate existing social legislation in order to prove - given the situation on the labour market - that they are working efficiently for their employer.

5. Studies show that existing legislation has been unable to make a major contribution to social progress because it is not sufficiently flexible and is often violated. For example, in the course of routine and special controls on motorways and trunk roads and at frontier crossings in the Federal Republic of Germany in 1982, social legislation was found to have been violated on every second goods vehicle inspected (50.9%). On the basis of this evidence, the German Trading Inspectorate came to opposite conclusions from those of the Commission, which stated that, in its view, the overwhelming majority of cases involved petty infringements. Twenty-four percent of drivers had exceeded the maximum period of continuous driving considerably (30 to 60 mins.); 23 percent had exceeded this period very considerably (more than 60 mins.). Forty-seven percent of drivers had exceeded the maximum daily driving period considerably (30 to 120 mins.), 27 percent very considerably. Driving breaks had been considerably shorter (5 to 15 mins.) than the minimum in 36 percent of cases, and very considerably shorter (more than 15 mins.) in 24 percent. Minimum daily rest periods had been considerably shorter (30 to 120 mins.) than the minimum in 26 percent of cases, and very considerably shorter in 47 percent. There were similar figures as regards infringements of monitoring regulations. Increasingly, recording equipment is interfered with in order to conceal violation of social legislation.

6. According to the Commission proposal, the maximum continuous driving period would be extended by half an hour, thus ensuring a maximum permissible daily driving period of nine hours. The maximum weekly driving time would be 45 hours (previously 48 hours); it would be possible to extend the maximum daily driving period by one hour twice in any one week. This approach cannot eliminate infringements. On the contrary, hauliers as well as drivers need greater leeway in using their time. Drivers would like longer rest periods at home and shorter rest periods away from home, since, in their view, proper use cannot be made of free time away from home. In addition, they would like to be able to reach home sooner, rather than be obliged to spend their rest periods near, but not at, home. With due regard for road safety, provision for reducing the

extent to which rest periods are spent away from home - by allowing a driver to spend the time due to him at home, if this is possible - would promote social progress. Compulsory extended rest periods away from home, as proposed by the Commission, will therefore not be preferable to vehicle crews; they will not consider reduced working time as progress if they are unable to spend additional free time where they would like to spend it.

7. Another reason behind infringements of existing social legislation can be traced to drivers' increasing concern for their jobs. They often say that it is impossible to refuse assignments which involve exceeding the permissible daily driving period, because to do so would mean dismissal.

8. Therefore, all welcome improvements in the social provisions for long-distance drivers are meaningless as long as the Member States' arrangements for checking on, and punishing, infringements differ quantitatively and qualitatively to such an extent that it is financially more attractive in the Member States to ignore existing regulations (because checks are only carried out on a small scale or because any fines imposed cannot even cancel out the economic benefit of breaking the law). Random investigations reveal that inspections for infringements of Regulation (EEC) No 543/69 are rare in a number of Member States, while, in others, great importance is attached to compliance with this Regulation. For example, investigations in the Federal Republic of Germany revealed that the most serious infringements of the Regulation were committed by long-distance drivers from those Member States which made the least efforts to check on compliance with the law. Because the Member States implement the Regulation differently, and because the differences are major, quite the reverse of the Community's objective - to harmonize the terms of competition in the Member States and to enact social legislation benefiting the workforce and improving road safety - is being achieved.

III. CONCLUSIONS

The Committee on Social Affairs and Employment

10. Supports the Commission's efforts to master social problems such as road safety by amending the Regulations on the harmonization of the relevant social legislation, in particular the provisions governing driving and rest periods and compulsory breaks;

11. Requests the Committee on Transport to ensure that its decision also reflects the emerging consensus between trade unions and employers;

12. Takes the view that, given the many infringements of existing social legislation, controls must be carried out in all Member States in order to ensure that such legislation is implemented in the same manner;

13. Urges that, in the case of serious infringements of social legislation, not only drivers but also their employers be prosecuted;

14. Considers that the legislation will be ineffectual as long as the price for breaking the law is lower than the economic benefits of non-compliance;

15. Endorses flexible solutions that would permit drivers to spend as much as possible of their rest periods at home;

16. Strongly recommends the Commission and Council to do everything possible to abolish unnecessary delays at frontier posts throughout the Communities. In this regard points out that there is a high level of frustration caused to lorry drivers having to wait long hours needlessly at border crossings and that there is also a tendency for employers to expect their drivers to spend more time than they should at their jobs in order to compensate for these delays;

17. Reserves the right, in consultation with the Committee on Transport, to table amendments to the draft report.

	Regulation (EEC) No 543/69	Commission's proposals revising Regulation	Proposals from the road hauliage section of the International Road Transport Union (IRU)	Trade-union transport committee
1. Daily driving period	8 hrs	9 hrs.	10 hrs.	8 hrs.
- Standard	-	2 x 10 hrs.	-	2 x 9 hrs.
- Optional variant				
2. Weekly driving time	48 hrs.	45 hrs.	-	48 hrs.
- per week	92 hrs.	-	90 hrs.	-
- per working fortnight				
3. Continuous driving period	4 hrs.	-	4 1/2 hrs.	4 hrs.
(Continuous working period)	-	4 1/2 hrs.	-	-
4. Breaks				
- light vehicles	30 mins. (2x20, 3x15)	-	-	-
- heavy vehicles	60 mins. (2x30)	-	-	-
- all vehicles	-	60mins. (3x20)	30mins. (2x20, 3x15)	60 mins.
5. Daily rest period				
- standard	11 hrs.	12 hrs.	10 hrs.	11 hrs. continuous
- reduction	2 x 9 hrs.	3 x 9 hrs.	10 hrs.	-
*(at driver's home)			8 hrs. continuous or	
- reduction	2 x 8 hrs.	3 x 9 hrs.	9 hrs. non-continuous	-
*(elsewhere)			(6 hrs. continuous plus	
			30 mins. driving time max.)	
*with compensatory rest period				
6. Weekly rest period				
- standard	29 hrs. + 1 rest day	48 hrs.	40 hrs.	48 hrs. (no variation)
- reduction to	24 hrs.	36 hrs. (at home) or	20 hrs. (away from home)	-
- with compensatory rest period	within same week	24 hrs. (elsewhere)	Before end of following week	-
		Before end of following week	Before end of following week	
7. Daily rest period	8 hrs./30 hrs.	9 hrs./30 hrs.	Time spent in cabin to be taken into account, plus 4 hours' rest period in stationary vehicle	
Two-man crew	(Stationary vehicle)	(Stationary vehicle)	Reference period: 30 hrs.	

