

ECONOMIC AND SOCIAL COMMITTEE

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ADDITIONAL REPORT  
of the Section for Transport and Communications  
on the  
Proposal for a Council Regulation  
on the Harmonization of Certain Social Legislation  
Relating to Road Transport  
(Doc. COM(76) 85 final)

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Rapporteur : Mr ROUZIER

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## 1. Introduction

1.1. In a letter dated 17 March 1976, the Council of the European Communities requested the Committee, in accordance with Article 75 of the EEC Treaty, to deliver an Opinion on the

Proposal for a Council Regulation on the Harmonization of Certain Social Legislation Relating to Road Transport (Doc. COM(76) 85 final) (1).

1.2. Since a number of provisions in the above Regulation were supposed to come into force on 1 July 1976, the Council stated in its letter of referral that it would be grateful if the Committee could deliver its Opinion in May 1976.

1.3. At its meeting held on 30 March 1976, the Committee's Bureau instructed the Section for Transport and Communications to draw up a Provisional Opinion by the end of May 1976 and an additional Opinion - after a more in-depth study of the Commission's proposals - by the end of 1976.

In the course of its work the Section did, however, give an undertaking - at the express request of the Commission - to do all in its power to have the additional Opinion ready for the October 1976 Plenary Session.

1.4. The legal basis for the proposal in question is provided by Article 75 of the EEC Treaty. Consultation of the Committee is therefore mandatory.

## 2. Background and Gist of the Proposal

2.1. The proposal has been drawn up in execution of Council Decision No. 65/271/EEC of 13 May 1965 concerning the Harmonization

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(1) OJ No. C 103 of 6 May 1976, p. 2.

of Certain Provisions Affecting Competition in Transport by Rail, Road, and Inland Waterway (2). This Decision stipulated that :

- Laws, regulations and administrative provisions relating specifically to working conditions (3) in individual modes of transport and in transport as a whole were to be approximated, this to be done by levelling up and not down (Article 10).
- Provisions concerning working and rest periods in each mode of transport and overtime arrangements were also to be aligned (Article 12).

2.2. The first EEC Regulation aligning working conditions in road transport was issued in 1969 (Regulation No. 543/69 of 25 March 1969) (4). It dealt with manning, driving time, breaks, daily and weekly rest periods, control procedures and penalties.

2.3. Regulation No. 543/69 was amended on 28 February 1972 by Regulations Nos. 514/72 and 515/72 (5).

2.4. On 24 July 1972, the Commission submitted a further draft Regulation (Doc. COM(72) 846 final - not published in the Official Journal) amending Regulation No. 543/69.

The draft Regulation added provisions on spreadover (working day), breaks, annual leave and public holidays, and prohibited bonuses based on distance covered and tonnage carried.

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(2) OJ No. 88 of 24 May 1965, 1500 ff. (English Special Edition 1965-66, p. 67).

(3) Working conditions within the meaning of Article 10 of the Decision of 13 May 1965 cover neither wages nor other forms of remuneration.

(4) OJ No. L 77 of 29 March 1969, p. 49 (English Special Edition 1969 (I), p. 170).

(5) OJ No. L 67 of 20 March 1972, pp. 1 and 11 (English Special Edition 1972 (I), p. 124 and 134).

The Committee delivered its Opinion on the above on 13 December 1973 (6). So far, however, the Council has not taken a decision on the matter.

2.5. The present draft Regulation (Proposal for a Council Regulation on the Harmonization of Certain Social Legislation Relating to Road Transport - Doc. COM(76) 85 final) (7) - was submitted to the Council by the Commission on 3 March 1976.

2.6. The present draft Regulation is intended to supersede the original 1969 Regulation. The Commission claims to have tried in it to overcome the difficulties encountered in applying the original Regulation in both the six original and the three new Member States, and has also taken the opportunity of including the working hours proposals of its 1972 draft Regulation. The present draft Regulation is intended to be more flexible than the original Regulation, and at the same time progressive.

The most important provisions of the present draft Regulation are :

- New provision on "spreadover" (= period between the beginning and end of work) : basic maxima for any crew member of 12 hours per day and 60 hours per week.
- Relaxation of the 450 km rule prohibiting a single driver driving more than 450 km in a day : exemption for vehicles fitted with control equipment (tachographs).
- Maximum driving time within any working day (all types of vehicle) to be eight hours, extendable twice a week to nine hours, statutory breaks of at least 30 minutes.

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(6) OJ No. C 37 of 1 April 1974, p. 17.  
(7) OJ No. C 103 of 6 May 1976, page 2.

- Exemptions : Member States may apply to the Commission for exemption of traffic on their territory from working day and rest period provisions, and may themselves grant exemptions for certain short-haul traffic.
- Safeguard clause : For a certain time Member States will be able, in the event of serious difficulty, to suspend temporarily application of the Regulation to traffic on their territory.

The draft Regulation provides for a basic working week of five spreadovers separated by statutory rest periods, a weekly continuous rest period of 40 hours, and 28 days annual leave.

The Commission considers that the draft Regulation is fair all round and will make for better enforcement of the EEC provisions in this field.

Before the end of 1976, the Commission intends to submit a further draft Regulation dealing with the length and number of spreadovers and rest periods for drivers of vehicles manned by two drivers and fitted with a bunk. At the same time it will study the matter of overtime.

2.7. On 25 May 1976, the Committee delivered an initial Opinion on the present proposal (8), in which it mentioned the difficulties the Member States, and more especially the UK, Ireland and Denmark, were having in applying the existing Regulation.

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(8) Cf. OJ No. C 197 of 23 August 1976.

The Committee considered that these difficulties were persisting and that, therefore, it is better to work together to produce a viable solution, rather than rush to adopt a new Regulation without sufficient thought and again have practical difficulties occurring.

The Committee also stated in its Opinion that it realized that the Commission would have to review its Decisions of December 1975 authorizing the new Member States to take protective measures with regard to the provisions of Regulation No. 543/69 (9).

### 3. General Comments

3.1. Opinions are at present divided on the proposed new Regulation.

3.1.1. Some members reject the Commission's proposal. In their view, the specific characteristics of road transport are not given sufficient consideration in the provisions on driving time and rest periods, which form the core of the new text. They consider that Regulation 543/69 is too rigid to meet the special needs of this industry and should be simplified and made more flexible. The Commission itself says as much in its general introduction to the proposal.

The present draft Regulation, however, does not fulfil this requirement (a) because there has been no substantial relaxing of the rules on driving time and daily rest periods as was hoped for, and (b) because it is now proposed that the Regulation should also cover the length of the spreadover and the total number of hours per week, which greatly increases the rigidity of Community rules. The members consider that the measure will

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(9) Cf. OJ No. L 41 of 17 February 1976, pp. 11, 14 and 16.

also entail big increases in costs and so have an inflationary effect at a time when the economy is gradually emerging from a slump.

Since the Community authorities have failed to take account of the legal and practical arguments that the road transport industry and road transport users have been advancing for over a decade now, they think the difficulties in applying the Regulation in the Member States are bound to increase.

They therefore consider that the scope of Regulation No. 543/69 should be radically altered, on the basis of the present draft Regulation. It should henceforth apply only to transport between Member States.

In addition, all provisions on the length of spreadovers should be deleted and provisions on driving time eased.

3.1.2. Other members, though they acknowledge the good work the Commission has done in codifying all the EEC provisions on working conditions in road transport, cannot fully accept the new proposal in its present form. They point out that in early 1965 they supported alignment of all the points referred to in the aforementioned Council Decision of 13 May 1965, and particularly working hours proper. At the time they had agreed only reluctantly to alignment being restricted to the points covered by the AETR, and only on the express condition that work on aligning the points not included in Regulation No. 543/69 would go ahead without delay. On every occasion since then bad political timing has been the argument for refusing to standardize rules on working hours.

In view of the fact that the Council adopted a Recommendation on 22 July 1975 to bring in by 1 December 1978 at the latest a 5-day, 40-hour week with 4 weeks annual holiday for employed persons (10), a Recommendation affecting the majority of road transport drivers (80% of whom work in an employed capacity), these same members consider that the time is now ripe to re-examine present-day working conditions in the road transport sector.

For example, the possibility for a driver to do four hours or more of some work other than driving and afterwards to go on without a break for four further hours (Article 7 of Regulation 543/69) should, in their view, definitely be eliminated. They are also particularly keen to bring to the attention of the Commission the fact that driving time is but a part of a driver's work, and a limit on driving time is principally a road safety measure.

3.1.3. A third group of members considers that experience has shown that it is difficult to cater for all the special features of the transport industry in EEC regulations. For this reason, it would be better to issue EEC standards, rather than rules.

Derogations from these standards could then be allowed subject to certain conditions and in accordance with a clearly defined procedure.

#### 4. Comments on Individual Articles

##### 4.1. Article 1 - definitions

##### 4.1.1. Article 1(3) - "crew member"

4.1.1.1. A number of members consider that the draft Regulation should not cover drivers' mates and conductors, who have no role

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(10) CF. OJ No. L 199 of 30 July 1975, p. 32 and 33.



to play in ensuring the safety of vehicles.

4.1.1.2. Other members disagree and feel that the Commission's text should be left as it is.

(The Commission representative has stated that, if the Regulation were revised, the Commission would add furniture removers and refuse collection operatives to the list of workers in Article 1(3)).

4.1.2. Article 1(4) - "week"

4.1.2.1. Some members take the view that the week should be defined differently, as "the period between 00.00 hours on Monday and 24.00 hours on Sunday".

4.1.2.2. Other members would like "week" to be defined as "any period of seven consecutive days "(AETR definition).

4.1.3. Article 1(6) - "spreadover"

4.1.3.1. A number of members consider that the definition of spreadover should be re-examined. They would prefer to see it defined as :

"the period between two continuous rest periods"

4.1.3.2. Others, however, agree with the Commission's definition.

4.1.4. Article 1(7) - "break"

4.1.4.1. Some members consider that the work of road passenger transport and road haulage drivers does not allow a strict definition of the term "break".

4.1.4.2. Other members, do not share this point of view and support the proposed definition. Nevertheless they still urge deletion of the latter part :

"... during which the crew member may dispose freely of his time and movements".

4.1.5. Article 1(8) - "regular goods service"

4.1.5.1. A number of members are of the view that it is not always possible for the stopping points of vehicles to be determined in advance. The present definition of "regular goods services" is therefore too rigid. These members would prefer the phrase "recognized stopping points".

4.1.6. Article 1(10) - "bunk"

4.1.6.1. Some members would like to see a more precise definition of the term "bunk".

4.2. Article 2 - "scope"

4.2.1. Most members of the Section consider that the EEC Regulation should apply only to international transport. Transport within individual Member States could be subject to different rules, since local conditions vary too much from one Member State to another for all transport to be regulated by a single EEC instrument.

Transport policy measures concerning the organization of the market are also confined to international transport. Rules on working conditions fall within the framework of action to harmonize conditions of competition, and should deal primarily with transport governed by Community rules, i.e. transport between Member States. The first paragraph of Article 2 should be amended accordingly.

4.2.2. There was strong opposition to this, however, with some members taking the view that limiting the proposed regulation to international transport would be a retrograde step if one remembers that Regulation No. 543/69 applies "to carriage by road in respect of any journey or part of a journey made within the Community by vehicles registered in a Member State or in a third country".

This group of members considers that the proposal under discussion represents a major step towards the implementation of EEC Decision 65/271 of 13 May 1965.

For the above reasons these members agree with the scope of the proposed Regulation.

Nevertheless, they consider that the United Kingdom and Ireland should be exempted for four years from applying the proposed rules to domestic transport.

4.2.3. In answer to a question asked by several members on the advisability of referring to the ABTR Agreement in Article 2, the Commission representative said that the Commission wanted the Member

States to ratify the Agreement as quickly as possible and then to amend it under the procedure provided for in Article 23 of the Agreement, so as to bring it into line with the "Third Working Conditions Regulation".

4.3. Article 3 - negotiations with third countries

No comment.

4.4. Article 4 - exemptions

4.4.1. Some members consider that exemptions for the specified types of vehicle should be left to Member States' discretion.

4.4.2. Other members disagree, and feel that any exemptions should be laid down for the whole Community. These members also think that in the interests of road safety and simple, effective enforcement of the Regulation, such exemptions should be kept to an absolute minimum, and are only justified for types of vehicles and traffic of minor economic importance.

4.4.3. Article 4(2)

4.4.3.1. Some members think that there is every justification for exempting minibuses used for private purposes. However, they would like the limit on carrying capacity to be raised to eighteen persons including the drivers.

4.4.3.2. Other members disagree. They argue that it is very difficult to check whether such vehicles are used for private purposes or not. Road safety is another reason why they consider such an exemption to be unjustified.

4.4.4. Article 4(3)

4.4.4.1. Some members would like to see the ceiling of 3.5 metric tons raised to 7.5 metric tons (vehicle weight including trailer or semi-trailer). They consider that 3.5 metric tons is too low and does not reflect the actual situation of the different types of road transport.

4.4.5. Article 4(4)

4.4.5.1. A number of members consider that the mention of a "route" of 50 km raises problems of interpretation. In their view, it would be better to substitute "journey" or "distance". The same members also feel that "within a single country" should be added after "carriage of passengers".

4.4.6. Article 4(5)

4.4.6.1. The Section wonders why the Commission proposes to exempt service vehicles used by the police, gendarmerie, postal authorities, etc., "which are not in competition with private road transport". When checks are carried out by inspectors, it is very difficult for them to ascertain whether vehicles satisfy this particular criterion.

The Section therefore suggests that the exemption be confined to service vehicles used by the police, gendarmerie, armed forces and fire brigades.

The Section also wants the English translation of this point re-examined (the English translation of "transporteurs professionnels" by "private road transport" is incorrect).

4.4.7. Article 4(6) - vehicles used for the carriage of sick or injured persons, etc.

4.4.7.1. Some members are against exemption of these types of vehicle (vehicles used for the carriage of sick persons, etc.), especially since they are already subject to special rules in the majority of Member States.

4.4.7.2. Another group of members consider, on the other hand, that if there are going to be exemptions, then it is better if they are made at Community level rather than at national level.

4.4.8. Article 4(10)

4.4.8.1. Some members consider that crew members of "vehicles undergoing workshop tests" should not be exempted from the Regulation. At the very most, special inspection procedures might be provided.

4.5. Article 5 - crews

4.5.1. The Section suggests that the two dates given in this Article (1 August 1976 and 1 February 1977) be changed, as they have been overtaken by developments since publication of the draft Regulation.

4.5.2. Article 5(1 and 2)

4.5.2.1. Some members take the view that the term "professional competence" should be used in this Article in preference to "minimum level of training". What matters is not so much attending or having attended training courses but being genuinely competent to work as a driver.

4.5.2.2. Some members want the minimum age for passenger drivers (Article 5(2)) lowered below 21, because of the shortage of recruiting to this job. Experience has also shown that 18 year-old drivers for example, who have completed adequate, appropriate training courses, make perfectly good bus drivers. These members also want subparagraphs a) and b) of Article 5(2) deleted.

4.5.2.3. Other members are in favour of keeping 21 as the minimum age in Article 5(2), especially since in some Member States (Germany, Luxembourg) the minimum age for bus drivers is now 23.

4.5.3. Article 5 (5 and 6)

4.5.3.1. The Section underlines the transitional nature of these clauses.

4.5.3.2. Also, the Section thinks that the 50 km radius condition would unduly restrict the scope for training young drivers.

4.6. Article 6 - Distance driven within a spreadover - control equipment

4.6.1. Some members see little point in leaving transport operators a choice between (a) providing a second driver from the start of the journey or from the 450th km (Article 6(1) and (b) using tachographs (Article 6(2)). They think therefore that this provision might as well be amended.

4.6.2. Other members approve the provision in its present form, and point particularly to the link between this Article and Article 16 which limits driving time. The tachograph, they argue, makes it easy to check driving time, rest periods, speed, etc., so that where one is fitted it is unnecessary to require that a second driver be provided for journeys over 450 km (Article 6(1)), as long as Article 16 is complied with.

4.6.3. Another group of members argue that the restrictions proposed in Article 6 are not essential for road safety. This can also be achieved by stipulating the number of working days and the actual working time.

4.7. Article 7 - Number of spreadovers per week

4.7.1. Some members think that this Article limiting the number of spreadovers per week to 5 on average should be deleted. There is no legal basis for restricting the number of working days per week, since, in all Member States, working hours are limited in terms of the number of hours per day or per week, and not in terms of the number of working days. More important still, road transport cannot keep to a 5-day week because the users of public transport and road haulage (manufacturers and distributors) require a more or less continuous service.



4.7.2. Another group of members, however, do not feel that deletion of Article 7 is necessary to bring about the flexibility desired by the members whose views are expressed in the previous paragraph. This second group of members consider that the Commission's text which they endorse, allows for as many as 6 "spreadovers" a week as long as the total number of "spreadovers" worked in two successive weeks does not exceed 10 (6 in one week and 4 in the next).

4.8. Article 8 - length of daily "spreadover" and maximum hours per week (road haulage, regular passenger services)

4.8.1. Some members would also like Article 8 to be deleted. They consider that the limit of 12 hours per "spreadover" (extendable twice a week to 14 hours in the case of regular passenger transport) and 60 hours total per week is another restriction on top of the one on driving hours. This restriction could make it very difficult for drivers who can easily be held up by heavy traffic or by delays in loading and unloading or at frontiers.

Furthermore, the weekly limit of 60 hours is a constraint out of all proportion to the aims of road safety and social progress which are behind the moves to align working conditions in road transport. Road transport workers enjoy a certain degree of freedom in organizing their working day. They can make stops and take breaks. With a limit on hours, transport firms would not be able to allow their drivers this freedom. Added to the difficulties this would cause, there would be further pointless constraints on drivers away from home.

4.8.2. Other members, however, do not share this point of view although their opinion on the length of the spreadover and the weekly maximum does not coincide with that of the Commission, either. The maximum length of the spreadover, in their opinion, ought to be 12 hours as from 1 January 1977 and 11 hours as from 1 January 1978. The corresponding ceilings per week would be 60 and 55 hours respectively.

These rules would apply to the road haulage sector and would cover vehicles with one driver, as well as vehicles with two drivers but no bunk.

This group of members supports the Commission on the rules applicable to regular passenger services (Article 8(3)).

Any actual working over and above  $8\frac{1}{2}$  hours per day (8 hours in the United Kingdom) should be classified as overtime.

The same group of members finally request that these proposals should not apply to national transport in the United Kingdom, Denmark and Ireland until the present Regulation has been in force for 4 years.

4.8.3. Other members want the length of the spreadover to be limited to 11 hours. This should be reduced to 10 hours as from 1 January 1978 and to  $9\frac{1}{2}$  hours as from 1 January 1980).

According to these members the daily spreadover should not exceed 16 hours if the vehicle is manned by two drivers but has no bunk ( $15\frac{1}{2}$  hours from 1 January 1978 onwards, 15 hours from 1 January 1980 onwards).

If the vehicle is manned by one driver, then the spread-over may be prolonged by two hours twice a week.

4.9. Article 9 - Daily rest period (road haulage)

4.9.1. Some members consider Article 9 more inflexible than Article 11 of Regulation 543/69, since it does away with the possibility of reducing the rest period to 9 hours twice a week when it is taken at the place where the crew is based, and prohibits two consecutive 8-hour rest periods away from base. The exceptional 8-hour rest period provided for in Article 9(2) ought logically to be permissible in all cases where the rest period is taken elsewhere than at the place where the vehicle is based.

4.9.2. Other members cannot fully go along with the Commission proposal and would like the daily rest period to amount to 11 hours. They also feel that the term "rest period" should be replaced by "off-duty period", which gives a truer impression of the nature of the period. Some of these members, however, agree that the daily rest period of drivers may be reduced to 10 hours twice a week when at base and to 9 hours twice a week when away from base. They also believe that it should be possible to reduce the rest period to 8 hours during the final journey back to base.

4.10. Article 10 - Daily spreadover and maximum hours per week, and rest periods for drivers of double-manned vehicles with a bunk

4.10.1. The Section will return to these questions when the Commission brings out the relevant proposals.

4.10.2. It considers that the driving time and rest period rules for double-manned vehicles with a bunk should, however, offer

substantial advantages to make up for the increased costs of double manning.

4.11. Article 11 - Length of daily spreadover and maximum hours per week (irregular passenger transport services)

4.11.1. Some members call for deletion of this Article for the same reasons that were advanced in connection with Article 8.

4.11.2. Some members want a maximum 12-hour spreadover for occasional passenger transport with the possibility being held open for a 14-hour spreadover twice a week, i.e. 12 hours plus 2 hours off duty. The normal maximum for one week would be 60 hours but it should be permissible in local bargaining to negotiate two week working on the basis of 6 working days (70 hours) in the first week and 4 (50 hours) in the second.

4.12. Article 12 - Daily rest period (regular passenger transport)

4.12.1. Some members also find this Article unacceptable since it does away with the possibility which was provided in Article 11 of Regulation 543/69, of reducing the rest period, subject to its being made up in other rest periods, to 9 hours twice in any one week if the working day is a spreadover containing sufficient breaks (one break of 4 hours or 2 breaks of 2 hours). The compulsory 11 hour rest period could only be acceptable if it could be reduced when circumstances demand to 9 hours under the same conditions as in the original Regulation (when the working day is a spreadover containing sufficient breaks, and the rest period can be made up in other rest periods).

4.13. Article 13 - Place where rest is taken

4.13.1. Some members consider that the rest period taken in the bunk of a moving vehicle should count, at least in part, towards the rest period. This matter will no doubt be settled in the proposal referred to in Article 10.

4.13.2. Other members, however, do not accept this point of view.

4.14. Article 14 - Weekly rest period

4.14.1. Some members consider that the proposed increase in the weekly rest period from 24 hours (Regulation 543/69) to 29 hours is unacceptable. They want the weekly rest period to be the same as in Regulation 543/69, i.e. 24 hours preceded or followed by a daily rest period (making 35 hours), and in addition it should be possible for drivers engaged in passenger transport during the holiday season to combine two weeks' weekly rest periods into one 60 hour period.

4.14.2. Other members, however, agree with the Commission that the weekly rest period should be at least 40 consecutive hours (29 hours + an 11 hours daily rest period).

4.15. Article 15 - Rest period (ferry-boat, train)

4.15.1. Some members of the Section though recognizing the complexity of the problem of drivers' off-duty time on ferries or trains, are not happy with the drafting of this Article, especially paragraphs 2) and 3). They would like a better definition of the number of times per week that a shorter than normal rest period may be taken on ferries or trains (Article 15(2)). They also think that the Commission should bring Article 15(3) into line with Article 1(7), by stipulating that the off-duty time on ferries must be at least 15 minutes long if it is to count as a break.

4.15.2. The Section suggests, therefore, that the first sentence of Article 15(3) should read :

"... shall be regarded as a break, without prejudice to Article 1(7)".

4.15.3. Finally, the Section asks for Article 15(3) to be extended to cover goods transport.

4.16. Article 16 - Driving time

4.16.1. Some members point out that the Commission claims that one of the essential aims of the proposed new Regulation is to introduce greater flexibility into the Regulation. Article 7 of Regulation No. 543/69, however, already stipulated a daily driving time of 8 hours, extendable twice a week to 9 hours in the case of vehicles weighing less than 20 metric tons. They think that Article 16 ought therefore to be more flexible. They propose that the maximum driving time allowed per day should be raised to 10 hours, the total driving time in any one week could remain 48 hours.

These new rules would enable those undertakings that are in a position to do so, to adopt a five-day week.

4.16.2. Other members want the maximum daily driving time to be 8 hours, or  $8\frac{1}{2}$  hours including half an hour's break to be taken within 5 hours. Under national labour agreements it ought to be possible to extend the daily driving period to 9 hours or even 10 hours twice a week, within the context of the weekly maximum.

Maximum driving time per week should not exceed 45 hours (5 x 9 hours). Over a two-week period, however, the total of 90 hours could be divided up as follows : 54 hours in one week and 36 hours in the other.

4.16.3. According to a further group of members, it would be in the interests of road safety to limit continuous driving time to a period of 4 hours, after which a break of at least 15 minutes would have to be taken.

These members think that it is not necessary to lay down further limitations on driving time during a spreadover and per week/two weeks, if the maximum periods laid down for a spreadover, and the minimum periods laid down for breaks to be taken during a spreadover, can provide sufficient protection for the driver against excess fatigue.

#### 4.17. Article 17 - Breaks

4.17.1. Some members consider that breaks should be specifically linked to driving time, or time spent behind the wheel, rather than to the spreadover as a whole, which may already include breaks. Article 17(1) should therefore read as follows :

"1. Every crew member shall take a break of at least 30 minutes after a continuous period of 5 hours spent behind the wheel."

#### 4.18. Article 18 - Annual leave

4.18.1. Some members would like this Article to be deleted. They think that a Community Regulation should not prescribe the amount of annual leave. This is governed in each Member State by national arrangements and collective bargaining agreements. The outline Regulation of 13 May 1965 incidentally does not mention annual leave. Furthermore, the members do not see how such a provision can further road safety.

4.18.2. Other members disagree. They maintain that annual leave does have a bearing on road safety. Moreover, the outline Regulation of 13 May 1965 specifically states in its Article 12 that working and rest periods are to be aligned. In their view, these periods include annual leave and public holidays.

Also a minimum of 28 days annual holidays (leave plus public holidays) in addition to regular days off is called for in a Council Recommendation of 22 July 1975. It is left to Member States how this total is made up.

#### 4.19. Article 19 - Prohibition of bonuses

4.19.1. Some members question the usefulness of this Article, which is concerned with wages, an area over which the Community has no special jurisdiction. They also have reservations concerning the provision's application to owner-drivers.

4.19.2. Other members do not share this view. However, they would like the Article to be more clearly worded and explicit, and so suggest that the last part be amended to read :

"... carried. Such payments may be made, however, where they are of a kind as not to endanger road safety (e.g. bonuses for keeping the vehicle in good order or for good driving)".

#### 4.20. - 4.21. Articles 20 and 21 - more restrictive provisions

No comments.



#### 4.22. Article 22 - Derogations

4.22.1. Some members would like drivers to be exempted from the whole of Section V, i.e. also Article 17, in the exceptional circumstances listed in this Article.

4.22.2. Other members point out that if drivers were also exempted from Article 17, continuous driving for up to eight hours would in theory be permissible, and this is unacceptable. Furthermore, they are opposed to any extension of Article 22, seeing that it allows departures to be made from the Regulation, not only in emergencies, but also to enable a driver to "reach a suitable stopping place or ... the end of the journey". They also think that if use is made of this Article, the extra time spent at the wheel should be made up for within a suitable period.

4.22.3. Most of the Section, however, considers that Article 22 is not flexible enough to cover the situations that arise in practice. This greater flexibility could be added by amending the Article to read :

"Provided that road safety is not thereby jeopardized, the driver may, in cases of danger, in circumstances outside his control, to render assistance, as a result of a breakdown, after any other unforeseen occurrence or for any other urgent matters in the public interest, depart from the provisions of Section IV and Article 16 by way of exception in order to reach a suitable stopping place or, according to circumstance, the end of his journey".

(The rest of the text remains unchanged).

4.23. Article 23

4.23.1. Some members take the view that the principle of derogations, set out in this Article is very sensible, but the derogations are confined to special categories of national transport and are subject to a rather unrealistic procedure. These members feel that the Member States themselves should be able to grant derogations for traffic of an exceptional or urgent nature.

They want Article 23 to be simplified, possibly as follows :

"The competent authorities of the Member States concerned shall have the right, after consulting employers' and employees' organizations, to grant derogations from the provisions of this Regulation in respect of vehicles used for the national carriage of passengers and goods. They shall inform the Commission of such derogations".

4.23.2. Other members suggest a different wording :

- "1. The employers' and employees' organizations of a Member State may by mutual accord ask their Government to allow derogations from the maxima and minima laid down in this Regulation in respect of particular types of transport of a special nature.
2. The derogations shall be allowed if the application is accompanied by proposals as to how the time will be made up to ensure that the general standards of working conditions and road safety are maintained.
3. The Member States shall inform the Commission of the derogations they have allowed. The Commission shall be empowered to amend or indeed revoke the authorization to derogate if, after consulting the employers' and employees' organizations, it considers that the standards referred to in the previous paragraph will not be maintained under the derogation."

They envisage the following procedure for such derogations : applications for permission to depart from the EEC standards would generally be made by a transport undertaking or group of undertakings.

The applicant would first of all have to prove the need for a derogation, i.e. a check would have to be made to make sure that the transport operation cannot in fact be carried out without derogation from the EEC standards, even after changes in the manner of operating or in organization, etc. The transport would thus have to have special characteristics and be impossible to carry out in the normal way (carriage of live animals or of fruit and vegetables springs to mind).

The operators to whom derogations are granted must be checked to ensure that over given periods (say 14 days) breaches of the EEC standards are made up for by corresponding instances where the standards are exceeded, so that on balance over the period the EEC standards are maintained. For example, if the length of the working day is increased, this will have to be offset by reducing its length on another day, or by allowing more breaks, or by reducing the number of days worked per week, depending on what is considered in the tripartite discussions to be the best course for the particular type of transport concerned.

The EEC Commission would be notified of the authorized derogation and would register it, check whether the EEC standards were being observed and make an assessment after a certain time. The Commission would have the right to intervene if it thought that standards were not being adhered to. It would also draw up

coordination proposals if it appeared that practices in the Member States concerning derogations diverged too greatly. The authorized derogations would be set down in writing by the public authorities of the Member State concerned. Drivers in the type of transport question would have a document on board stating the derogations. Inspection would be carried out at national level mainly in the undertakings themselves. International control would centre on the derogation (if granted) or on the basic standards (if derogations have not been granted).

Derogations would be allowed for a specific period. When this period elapses, a fresh appraisal would be made of the need for the derogations. A check would be made to see whether circumstances have altered in the meantime. Changes in units of carriage, traffic flows, operating methods and work organization, etc., could, if necessary, be introduced in stages where immediate introduction would be technically impossible or too costly. The temporary authorization to derogate must be used to effect the necessary longer-term restructuring of transport.

#### 4.24. Article 24 - control procedures and penalties

4.24.1. The Commission representative has stated that it is intended to replace individual control books by tachographs within a few years, in accordance with Regulation No. 1463/70.

#### 4.25. Article 25

4.25.1. Some members want this Article to allow a degree of flexibility in its application.

4.25.2. Other members want it kept as it is.

4.26. Article 26

4.26.1. Some members want the two reports referred to in Articles 21 and 26 combined into a comprehensive report and submitted to the Economic and Social Committee as well as the Council and the European Parliament. The reports should be produced according to a fixed timetable to avoid any delay in submission.

4.26.2. The Section draws attention to the difference between the French and Dutch versions of the second subparagraphs of Article 26(1).

4.27. - 4.28. Articles 27 and 28 - Final provisions

No comments.

4.29. Article 29

4.29.1. The Section would like the two sides of industry to be included in this Article.

4.30. Article 30

4.30.1. The Section trusts that the dates given in this Article will be changed to take account of developments since publication of the draft Regulation.

The Chairman  
of the  
Section for Transport  
and Communications

The Rapporteur  
of the  
Section for Transport  
and Communications

Karl-Heinz HOFFMANN

Jean ROUZIER

The Secretary-General  
of the  
Economic and Social Committee

Delfo DELFINI