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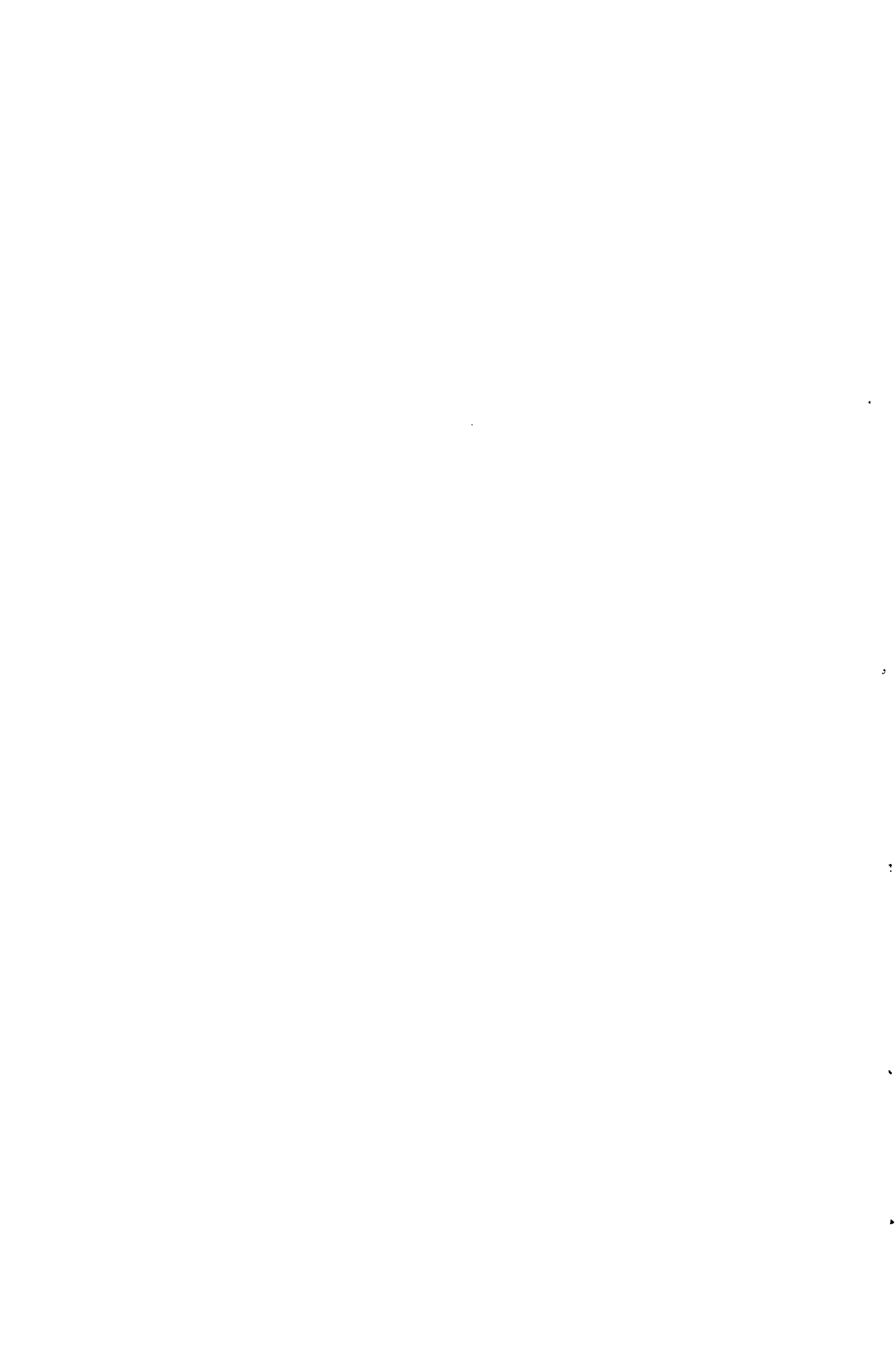
Report

drawn up on behalf of the Committee on Regional Policy, Regional Planning and
Transport

on the proposal from the Commission of the European Communities to the
Council (Doc. 17/76) for a Regulation on the harmonization of certain social
legislation relating to road transport

Rapporteur: Mr H. SEEFELD

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By letter of 17 March 1976 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 75 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a regulation on the harmonization of certain social legislation relating to road transport.

The President of the European Parliament referred this proposal to the Committee on Regional Policy, Regional Planning and Transport as the committee responsible and to the Committee on Social Affairs, Employment and Education for its opinion.

On 17 March 1976 the Committee on Regional Policy, Regional Planning and Transport appointed Mr Seefeld rapporteur.

It considered the proposal at its meetings of 17 March 1976, 27 April 1976 and 21 October 1976.

On 21 October 1976 the committee adopted the motion for a resolution and the explanatory statement unanimously with one abstention.

Present: Mr Giraud, acting chairman; Mr Seefeld, rapporteur; Mr Albers, Lord Beaumont (deputizing for Mr Fletcher), Mr Ellis, Mr Gerlach, Mr Johnston, Mr Noè and Mr Osborn.

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

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The Committee on Regional Policy, Regional Planning and Transport hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a regulation on the harmonization of certain social legislation relating to road transport

The European Parliament

having regard to the proposal from the Commission of the European Communities to the Council for a regulation on the harmonization of certain social legislation relating to road transport, submitted by the Council pursuant to Article 75 of the EEC Treaty (No. 17/76),
 having regard to the report of the Committee on Regional Policy, Regional Planning and Transport and to the opinion of the Committee on Social Affairs, Employment and Education (Doc. 396/76),

1. Welcomes all further progress on harmonization of the cost factors in the transport sector, the social position of transport workers and on road safety;
need of revision and amplification
2. Calls on the Commission and the Council, in view of the growing number of road accidents, to give priority in their decisions to road safety aspects;
3. Approves the Commission's proposal;
4. Nevertheless requests the Commission to incorporate the following amendments in its proposal pursuant to the second paragraph of Article 149 of the EEC Treaty;
5. Refers to its resolution of 17 April 1972², and calls on the Council to lay down the minimum training requirements for drivers without delay.

¹ OJ No. C 103, 6.5.1976, p.2

² OJ No. C 46, 9.5.1972, p.8

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community and in particular Article 75 thereof;

Having regard to the proposal from the Commission;

Having regard to the opinion of the European Parliament;

Having regard to the opinion of the Economic and Social Committee;

Whereas Council Regulation (EEC) No. 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport¹ was adopted in pursuance of the Council Decision of 13 May 1965 on the harmonization of certain provisions affecting competition in transport by rail, road and inland waterway², and in particular Section III thereof; and whereas this Regulation was amended by Council regulations (EEC) No. 514/72 and 515/72 of 28 February 1972³;

(1) Whereas Council Regulation (EEC) No. 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport¹, adopted in pursuance of the Council decision of 13 May 1965 on the harmonization of certain provisions affecting competition in transport by rail, road and inland waterway², and in particular Section III thereof, and amended by Council regulations (EEC) No. 514/72 and 515/72 of 28 February 1972³, is in need of revision and amplification;

Recitals 2 - 5

unchanged

¹ OJ No. L 77, 29 .3.1969, p.49

² OJ No. 88, 24 .5.1965, p.1500

³ OJ No. L 67, 20 .3.1972, p.1 and p.11

Whereas it is desirable to increase operating flexibility by exempting vehicles on which a mechanical control device as described in Article 1 or Article 20 of Council Regulation (EEC) No. 1463/70 of 20 July 1970 on the introduction of recording equipment in road transport¹ is installed from the daily distance restriction;

Whereas it is desirable to provide by means of a community procedure that exemptions may be made from all or certain provisions of the Regulation, for national transport in the case of exceptional circumstances, for the transport of certain products, for rules regulating drivers' hours and conditions in temporary emergency situations for national transport in the case of difficulties which are serious and liable to persist or difficulties which would lead to a serious deterioration in the national or regional economy;

(6) Whereas checks on observance of the daily rest and driving periods in the case of vehicles on which a mechanical control device as described in Article 1 or Article 20 of Council Regulation (EEC) No. 1463/70 of 20 July 1970 on the introduction of recording equipment in road transport¹ is installed do not require further strengthening through a daily distance restriction and an exemption can therefore be granted from this restriction;

Recitals 7 - 10

unchanged

(11) Whereas it is desirable to provide by means of a Community procedure that exemptions may be made from all or certain provisions of the regulation, for national transport in the case of exceptional circumstances, for the transport of certain products, for rules regulating drivers' hours and conditions in temporary emergency situations for national transport in the case of serious difficulties in the transport sector, in the economy as a whole or in a particular region;

Recitals 12 and 13

unchanged

¹ OJ No L 164, 27.7.1970, p.1

Whereas in order to avoid jeopardizing road safety, the payment of bonuses which would have this effect for distance covered and tonnage carried should be forbidden;

(14) Whereas in the interests of road safety, bonuses based on distance covered and tonnage carried should be forbidden, since they jeopardize road safety;

Recital 15
unchanged

Whereas it is desirable to consult government experts on the application of the provisions of the Regulation;

(16) ~~delete~~

Recital 17
unchanged

HAS ADOPTED THIS REGULATION:

SECTION I

Definitions

Article 1

Article 1

In this regulation:

In this regulation:

1. 'carriage by road' means any journey by road of a vehicle, whether laden or not, used for the carriage of passengers or goods;
2. 'vehicles' means motor vehicles, tractors, trailers and semi-trailers, defined as follows:
 - (a) 'motor vehicle': any mechanically self-propelled vehicle circulating on the road, other than a vehicle running on rails, and normally used for carrying passengers or goods;

1. unchanged
2. unchanged

-
- (b) 'tractor': any mechanically self-propelled vehicle circulating on the road, other than a vehicle running on rails, and specially designed to pull, push or move trailers, semi-trailers, implements or machines;
- (c) 'trailer': any vehicle designed to be coupled to a motor vehicle or a tractor;
- (d) 'semi-trailer': a trailer without a front axle coupled in such a way that a substantial part of its weight and of the weight of its load is borne by the tractor or motor vehicle;
3. 'crew member' means the driver, driver's mate, and conductor, defined as follows:
- (a) 'driver': any person who drives the vehicle even for a short period, or who is carried in the vehicle in order to be available for driving if necessary;
- (b) 'driver's mate': any person accompanying the driver of a vehicle in order to assist him in certain manoeuvres and habitually taking an effective part in the transport operations, but not being a driver within the meaning of (a);
3. unchanged

- (c) 'conductor': any person who accompanies the driver of a vehicle used for the carriage of passengers and has the particular duty of issuing and checking tickets;
4. 'week': the period between 00.00 hours on Sunday and 24.00 hours on Saturday;
5. 'rest period' means any uninterrupted period of at least eight hours during which the crew members may freely dispose of their time and are free to move about as they please;
6. 'Spreadover': means for each crew member, the period falling between the start and the end of work. This period includes the time devoted by the crew to taking charge of their vehicle or discharging themselves of responsibility for it over and above that which they normally spend getting to and from work, when the vehicle is garaged at a place other than the normal work-place and the time of availability for work;
7. Break: means any period during the spreadover of less than 8 hours but at least 15 minutes during which the crew member may dispose freely of his time and movements.
4. unchanged
5. 'free time' means any uninterrupted period of at least eight hours during which the crew members may freely dispose of their time and are free to move about as they please;
6. 'Spreadover': means for each crew member, the period falling between the start and the end of work. This period includes the time devoted by the crew to taking charge of their vehicle or discharging themselves of responsibility for it over and above that which they normally spend getting to and from work, when the vehicle is garaged at a place other than the normal workplace and the time of availability for work, and the rest periods;
- 6 a) 'driving period': the whole of the time within the spreadover spent at the wheel;
7. unchanged

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- | | |
|--|---------------|
| 8(a) 'regular goods services' means transport services operated at specified intervals along specified routes, goods being loaded and unloaded at predetermined stopping points; | 8. unchanged |
| (b) 'regular passenger services' means the services defined in Article 1 of Regulation No. 117/66/EEC; | |
| (c) 'shuttle services' means the services defined in Article 2 of Regulation No. 117/66/EEC; | |
| (d) 'irregular passenger services' means the services defined in Article 3 of Regulation No. 117/66/EEC. | |
| 9. 'permissible maximum weight' means the maximum authorised operating weight of the vehicle fully laden. | 9. unchanged |
| 10. Bunk: means a berth upon which the member of the crew can lie down with comfort. | 10. unchanged |

SECTION II

Scope

Article 2

Article 2

unchanged

Article 3

Article 3

unchanged

Article 4

This Regulation shall not apply to carriage by:

1. vehicles which in construction and equipment are suitable for carrying not more than nine persons including the driver and are intended for that purpose;
2. vehicles which in construction and equipment are suitable for the carriage of not more than twelve persons including the driver and are used by their owners for exclusively private purposes; journeys to convey employees by own account operators are not considered as being for exclusively private purposes;
3. vehicles used for the carriage of goods, the permissible maximum weight of which, including any trailer or semi-trailer, does not exceed 3.5 metric tons;
4. vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50 km;
5. service vehicles used by the police, gendarmerie, armed forces, fire brigades, civil defence, drainage or flood-prevention authorities, water, gas or electricity services, highway authorities, telegraph or telephone services, by the postal authorities for the carriage of mail, or by radio or television services; or other public authorities providing

Article 4

This Regulation shall not apply to carriage by:

1. unchanged
2. unchanged
3. unchanged
4. unchanged
5. unchanged

TEXT PROPOSED BY THE COMMISSION OF
THE EUROPEAN COMMUNITIES

AMENDED TEXT

-
- public services which are not in competition with private road transport;
- | | |
|--|------------------|
| 6. vehicles used for the carriage of sick or injured persons and for carrying rescue material, and specialised breakdown vehicles; | 6. unchanged |
| 7. tractors with a maximum authorised speed not exceeding 30 kilometres per hour; | 7. unchanged |
| 8. tractors used exclusively for local agricultural and forestry work; | 8. unchanged |
| 9. vehicles used to transport circus and fun fairs equipment; | 9. <u>delete</u> |
| 10. vehicles undergoing workshop tests; | 10. unchanged |
| 11. mobile libraries and itinerant markets. | 11. unchanged |

SECTION III

Crew

Article 5

Article 5
unchanged

Article 6

Article 6

1. Where a driver is engaged in carriage by:

deleted here, but see Article 16a

- (a) a motor vehicle or tractor with more than one trailer or semitrailer;
- (b) a motor vehicle or tractor with one trailer or semitrailer where this combination used for the carriage of passengers and the permissible maximum weight of the trailer or semitrailer exceeds 5 metric tons;
- (c) a motor vehicle or tractor with one trailer or semitrailer where this combination is used for the carriage of goods and the permissible maximum weight of such combination exceeds 20 metric tons;

and the distance to be covered during the spreadover exceeds 450 km, that driver shall from the beginning of the journey be accompanied by another driver or shall, on reaching the 450th km, be relieved by another driver.

2. The provision of Paragraph 1 is not applicable to vehicles mentioned therein in which control equipment as provided for in Article 1 of Regulation (EEC) No. 1463/70 or as provided for in Article 20 paragraph 1 of the same Regulation is in operation.

SECTION IV

Spreadover and rest periods

Article 7

Article 8

Spreadover and free time

Article 7

delete

Article 8

unchanged

Article 9

1. Every crew member engaged in the carriage of goods by vehicles manned by one driver and by vehicles without a bunk with two drivers, shall have an individual rest period of not less than 11 hours.
2. The rest period referred to in paragraph 1 may be reduced to 8 hours, not more than twice in any one week and not consecutively, when such rest is taken elsewhere than at the place where the crew or the vehicle is based.

Articles 10-14

Article 15

1. Where a crew member engaged in the carriage of goods or passengers accompanies a vehicle which is transported by ferry-boat or by train, his free time on board the ferry-boat or on the train shall be considered as rest period provided that this free time corresponds in length to that contained in Articles 9 and 12 respectively.
2. By derogation from the provisions of Articles 9 and 12 the crew members may reduce the rest period spent on board a ferry-boat or on a train to 8 hours up to three times in any one week.

Article 9

1. unchanged
2. Not more than twice in any one week the free time period referred to in paragraph 1 may be reduced to 10 hours when taken at the place where the vehicle is based and 9 hours when taken elsewhere.

Articles 10-14

unchanged

Article 15

1. Where a crew member engaged in the carriage of goods or passengers accompanies a vehicle which is transported by ferry-boat or by train, his free time on board shall be considered as part of his free time within the meaning of Article 1(5) provided that it exceeds 5 hours and the crew member has a bunk or couchette.
2. However, the remaining portion of the minimum total free time shall be taken as soon as possible before embarkation or after disembarkation and at all events shall end or begin within one hour of embarkation or disembarkation respectively. A bunk or couchette must again be available to the crew member during this part of the free time period.

3. All free time of less than 8 hours spent aboard a ferry-boat or on a train shall be regarded as a break. A crew member engaged in the carriage of passengers may, by derogation from the provisions of Articles 8 and 11 extend his spreadover, not more than twice in any one week, by the break spent aboard the ferry-boat or on the train up to a maximum of 2 hours.

3. If the free time is interrupted in this way, the free time periods laid down in Articles 9 and 12 shall be increased by 2 hours.

4. Any free time period of less than 5 hours on board shall be regarded as a break. A crew member engaged in the carriage of goods or passengers may, by derogation from the provisions of Articles 8 and 11, extend his spreadover, not more than three times in any one week, by the break on board up to a maximum of 2 hours. In this case, the total length of spreadovers within any one week provided for in Articles 8 and 11 may be increased by the length of the breaks spent on board, up to a maximum of 5 hours.

SECTION V

Driving periods and breaks

Article 16

1. The total period of time spent behind the wheel during the spreadover shall not exceed 8 hours. This period may be extended, not more than twice in any week, to nine hours.

2. The total period of time spent behind the wheel may in no case exceed 48 hours in any one week of 92 hours in any two consecutive weeks. From 1.1.1979 the total time spent behind the wheel shall not exceed forty-six hours in any one week.

Article 16

1. The total period of time spent behind the wheel during the spreadover (driving period) shall not exceed 8 hours. This period may be extended, not more than twice in any week, to 9 hours.

2. The total driving period may in no case exceed 48 hours in any one week or 92 hours in any two consecutive weeks. From 1.1.1979 the total driving period shall not exceed 46 hours in any one week.

Article 16 a

(amended text of Article 6 of the proposal)

The following types of vehicle, where they are not equipped with a control device within the meaning of Article 1 or Article 20 (1) of regulation (EEC) No. 1473/70 and where therefore observance of the provisions of Article 16 is more difficult to check, may not during a spreadover cover more than 450 km, unless there are two drivers, or unless the first driver is relieved by another after driving 450 km:

- (a) A motor vehicle or tractor with more than one trailer or semi-trailer;
- (b) A motor vehicle or tractor with one trailer or semi-trailer where it is used for the carriage of passengers and the permissible maximum weight of the trailer or semi-trailer exceeds 5 metric tons;
- (c) A motor vehicle or tractor with one trailer or semi-trailer where it is used for the carriage of goods and the permissible maximum weight exceeds 20 metric tons.

Article 17

Article 17

unchanged

SECTION VI

Annual leave

Article 18

Article 18

unchanged

SECTION VII

Prohibition of bonuses

Article 19

It is forbidden to make payment to salaried crew members according to distances travelled and/or the amount of goods carried, unless such payments are of a kind as not to endanger road safety.

Article 19

Salaried crew members may not be paid according to distances travelled and/or the amount of goods carried, even in the form of bonuses or supplementary payments. (remainder deleted)

SECTION VIII

More restrictive provisions

Article 20

Article 20

unchanged

Article 21

Every two years the Commission will present to the Council and to the European Parliament a report on the development of the social situation in the fields covered by this Regulation.

Article 21

deleted here, but see Article 26

SECTION IX

Exceptions

Article 22

Article 22

unchanged

Article 23

Article 23

(1) At the request of a Member State, the Commission may, for certain national transport, authorise derogations from the maxima and minima of Section IV of this Regulation.

(1) delete, but see amended paragraph 5

The request can only be made where the two sides of industry of the Member State have already made a similar request to the Government.

(2) For transport carried out within a radius of 50 km from the place where the vehicle is based including municipalities, one centre of which is situated within that radius, Member States may, after consultation of the Commission and a hearing of both sides of industry, grant derogations, which must be limited to the requirements of the transport operations concerned, from the provisions of Sections IV of this Regulation for the following goods transports:

- i) Transport of milk from farm to dairy;
- ii) Transport of other agricultural and horticultural produce by the producer during harvesting periods.

(3) The derogations provided for in paragraphs 1 and 2 will only be granted when they are linked to compensation in terms of time which reduces the total length of weekly spreadovers and thus maintains the overall level of social protection and road safety.

(4) Until the compulsory installation of the recording equipment provided for in Article 1 of Regulation (EEC) No. 1463/70, Member States may authorise derogations from the provisions of Article 24 for national goods transports carried out within a radius of 50 km from the place where the vehicle is based including municipalities, the centre of which is situated within that radius provided:

(2) unchanged

(3) unchanged

(4) unchanged

- that the vehicles in question are fitted with recording equipment conforming to Article 20 of that Regulation; or
- that Member States, after consulting the Commission, take appropriate measures to keep an effective check on compliance with the provisions applicable to such transport operations such as will ensure that standards of employee protection and road safety are not impaired.

(5) In order to ensure transport for supplying the population during emergency situations of a temporary character, Member States may, in national transport, authorise temporary derogations from Sections IV and V of this Regulation.

Member States will communicate without delay the measures taken to the Commission who may modify or revoke them.

(5) The Commission may, after consulting both sides of industry permit the following derogations from the provisions of this Regulation in national transport:

- (a) At the request of both sides of industry, by mutual agreement, a Member State may apply for derogations from the maxima and minima of Section IV of this Regulation for certain types of transport where there are special conditions.
- (b) In order to ensure transport of supplies in temporary emergencies, Member States may, in national transport, authorise temporary derogations from Sections IV and V of this Regulation. Member States will communicate without delay the measures taken to the Commission who may modify or revoke them.
- (c) Until 31 December 1977, derogations from this Regulation applied for by the Member States may be used as protective measures, where the application of this

Regulation or of Regulation (EEC) No 543/69 causes serious difficulties in the transport industry, in the economy as a whole or in particular regions. The Commission shall determine such protective measures as it considers necessary to restore a balanced situation, in the form of a temporary partial derogation from the provisions of these Regulations, specifying the detailed rules of application.

- (d) Commission decisions under (a) - (c) above shall be published in the Official Journal of the European Communities.

SECTION X

Control procedures and penalties

Articles 24 and 25

Articles 24 and 25

unchanged

Article 26

Article 26

1. Every two years the Commission shall provide the Council and the European Parliament with a full report on the application of this Regulation by the Member States.

1. Every two years the Commission shall provide the Council and the European Parliament with a full report on social developments in the areas covered by this Regulation and on the application of this Regulation by the Member States.

When submitting the report, the Commission shall make such proposals to the Council as it considers necessary for progressive harmonization particularly with regard to the maximum length of shifts.

When submitting the report, the Commission shall make such proposals to the Council as it considers necessary for progressive harmonization particularly with regard to the maximum length of shifts.

- | | |
|---|--------------|
| 2. In order to enable the Commission to draw up the report referred to in paragraph 1, the Member States shall send to the Commission every two years all the necessary information in a standard return, the form of which shall be established by the Commission after consultation with the Member States. | 2. unchanged |
|---|--------------|

Article 27

Article 27

unchanged

SECTION XI

Final provisions

Article 28

Article 28

- | | |
|--|--|
| 1. In the event of the application of Regulation (EEC) 543/69 or this Regulation causing to the transport industry difficulties which are serious and liable to persist or difficulties which could lead to serious deterioration in the situation of a national or regional economy, a Member State may apply for authorization to take protective measures, including temporary suspension of some of the provisions of this Regulation as they apply to national transport on its territory in order to rectify the situation, to such an extent and for such periods as are strictly necessary to permit the situation to be restabilised. | <u>deleted, but see amended Article 23</u> |
|--|--|

2. On application by the State concerned, the Commission shall determine without delay the protective measures which it considers necessary, specifying the circumstances and the manner in which they are to be put into effect.
3. Such protective measures may only apply up to and including the 31st December 1977.

Article 29

At the request of a Member State or on its own initiative the Commission may consult Government Experts on all questions relating to the application of this Regulation, in particular those concerning Articles 23 and 27.

Article 30

Article 29

delete

Article 30

unchanged

EXPLANATORY STATEMENTI. Introduction

1. This Commission proposal is based on outline decision No. 65/271/EEC of 13 May 1965, on which the European Parliament gave an opinion based on a report by Mr Rademacher (Doc. 23/64).

2. With this proposal, the Commission wishes both to take a further step towards implementing the outline decision and to consolidate in a single text the existing amended and proposed provisions.

3. Your Committee welcomes and supports the Commission's intention to help to simplify and clarify Community legislation by consolidating all the existing texts in a single document.

It therefore asks the Commission to review the entire text with a view to further linguistic simplifications. Your committee also urges the Commission to have an outline of the regulations which individual drivers must observe printed in postcard size and distributed to those concerned. This outline could possibly be printed on the back of the individual control book.

4. The texts to be consolidated by the new proposal are the following:

- Council Regulation (EEC) No. 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport (OJ No. L 77/69 of 29 March 1969). The European Parliament delivered its opinion on this on 17 March 1967, on the basis of a report by Mr Laan (Doc. 31/67) (OJ No. 63, 3 April 1967).
- Council Regulation (EEC) No. 514/72 of 28 February 1972 amending regulation (EEC) No. 543/69 on the harmonization of certain social legislation relating to road transport (OJ No. L 67, 20 March 1972, P.1). The European Parliament delivered its opinion on this regulation on 10 June 1971 (OJ No. C 66, 1 July 1971) (Kollwelter Report, Doc. 59/1971).
- Council Regulation (EEC) No. 515/72 of 28 February 1972 amending regulation (EEC) No. 543/69 on the harmonization of certain social legislation relating to road transport (OJ No. L 67, 20 March 1972, P.11). The European Parliament delivered its opinion on this on the basis of a report by Mr Cousté (Doc. 170/71) on 18 November 1971 (OJ C 124, 17 December 1971);

- Commission proposal for a Regulation supplementing Council Regulation (EEC) No. 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport (Doc. 132/72).

Parliament delivered its opinion on this proposal on the basis of a report by Mr Seefeld (Doc. 197/73) on 16 November 1973 (OJ No. C 108, 10 December 1973). The amendments then decided on by Parliament have been incorporated by the Commission in its new proposal.

5. The Commission has, as in the past, been guided by three goals:

- equalizing the conditions of competition for firms.
- improving social conditions for transport workers.
- improving road safety.

6. Parliament has to consider whether the new proposals bring the Community closer to the goal, or whether the Commission has once more yielded before the practical difficulties in implementation that have arisen and the often vehement opposition of those concerned to the Community regulations in this area.

7. The Commission itself says that with the new proposal, social progress is at least maintained, but that 'greater operating flexibility' should be made possible and that 'real social progress could be achieved by stricter application and enforcement of a modified Regulation than was possible of the more complex provisions of the existing Regulation.'

8. The regulations in force since 1969 and 1972 and the proposal submitted by the Commission in 1972 and 1974 are compared with the Commission's present proposals in the attached table.

COMPARATIVE TABLE OF EXISTING AND PROPOSED COMMUNITY REGULATIONS

	Existing Regulations (543/69) (514/72) (515/72)	Proposal for a Regulation 1972 ¹ amended 1974 (COM(72)846 final) (COM(74)1529 final)	Proposal for a Regulation 1976 (COM(76) 85)
<u>Definitions</u>			
'week'	Any period of seven days	The period 'Sunday to Saturday'	The period 'Sunday to Saturday'
'break'	not mentioned	Concept introduced to differentiate it from interruptions of driving. break: interruption of at least 15 minutes during which the driver can dispose freely of his time and movements	The proposal replaces the two concepts of 'break' in the second regulation by a single concept: any period of less than 8 hours and more than 15 minutes during which the crew member can dispose freely of his time and movements.
'spreadover'	Not mentioned	Concept introduced together with a long list of examples	Definition simplified to the period between the start and end of work
'irregular passenger services'	Not mentioned	Not mentioned	Introduced to supplement the various types of service
Shuttle service	Not mentioned	Not mentioned	

	Existing Regulations	Proposal for a regulation:1972 amended :1974	Proposal for a regulation 1976
<u>Exemptions</u>	Original list in Regulation 543/69 supplemented by Regulation 515/72	No additions	Exemptions extended to include certain vehicles, particularly <ul style="list-style-type: none"> - mini-buses (12 seats) used for private purposes - public service vehicles which are not in competition with private road transport - vehicles undergoing workshop tests - vehicles used to transport circus and fun fair equipment - mobile libraries and itinerant markets

¹ EP opinion, 16 November 1973, OJ C 108, 10 December 1973, p. 72
 ESC opinion, 13 December 1973, OJ C 37, 1 April 1974

	Existing regulations	Proposal for a regulation 1972 amended: 1974	Proposal for a regulation 1976
<u>Rest periods</u> I. <u>'Daily' rest period</u> <u>Goods services</u> 1 driver 2 drivers vehicles without a bunk 2 drivers vehicles with a bunk	Minimum of 11 hours every 24 hours, which may be reduced twice a week to 9 or 8 hours respectively depending on whether rest is taken at, or away from, the place where the crew is based. Minimum of 10 hours every 27 hours Minimum of 8 hours every 30 hours	Unchanged	Minimum of 11 hours which must immediately precede and immediately follow a spreadover - may be reduced twice a week to 8 hours where the rest is taken away from the place where the crew or the vehicle is based idem To be fixed by February 1976 - until then the existing regulations remain in force.

	Existing regulations	Proposal for a regulation 1972 amended 1974	Proposal for a regulation 1976
<u>Passenger services</u>	Minimum of 10 hours every 24 hours or minimum of 11 hours every 24 hours, which may be reduced twice a week to 10 or 9 hours under certain conditions applying to regular services	} unchanged	Minimum of 11 hours which must immediately precede and immediately follow a spreadover - may be reduced to 10 hours three times a week
II. <u>Weekly rest period</u> <u>Goods and passenger services</u>	24 hours + a daily rest period every week = 35 hours a week - may be reduced to 60 hours every two weeks for international passenger services		29 hours + a rest period every week = 40 hours a week - no exception for international passenger services
<u>Spreadovers</u>	As spreadovers are not explicitly regulated, the figures given below have been obtained by subtracting the rest periods from the reference periods	Concept introduced	Concept retained

	Existing regulations	Proposal for a regulation 1972 amended: 1974	Proposal for a regulation 1976
<u>Goods services</u>	<u>Individual</u> <u>Weekly</u>	<u>Individual</u> <u>Weekly</u>	
1 driver	13 hours in any 24-hour period Derogation: 78 hours 14 hours in 24 twice a week or 15 hours in 24 twice a week	12 hours 60 hours Derogation: 14 hours twice a week	Maximum: 12 hours per spread- over Derogation: 14 hours twice a week, not consecutively in the case of addi- tional breaks Maximum of 60 hours a week
2 drivers vehicles without a bunk	17 hours in 27 84 hours	14 hours Derogation: 70 hours 16 hours twice a week	
2 drivers vehicles with a bunk	22 hours in 30 104 hours	16 hours Derogation: 80 hours 18 hours twice a week	
<u>Passenger Services</u> - regular:	14 hours in 24 or 13 hours in 24 84 hours Derogation: 14 hours twice a week and 15 hours twice a week	As for goods services above	To be fixed by 1 February 1977. Until then the existing regulations remain in force Maximum of 12 hours in any one spread- over - Derogation: 14 hours twice a week, not consecutively Maximum of 60 hours a week

	Existing regulations	Proposal for a regulation 1972 Amended 1974	Proposal for a regulation 1976
- Irregular - Shuttle	As for regular Not mentioned	Unchanged 65 hours Not mentioned) Maximum of 12 hours per) spreadover derogation:) 14 hours where crew) members take additional) breaks; not to exceed 65 hours a week
Two crews for distances over 450 km	In the case of heavy vehicles, where the distance to be covered in any one day exceeds 450 km the driver must be relieved by another driver or accompanied by another driver from the beginning of the journey	Unchanged	The 450 km limit is waived in the case of vehicles fitted with control equipment
<u>Driving periods</u> - continuous	Maximum of 4 hours, includes other work performed during the four-hour period)))))))))))	The concept of driving time has been replaced by that of <u>time spent behind the wheel</u> , which may not exceed 8 hours in any one spreadover - may be increased to 9 hours twice a week for all vehicles but may not exceed 48 hours in any one week or 92 hours in any two-week period.
- daily	Total 'continuous' driving time should not exceed 8 hours a day. In the case of light vehicles this may be increased to 9 hours twice a week	Unchanged	From 1 January 1979 the maximum period will be reduced from 48 to 46 hours.
- weekly	Total daily driving time may not exceed 48 hours a week)))))))))))	

	Existing regulations	Proposal for a regulation 1972 Amended 1974	Proposal for a regulation 1976
- two-week period	Total 'daily' driving time may not exceed 92 hours in any two-week period))) Unchanged	
<u>Interruptions and breaks</u>	Continuous driving to be interrupted for at least (a) one 30-minute period in the case of light vehicles (b) one 60-minute period in the case of heavy vehicles or (a) two 20-minute or three 15-minute periods (b) two 30-minute periods. No other breaks provided for - if the vehicle is manned by two drivers, the breaks may be taken while the vehicle is moving.	The concept of a 'break' determined by the length of the spreadover is introduced; where there is only one driver, interruptions in continuous driving are regarded as breaks - the vehicle must be stopped during 'breaks' even when manned by two drivers. The distinction between 'heavy' and 'light' vehicles is maintained.	Fusion of the concepts of 'break' and 'interruption'. Each 4½-hour period of the spreadover must include a break of 30 minutes or 2 breaks of 20 minutes or 3 breaks of 15 minutes regardless of type of vehicle. In all cases the vehicle must be stopped
<u>Time spent on ferry-boats and trains</u>	No specific provisions	No specific provisions	Time in excess of 8 hours counts as a 'rest period' - rest periods may be reduced to 8 hours, three times a week. All free time of less than 8 hours is regarded as a 'break'.
<u>Annual leave</u>	"	Minimum of 28 days' leave and public holidays introduced	28 days. Exception made for self-employed persons.

	Existing regulations	Proposal for a regulation 1972 Amended 1974	Proposal for a regulation 1976
<u>Safeguard clause</u>	Not mentioned	Not mentioned	In the event of serious and persistent deterioration in national or regional economies the provisions may be temporarily suspended until 31 December 1977.

II. Observations on the proposed text of the Regulation

Recitals:

9. No observations, except that the first recital should be linguistically revised, since the present wording does not constitute a reason.

Article I:

10. This Article contains a number of definitions. The new ones are the definition of the 'week' in paragraph 4, the replacement of the term 'daily rest period' by 'rest period' in paragraph 5, the term 'spreadover' in paragraph 6, and 'break' in paragraph 7. These changes were already proposed in a similar form in 1972 (Doc. 132/72). The definitions now proposed seem simpler and therefore preferable. It should, however, be made clear that the breaks are part of the spreadover, and the term 'driving period' which occurs frequently should be mentioned here.

Your committee further considers that the term 'spreadover' as now defined includes all periods of work by an employee in which he is not engaged in driving the vehicle, that is, all preliminary, terminal and administrative work, maintenance, checking and repairs, loading and unloading, time spent during the journey beside the driver or in the cabin, etc. The principle should be to exclude the possibility of a driver first of all carrying out other work, perhaps for several hours, and then driving for four hours.

Your committee also suggests that the term 'rest period' is replaced by the expression 'free time', as this is more in line with the current view of the social nature of this period.

Other new references in the Commission proposal are those to the terms 'shuttle services' and 'irregular passenger services' in Regulation No. 117/66/EEC and the definition of the 'bunk'. These definitions also seem necessary for clarification.

Article 2:

11. No observations.

Article 3:

12. No observations.

Article 4:

13. By replacing the word 'carriage' by 'journeys' the Commission has included journeys empty, which was not previously clear.

14. By changing the word 'intended' to 'suitable' in paragraph 1 the Commission makes it clear that for instance in the case of converted vehicles, what counts is the actual state of the vehicle.

15. The new paragraph 2 establishes more generous regulations for private vehicles.

16. In paragraph 5 the Commission gives a clearer definition of the exempted service vehicles used by public authorities, and paragraphs 9-11 establish some new exemptions.

The question arises, however, as to whether in this extension of the exemptions, too much attention has not been paid to the competition aspect, and too little to safety. If I have a head-on collision with a driver who is over-tired and has fallen asleep at the wheel, the result is the same for me whether the vehicle belongs to a transport firm or a circus.

There should therefore be no exemption for circuses and fun-fairs.

Paragraph 9 should therefore be deleted.

17. As far as the new exemptions in paragraphs 10 and 11 are concerned, the question is whether workshop tests and journeys by travelling shops or mobile libraries ever last longer than four hours; in that case, the exemption would be justified.

Article 5:

18. In this Article, the Commission has been forced to change two dates it had set in 1969: for the adoption of regulations on the minimum level of training, and for the recognition of acquired rights.

19. In 1969, the Commission had provided that the Council would lay down, both for goods transport (Article 5 - 1(b)) and for passenger transport (Article 5 - 2(c)), a minimum level of training for drivers by 1 April 1970. This has, however, not yet been done. On 30 July 1970, the Commission submitted a proposal (Doc. 183/70), on which the European Parliament delivered its opinion on the basis of a report by Mr Cousté (Doc. 268/71) on 17 April 1972 (OJ No. C 46, 9 May 1972), but the Council took no decision. Nevertheless, it should be possible for the Council to take a long overdue decision on this matter in the short term.

20. In the 1969 Regulation the Commission had recognised rights acquired by drivers to the extent that drivers engaged in the carriage of passengers did not have to meet the stricter new Community provisions if they had carried on that occupation for at least one year; this possibility has now been extended to 1 February 1977, so that the Commission is admitting that the Regulation is not yet being applied in practice (Article 5(4)).

21. The same applies to the suspension of application of the provisions, of Article 5 (2) (by paragraph 5).

Article 6:

22. Article 6 embodies the new Commission proposal for the famous 450 km rule. This rule stated that in the case of certain heavy vehicles there had to be two drivers in the cabin if the journey was to exceed 450 kilometres, or else, the driver had to be relieved after 450 kilometres.

Although this rule comes under "Section III: Crew", the Commission stated that the real intention of this provision was originally to provide a better check on the observance of driving time. An individual driver should not drive for more than 8 hours. In order to ensure compliance with this rule and provide for checks, at least in the case of heavy vehicles, it was desired to use the mileage as a guide, as this could be determined more precisely than the driving time.

Those affected, faced with the considerably higher cost of double-manning their vehicles, are now raising the objection that on present-day good roads even a heavy articulated lorry can cover much more than 450 kilometres in 8 hours, especially taking into account the fact that engine power per ton has been increased in certain countries.

There were therefore, as is well known, protest actions and even strikes against this provision.

The Commission now wishes to abandon the 450 kilometre rule where the vehicle concerned is equipped with a control device in accordance with the Community provisions (Regulation No. 1463/70). This would apparently mean that the 450 kilometre rule would lose any meaning, since all heavy vehicles will be equipped with the device, if only to nullify this rule. That would certainly be a desirable end, so that the Commission proposal can realistically be supported.

However, for the uninitiated reader or person affected Article 6 is not comprehensible. It should be borne in mind that the Regulation is intended to harmonize costs, improve the social position and increase road

safety. How is road safety or the social position improved if a driver travels 640 kilometres in 8 hours with a heavy vehicle, but has a tachograph on board? Is the basis for cost harmonization to be the presence of a second driver or a tachograph on board? The driver will certainly cost more than the tachograph! The recitals also do not explain that this regulation is only to provide a check.

It would therefore be better to take Article 6 out of Section III "Crew" and to put it where it belongs, namely with the provisions on driving periods. That would also be advisable because the 450 kilometre rule would otherwise no longer come under the derogations allowed by Article 23 (5) (see new Article 16a).

Section IV:

23. As already stated, the expression 'rest period' should be replaced throughout the regulation by 'free time', because the latter is a better description of such periods.

Article 7:

24. This Article, together with the following ones (8 - 10) regulates spreadover, but the Commission has made a material error in the wording of Article 7. The number of spreadovers mentioned does not accord with the numbers of hours mentioned in the other articles. Article 7 can be deleted.

Article 8:

25. Some time after the regulation comes into force (about 1 year), the spreadover should be reduced to 11 hours. The total in any one week could be reduced to 55 hours at the same time. Since practical experience will have to be taken into account, this proposal is not being put forward as an amendment for the time being.

Article 9:

26. Your committee suggests that the rest period should be fixed at '10 hours when taken at the place where the vehicle is based and 9 hours when taken elsewhere'.

Article 10:

27. Your committee very much regrets that the Commission has not managed to consult both sides of industry in good time and to put forward now a proposal for the details covered by this Article. This frustrates the intention of consolidating all social legislation relating to road transport into a single text. As from 1 February 1977 there will again be two texts!

Articles 11-13:

28. No observations.

Article 14:

29. The Commission's proposal is in accordance with your committee's intentions. The weekly rest period should consist of at least 40 consecutive hours, i.e. 29 hours weekly rest period plus 11 hours individual rest period. Over a period of two weeks, however, this rest period must not be less than 96 hours. This means that the weekly rest period can be between 40 and 56 hours.

Article 15:

30. This Article regulates the question of rest periods in cases where the vehicle is transported by ferry or train. In agreement with the Commission your committee is proposing a new text which is more in line with the conditions prevailing in transport by ferry.

Article 16:

31. Since Section V is headed 'Driving Periods and Breaks', it is extraordinary that the words 'driving period' do not occur at all in Articles 16 and 17. It is proposed to replace the phrase 'total period of time spent behind the wheel during the spreadover' in each case by 'driving period'. Article 1 should be amplified accordingly.

Article 17:

32. No observations.

Article 18:

33. No observations.

Article 19:

34. Your committee confirms its intention to have all types of bonus strictly banned. They constitute a permanent incentive to jeopardizing road safety and to circumventing other regulations. Your committee cannot therefore agree with the creation of a loophole in the ban by the addition of 'unless such payments are of a kind as not to endanger road safety', which makes it ineffectual in practice. 'Elastic' paragraphs of this kind can be used to justify any bonus, and it would require time-consuming legal proceedings to establish where safety has been endangered and where not. Your committee therefore calls for the deletion of the last phrase of Article 19.

Article 20:

35. No observations.

Article 21:

36. Your committee is agreeable to reports being submitted only every two years, and welcomes the fact that the Commission has incorporated in its proposal the suggestion made in 1973 that the report should also be presented to Parliament (Doc. 197/73).

Since however it does not seem reasonable to provide for two reports in one Regulation, it proposes the deletion of Article 21 and its incorporation into Article 26.

Article 22:

37. No observations.

Article 23:

38. This Article contains the important new derogations. While paragraphs 2 - 4 are taken over, with some changes, from Regulation No. 515/72, paragraphs 1 and 5 of this Article constitute a great threat to social harmonization in the Community. Admittedly, the Commission is given important rights, but everything will depend on how the Commission uses these rights.

Your committee therefore wishes to restrict possibilities of derogation as much as possible, or at least to make the situation more transparent. It therefore proposes that Commission decisions on derogations be published in the Official Journal. This should also give interested parties the possibility of complaints or of action before the Court of Justice, if Commission decisions were to lead to distortions of competition or in any other way run counter to the aim of harmonizing social legislation.

Moreover, your committee considers that for reasons of clarity all derogations approved by the Commission should be consolidated into a single provision. The first paragraph of Article 23 should therefore be deleted and incorporated, along with Article 28, into Article 23 (5).

Finally, derogations should only be authorized after consulting both sides of industry.

Articles 24 and 25:

39. No observations.

Article 26:

40 . As already mentioned under Article 21, there seems little point in providing for two reports on almost the same subject. Accordingly, the report mentioned in Article 21 on the development of the social situation in road transport should be presented together with the report on the application of this Regulation, in a single report. Article 26 should be amended accordingly.

Article 27:

41 . No observations.

Article 28:

42 . The question arises as to whether the safeguard clauses or escape clauses, that are in principle certainly useful and may help to put the minds of those concerned at ease, should be scattered over various parts of the regulation, namely:

- Article 23 (1): Derogations applied for by Member States at the request of both sides of industry, to be approved by the Commission;
- Article 23 (5): Derogations authorized by the Member States, to be checked by the Commission.
- Article 28: Suspension, to be applied for to the Commission by the Member States (only up to 31 December 1977).

It may be technically justified to bring the limited suspension provision into the section 'final provisions', but comprehensibility and clarity should take precedence.

Article 28 should therefore be deleted and consolidated with Article 23 (1) and Article 23 (5). The reference to difficulties that persist should be omitted, since the provision is to apply for 6 months only.

Article 29:

43. This Article seems superfluous; does it not go without saying that on all difficult questions relating to the application of this regulation, the Commission will consult government experts? Is the text not being overloaded if this is explicitly stated as part of the regulation at this point?

Your committee proposes the deletion of this Article.

Article 30:

44. No observations.

III. Final Remarks

45. Your committee considers that with the above amendments the proposed Commission regulation can be accepted. It now regulates fairly completely the area of social harmonization in road transport. Your committee points out that harmonization of social provisions for railways and inland waterways should also be brought forward, and that further harmonization measures in technical and fiscal areas should also follow, if the liberalization of international transport that the Commission is now aiming at is to be successful.

46. As a step in the right direction, your committee supports the Commission proposal, as amended, and requests the adoption of the motion for a resolution.

OPINION OF THE COMMITTEE ON SOCIAL AFFAIRS, EMPLOYMENT AND EDUCATION

Draftsman : Mr C. MEINTZ

On 26 April 1976 the Committee on Social Affairs, Employment and Education appointed Mr Carlo Meintz draftsman for the opinion.

At its meetings of 27 April 1976, and 21 October 1976 the committee considered the draft opinion and adopted it at the latter meeting with 1 vote against.

Present: Mr Van der Gun, chairman; Mr Adams, vice-chairman; Mr Meintz, draftsman; Mr Albers, Mr Albertsen, Mr Bouquerel, Mrs Dunwoody, Mr Glinne, Mr Härzschel, Mr Pisoni, Mr Seefeld (deputizing for Mr Dondelinger) and Mr Walkhoff.

INTRODUCTORY REMARKS

1. The proposal for a Council regulation on which the Committee on Social Affairs, Employment and Education has been asked for its opinion, constitutes an amendment to the original regulation (EEC) No. 543/69 on the harmonization of certain social legislation relating to road transport.

2. Amendments have already been made to the basic regulation, No. 543/69, in the form of two 1972 regulations¹, but the aim of this one is to consolidate all the earlier regulations in the area on the basis of experience gained since the entry into force of the first regulation. Our committee of course welcomes this, since the introduction of a single regulation in the area makes for greater clarity and simplicity for both sides of industry and for the transport users who are required to comply with the regulations in their daily work.

THE PROPOSAL

3. Article 1, giving various definitions has been extended with some new ones. Thus, 'rest period' is defined as any uninterrupted period of at least 8 hours during which crew members may freely dispose of their time. 'Spread-over' is also a new term, meaning the period falling between the start and the end of work. Then, too, there are 'breaks', i.e. any periods during the spreadover lasting less than 8 hours but at least 15 minutes. These useful additions are welcome and do not call for special comment.

4. Articles 2, 3 and 4 deal with the scope. Regarding the first of these articles, which states that the regulations shall apply to all road transport within Community territory, irrespective of where the vehicle is registered, the committee wonders what the effects on competition might be if, as stated in the second paragraph, the provisions of the European agreement on the work of crews of vehicles carrying out international road transport (AETR) are applied. From July 1976 these provisions will apply in the Community to international road transport coming from or going to third countries who are parties to the agreement.

In our committee's view, differences between the provisions of the AETR agreement and the Community regulation may result in distortion of competition in the transport area.

5. Article 3 on Community negotiations with third countries does not call for comment from our committee. However, in Article 4 the Commission has not secured the simplicity and clarity which are its stated aims.

¹ No. 514/72 and No. 515/72 /

The article indicates the vehicles that the regulation does not apply to. Paragraph 1 concerns vehicles for carrying not more than 9 persons, paragraph 2 vehicles suitable for the carriage of not more than 12 persons, if used for exclusively private purposes. The committee does not see the reasons for a special rule for carriage for private purposes, and urges the Commission to set a limit for all forms of passenger transport not covered by the regulations.

Likewise, with a view to securing the simplest and most comprehensible text possible, our committee considers that the proposed new paragraphs 9, 10 and 11, exempting vehicles used to transport circus and funfair equipment, vehicles undergoing workshop tests, and mobile libraries and itinerant markets, should be deleted. All exceptions should be kept to an absolute minimum, and it is not obvious why the areas mentioned should be exempt, unimportant though they doubtless are within the transport field as a whole.

6. Articles 5 and 6 cover age limits and driving distances for crew members. Here, for the first time in the proposal for a regulation, a sharp distinction is made between the carriage of goods and passengers, the age limit for vehicles up to 7.5 tons being 18, and for other goods transport and all passenger transport 21. The committee considers this distinction reasonable, since the carriage of passengers requires greater judgement and experience.

The provision of Article 6 setting the maximum distance to be driven during a spreadover at 450 km, unless control equipment is fitted, cannot be accepted by the committee, since it may give rise to distortion of competition and to exploitation of crew. It is not difficult to imagine an articulated vehicle on good motorways reaching a sufficiently high maximum speed that it can cover far more than 450 km within the maximum permissible spreadover of 12 hours (or 14 hours) with a single driver and control equipment. In our committee's view, relief by a second driver must always be required after 450 km.

7. Articles 7 and 8 state the maximum spreadover. Article 7 sets this at not more than 6 within each week and not more than 10 within two consecutive weeks. Our committee has no objections to this.

On the other hand, Article 8 introduces different rules for the carriage of goods and passengers. Thus, while crew members engaged in the carriage of goods can extend the maximum 12 hours by up to 2 hours not more than twice per week, provided that they take several breaks of at least half an hour additional to those laid down, in the carriage of passengers the spreadover can also be extended to 14 hours twice a week, but without a need for additional breaks. The committee does not think that this difference can be introduced, having regard to traffic safety in general and to the safety of passengers in particular.

Nor do the social considerations the Commission claims to have had in mind in this proposal for a regulation seem to have been to the fore in Article 8, whose paragraph 4 sets the total length of spreadovers within any one week at not more than 60 hours, and even, for the carriage of passengers by irregular services or by shuttle service (Article 11) 65 hours. Here, too, our committee finds a regrettable discrimination against crew members engaged in the carriage of passengers, while the limits set are far in excess of the 40-hour working week, whose introduction was an accepted principle.

8. Articles 9, 12, 13, 14 and 15 cover rest periods. Differences between the carriage of goods and passengers occur here too, but the other way round, since the provisions are now socially more favourable to crew members engaged in the carriage of passengers. Thus, the normal rest period for both forms of transport is set at 11 hours, but in goods transport this can be reduced to 8 hours twice in one week, but for passenger transport only to 10 hours three times in any one week. Here, too, our committee considers that the provisions should be the same for all crew members, irrespective of the form of transport they are employed in. It is after all scarcely credible that the driver of a large articulated vehicle can do with a shorter rest period than a bus driver.

9. Regarding Article 10, the committee has a minor observation regarding the wording of the French text, which in the second paragraph, concerning the consultation of both sides of industry, uses the perfect tense, which is illogical and conflicts with the other languages, which use the future.

10. Article 16 lays down that the total driving period spent behind the wheel shall not be more than 8 hours within a spreadover and not more than 48 hours in any one week. Neither here nor elsewhere, where the proposal indicates a maximum spreadover which is indubitably higher than that agreed to by both sides of industry, is anything said about the compensation to which crew members are entitled.

11. The annual leave, covered by Article 18, does not call for observations from the committee.

12. Article 19 contains a ban on bonuses, which the committee wholeheartedly approves, since otherwise there might be distortions of competition and dangerous traffic situations due to driving against the clock.

Unfortunately, the Commission has introduced an exception, since the prohibition does not apply where 'such payments are of a kind as not to endanger road safety.' The Commission excuses this loop-hole by stating that in some Member States 'there is a tradition of such payments and safety is ensured in other ways'.

This is quite unacceptable to our committee, since it will mean that these bonuses will continue to be paid as hitherto, reducing crew members' social security, as also traffic safety, to a dangerously low level. It is therefore proposed that the words 'unless such payments are of a kind not to endanger road safety' be deleted.

13. Our committee has no particular observations on Article 20 concerning more restrictive provisions.

14. Article 21 covers the report the Commission is to present to the Council and the European Parliament every two years on the development of the social situation in the fields covered by this regulation. Since Article 26 also asks the Commission to provide a similar report on the application of this regulation, the committee proposes that, in the interests of simplification, only one comprehensive report be produced every 2 years.

15. The exceptions from the regulations are listed in Article 22 and 23, the latter of which comprises the most important, and in our committee's view, the most questionable, innovations.

Generally speaking, the committee is against exceptions of every kind unless entirely unavoidable, which is not the case in the Commission's text. It widens the scope for exceptions to such an extent that considerable evasion and consequent distortion of competition is to be feared in this branch of transport.

The article says that the Commission may allow derogations from the maxima and minima laid down for spreadovers and rest periods for certain national transport. The nature of the latter is not indicated by the Commission, but since Article 4 already exempts a range of vehicles of special types, this further exception clause does not seem justified.

In its explanatory memorandum, the Commission speaks of 'the interest of social progress and operating needs', but the question is whether one is not risking the opposite by allowing the individual Member States to tamper with the minima and maxima laid down in the regulations. Should the Member States wish to introduce socially more advantageous provisions, they are allowed to do so by Article 20.

An apparent guarantee of the avoidance of evasions and distortion of competition is embodied in the second sub-paragraph of paragraph 1, which requires that the two sides of industry must have made the request in order for the authorization to be given. But it is not clear whether this also includes independent operators, or whether they are to observe the regulation or are also to be covered by the derogations. The article ought therefore to be more clearly worded.

Regarding paragraph 5 of the article, on emergency situations of a temporary character, in which Member States may authorized temporary derogations in connection with spreadover, rest periods, driving periods and breaks, the committee considers that this provision is totally superfluous since Article 4 already covers the vehicles that may be involved in an emergency situation.

16. Control procedures and penalties are contained in Article 24 - 27. Regarding the individual control book, which seems rather detailed and complex, the committee would like an assurance that it is based on consultations with the parties concerned and on their agreement, since it would be pointless to produce a complicated means of checking if it later turns out not to be used.

Our committee further regrets that the Commission has still not put forward any specific proposals for harmonizing control procedures and penalties. This omission is all the more incomprehensible since the Commission itself admits in its Fourth Report to the Council on the implementation of Regulation (EEC) No 543/69¹ that 'as far as can be judged, the difference between provisions and practices governing penalties in the various Member States has not altered significantly compared with the previous year' and that 'a certain alignment of penalties would ... be a precondition for a solution which neither caused discrimination nor impaired competition'.

17. The final provisions in Article 28 - 30 contain further possibilities of derogation. These are described as 'protective measures, including temporary suspension of some of the provisions of this regulation as they apply to national transport on its territory'. Here again our committee would stress that there is far too much room for derogation, and would ask regarding this article in particular that such protective measures should not be introduced without prior consultation with both sides of industry. It is true that the protective measures are allowed only until 31 December 1977, but it would be reassuring to know what cases the Commission has in mind and what their scope is, since application of this article by a single Member State would involve considerable distortions of competition.

¹ COM(75) 616 final, 5.12.1975, p.27

CONCLUSION

The Committee on Social Affairs, Employment and Education:

18. Welcomes the Commission's proposal as an important step towards greater simplicity, benefiting both sides of industry and transport users;
19. Considers, however that the number of derogations is far too high, and urges the Commission to limit them to what is absolutely necessary;
20. Regrets that the Commission proposal has not laid down the same rules for crew members in goods transport and passenger transport, thereby ignoring both social and road safety considerations;
21. Is of the opinion that the maximum for spreadover of 60 or 65 hours per week is too high, having regard in particular to the principle of introducing a 40-hour working week and the absence of provisions for overtime compensation in this connection;
22. Urges the Commission to produce a new article on bonus payments, forbidding them entirely;
23. Proposes that the two reports on social developments and on the application of the regulation be consolidated into a single report every 2 years;
24. Stresses the fact that the introduction of protective measures should be authorized only after consultation with both sides of industry;
25. Considers that harmonization of control procedures and penalties is necessary if the regulation is to be applied uniformly and checked effectively in all Member States so as to avoid discrimination and distortion of competition.

