

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 767 final.

Brussels, 17 January 1979.

PROPOSAL FOR A COUNCIL DECISION

on the amendment of the European Agreement Concerning the Work
of Crews of Vehicles Engaged in International Road Transport (AETR)
and on the accession of the European Communities to the Agreement

(submitted to the Council by the Commission)

COM(78) 767 final.

I. General considerations

1. The European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR)¹ basically brings in the same arrangements within its scope as Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport². The Agreement is thus a practical supplement to internal Community legislation in respect of communications with non-member countries. Most Member States have now deposited their instruments of ratification or accession to the Agreement in accordance with the requirements of Council Regulation (EEC) No 2829/77 of 12 December 1977³ subject to the conditions laid down in it and have become Contracting Parties to the Agreement⁴.

2. The Community should also accede to the Agreement as soon as possible as the matters covered by the AETR all fall within the Community's jurisdiction, and any questions which have arisen or might arise in respect of the AETR can be dealt with more effectively if the Community is also a Contracting Party to the Agreement. This is particularly important if an overall and permanent guarantee that the provisions of the Agreement are effectively harmonized with those of the Community Regulation is to be secured. In order to facilitate the Community's accession, it is proposed that the Council should authorize the Commission to initiate the requisite negotiations with the United Nations' ECE in Geneva to clear the way for accession.

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¹The Agreement of 1 July 1970 came into force on 5 January 1976; the Federal Republic of Germany is the only Member State which has been a Contracting Party to the Agreement since that time.

²OJ No L 77 of 29 March 1969, page 49.

³OJ No L 334/11 of 24 December 1977.

⁴The following are at present Contracting Parties: the Member States (excluding Ireland and Italy), Austria, Czechoslovakia, the German Democratic Republic, Greece, Norway, Portugal, Sweden, the USSR and Yugoslavia.

The Member States should also be required to press jointly for the Agreement's transitional and procedural rules to be changed, under the amendment procedure provided for in Article 23 of the Agreement, to pave the way for the Community's subsequent accession. This involves the incorporation of a provision into the AETR enabling communities of states to accede to the Agreement.

3. Community Regulation (EEC) No 543/69 having been amended with effect from 1 January 1978 in a number of points by Council Regulation No 2827/77 of 12 December 1977¹ and, in part, worded less stringently, it is necessary - to ensure smooth and safe communications between the Community and non-member countries under equal conditions of competition - to amend the AETR accordingly without delay, if necessary, before the Community's accession.

The essential differences between the Agreement and the Community Regulation which should, accordingly, be eliminated forthwith, are:

- (a) the extension of the weekly rest period by five hours to a total of 29 hours;
- (b) the elimination of the required presence of a second driver on journeys of more than 450 km, if mechanical recording equipment is installed;
- (c) the possibility of using mechanical recording equipment as a means of control replacing - either partly or totally - the individual control book.

With regard to the last point, it should be noted that the signatories to the AETR Agreement undertook in the Protocol of Signature, in respect of Article 12, to discuss at a later date the introduction of mechanical recording equipment as a means of control.

To ensure that these vital amendments are made before the Community's accession, all Member States, which are Contracting Parties to the Agreement and are legally empowered to initiate the amendment procedure provided for in Article 23 of the Agreement, should be required, by Council Decision, to take the requisite steps under this procedure and propose the relevant amendments jointly agreed upon.

¹ OJ No L 334/1 of 24 December 1977.

4. Details of the amendment procedure which is to be jointly initiated by the Member States in accordance with this Decision are to be found in Article 23 of the Agreement. If other Contracting Parties raise no objection, an amendment proposed by a Member State pursuant to this Decision is deemed to have been accepted six months after it has been communicated by the Secretary-General of the United Nations to the other Contracting Parties (paragraph 5); the amendment enters into force after a further three months (paragraph 6).

It is important that the individual points of the proposed amendments be treated as separate, single proposals and that any objections and their legal consequences thus be aimed only at individual points.

5. This procedure will safeguard the Community's jurisdiction in the area in question and fulfil the requirement for joint action referred to in Article 2(3) of Council Regulation (EEC) No 2829/77 of 12 December 1977 on the bringing into force of the AETR¹.

In order that the Commission may ensure that action is taken jointly and, if need be, consider further steps which may prove necessary, it must be kept informed about measures taken by the Member States on the basis of this Decision and about the course of the amendment procedure.

¹OJ No L 334/11 of 24 December 1977.

II. Specific considerations regarding the Annex

The following remarks need to be made concerning the three points in the AETR which are to be amended:

1. Increase in the weekly rest period

Now that Community Regulation (EEC) No 543/69 has increased the weekly rest period from 24 to 29 hours (Article 12), it would seem to be necessary - in the interests not only of social progress but also of harmonizing the conditions of competition, and of road safety and of facilitating controls - to introduce this five-hour increase into the AETR Agreement as well. This is true regardless of the fact that the introduction of the more stringent social rule in the Community of the 29-hour weekly rest period is to be made compatible with the provisions of the Agreement (Article 4(1)).

The proposal for an amendment must also include a provision that part of the weekly rest period, i.e. five hours, may be spread over a week.

At all events the weekly rest period must be preceded or followed by a daily rest period of at least eleven hours.

2. No second driver

Since Community Regulation No 543/69 abolishes as from 1 January 1978 the requirement that a second driver must be on board, provided the vehicle is equipped with a mechanical recording device, a similar provision should be included in the AETR for the sake of harmonization, particularly of intra-Community transit traffic through Austria and Switzerland. Since it is impossible to refer to Regulation (EEC) No 1463/70 in the AETR special provisions will have to be made in the Agreement regarding the recording device. It will have to suffice if equipment is used which conforms to an officially approved national model and records at least speed, distance and driving time.

Unlike the individual control book, recording devices, which are now compulsory in the Community and are also being widely used in the rest of Europe, make it possible to record and monitor speed, distance covered and driving time accurately and reliably. In combination with

other rules (daily driving time, daily rest period, breaks, and maximum speed) this provides a broad guarantee that the individual driver is employed in a way which excludes his being overtaxed and thus becoming a danger to others on the road.

3. Mechanical recording equipment as a means of control

The signatories¹ to the Agreement of 1 July 1970 undertook in the Protocol of Signature with regard to Article 12 to discuss after the Agreement had entered into force the insertion therein, by means of an amendment, of a clause providing for the use of a control device of approved type which, when placed on the vehicle, would so far as possible replace the individual control book. It could therefore already be foreseen at the time when the Agreement was signed that the use of recording equipment would become increasingly widespread and gain in importance as a more effective means of control.

The situation has indeed changed along these lines in the last few years, particularly through the compulsory introduction of recording equipment instead of individual control books within the Community on the basis of Regulation (EEC) No 1463/70. The obligations imposed by this Regulation affects most vehicles falling within the scope of Regulation (EEC) No 543/69.

¹The following countries have signed: Austria, Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Sweden, Switzerland, and the United Kingdom. Signature took place at the end of 1970 and the beginning of 1971.

This Regulation states that all the vehicles in the Community to which it refers should be equipped with a recording device not later than 1 July 1979 regardless of the date when they were licensed. Furthermore, the use of recording devices has increased in non-member countries, becoming compulsory in some of them (Austria, Switzerland).

However, the only means of control referred to in the text of Article 12 of the AETR as it stands is the control book, which means that controls using recording equipment only cannot be applied on the territory of the Member States of the Community after 1 January 1978 to a vehicle licensed in a Community Member State and involved in traffic with another AETR state. Regulation No 1463/70 however prescribes the use of recording devices for control purposes, but it does not forbid the simultaneous use of the individual control book as laid down in the AETR. Therefore, control officials could demand use of recording equipment and of the control book as well, although such a solution is rather impractical.

For this reason it is necessary and urgent - in the interests of making traffic controls between Member and non-member States simple and effective - to make the use of recording equipment possible within the scope of the AETR and to exempt drivers - either totally or in part - from having to fill in the individual control book.

It is therefore proposed that, in respect of traffic between the Parties to the AETR, the - at least optional - use of recording equipment be permitted as a means of control. It would be sufficient if (as a minimum requirement) the device dealt with the most important factors required by AETR regulations, i.e. the travelling or driving time and the idle time of the vehicle and the speed and the distance covered. In addition, the recording equipment would have to conform with a model tested and approved by the competent authorities of a party to the Agreement. The drawing-up of utilization and test regulations can be left to the individual Parties to the Agreement. Where the devices and the sheets used in them cannot replace the remarks and entries in the individual control book, the missing details must be supplied in the individual control book to be kept at the same time, i.e. in the daily sheet or the weekly report.

To make it possible to perform sufficiently effective checks, the sheets must, if need be, provide information covering a period of at least seven days before the time of the check - which is why the driver must keep them with him in the vehicle.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the proposal from the Commission,

Whereas the European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR) came into force on 5 January 1976; whereas, pursuant to Article 2 of Council Regulation (EEC) No 2829/77 of 12 December 1977¹, the Agreement will apply from 1 January 1978 to certain international road transport operations between the Member States and third countries or in transit through such countries; whereas this Regulation requires the Member States to accede to the Agreement on behalf of the Community; whereas the instruments of ratification or accession must be deposited by the Member States not later than 1 January 1978; whereas the bringing into force of the Agreement will create rules governing working conditions in road haulage transport operations between the Community and third countries party to the Agreement while taking due account of competition, protection of road workers and road safety;

Whereas the Agreement lays down rules in the same fields as those covered by Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport² and thus supplements internal Community legislation;

Whereas the Community should accede to the Agreement as soon as possible, as the matters covered thereby all fall within the competence of

¹ OJ No L 334/11 24.12.1977.

² OJ No L 77/49, 29.3.1969.

the Community and questions arising in its application can only be resolved in accordance with Community law if the Community is a Contracting Party thereto; whereas the Commission should accordingly be authorized to initiate the requisite negotiations for the Community's accession; whereas the Agreement must therefore be amended now in order to clear the way for such accession and the Member States must consequently initiate the procedure laid down in Article 23 thereof;

Whereas Regulation No 543/69 was amended by Council Regulation (EEC) No 2827/77 of 12 December 1977¹ and the Agreement must therefore be amended accordingly to ensure that the acts accord with one another on these important aspects and that transport operations between Member States and third countries can be effected under uniform conditions; whereas the Member States must therefore initiate the procedure provided for in Article 23 of the Agreement in their capacity as Contracting Parties;

Whereas the Commission must be authorized to institute the requisite negotiations to amend other points in the AETR than those referred to above which conflict with Community legislation,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission is hereby authorized to institute negotiations with a view to the accession of the Community to the European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR) and to the harmonization of that Agreement with the Community's internal legislation.

¹ OJ No L 334/1, 24.12.1977

Article 2

1. The Member States, which have become Contracting Parties to the European Agreement Concerning the Work of Crews Engaged in International Road Transport (AETR) and fulfil the necessary requirements for initiating the amendment procedure provided for in Article 23 of the Agreement, shall take the requisite steps to amend the Agreement in accordance with this procedure. They shall address to the Secretary-General of the United Nations a letter to this effect based on the model in the Annex hereto.

2. The Member States shall inform the Commission of the measures taken pursuant to the preceding paragraph and of the progress of the procedure.

For the Council

The President

Done at Brussels,

ANNEX

Sir,

I have the honour to propose in the name of my Government amendments to the Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR) pursuant to Article 23 thereof. This proposal is made pursuant to Article 2(3) of Council Regulation (EEC) No 2829/77 of 12 December 1977 on the bringing into force of the AETR (OJ No L 334 of 24 December 1977, page 11) and in implementation of Council Decision (EEC) No (further Decision).

The following proposed amendments concern the procedural provisions necessary in order to permit the subsequent accession of the European Communities as such, and the provisions of the Agreement which require rapid amendment so as to bring them into line with the European Communities' internal rules.

Part of the proposal refers to the commitment, made by the signatories to the Agreement in the Protocol of Signature in respect of Article 12, that they would discuss the introduction of recording equipment.

The following three proposals are to be understood as individual proposals within the terms of Article 23 of the Agreement and it is requested that this be made clear when they are communicated to the other Contracting Parties.

The proposed amendments are as follows:

- Article 9 - weekly rest period

Paragraph 1 of this Article to be replaced by the following, divided into two subparagraphs:

"1. In addition to the daily rest periods referred to in Article 6, every crew member shall have a weekly rest period of not less than twenty-nine consecutive hours, which shall be immediately preceded or followed by a daily rest period conforming to the provisions of Article 6.

"The rest period referred to in paragraph 1 may be reduced to not less than twenty-four consecutive hours provided that an additional daily rest period, or periods, equivalent to the reduction be granted to the crew member concerned during the same week."

- Article 10 - Manning

The Article as it now stands to become paragraph 1. A paragraph 2 to be added, with the following wording:

"2. Paragraph 1 shall not apply to the vehicles referred to therein where they are equipped with recording equipment pursuant to Article 12 a which records at least the travelling or driving time and the idle time of the vehicle as well as its speed and the distance covered."

- Use of recording equipment as a means of control

An additional Article 12 a to be included with the following wording:

"If a Contracting Party prescribes the installation and use in vehicles licensed on its territory (of mechanical recording equipment) which records at least the travelling or driving time, the idle time of the vehicle, its speed and the distance covered, and which corresponds to a model for which a national type-approval certificate has been issued, the members of the crews of such vehicles shall not be required to make the entries prescribed by Article 12, insofar as the period of time and information provided for in the daily sheets can be recorded by such equipment."

"The entries thus recorded shall be entered in the weekly report of the individual control book. Provided that the statements and entries required for the cover sheet and the weekly report of the individual control book are supplied by the sheets from the recording equipment, these parts of the individual control book need not be filled in. Crew members must be able at all times to present the recording equipment sheets, and if need be the necessary entries in the individual control book, with complete dates and times in respect of a period of at least seven days preceding a check by authorized officials".

Article 16 - final provisions

Paragraphs 1 and 5 to be amended to read as follows:

"1. This Agreement shall be open for signature until 31 March 1971, and thereafter for accession by States being members of the Economic Commission for Europe and States admitted to that Commission in a consultative capacity under paragraph 8 of the Commission's terms of reference, and by communities of States formed by the said members.

5. In respect of each State and community of States which ratifies, or accedes to, this Agreement after the deposit of the eighth instrument of ratification or accession as referred to in paragraph 4 of this Article, the Agreement shall enter into force one hundred and eighty days after the deposit of the instruments of ratification or accession."

Articles 21, 22, 23, 24 and 26

The word "State" shall be replaced by the words "State(s) and community or communities of States" in Articles 21, 22, 23, 24 and 26.

The word "State" in Article 23 point (b) shall be replaced by "State or community of States to which it belongs".

