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R E P O R T

of the Committee on Transport and Tourism

on the Commission proposal for a Council directive amending Directive 85/3/EEC on the weights, dimensions and certain other technical characteristics of certain road vehicles (COM(90) 0486 final - C3-0395/90)

Rapporteur: Mr Domènec ROMERA I ALCAZAR

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A Series: Reports - B series: Motions for Resolutions, Oral Questions.

- C Series: Documents received from other Institutions (e.g. Consultations)

*	= Consultation procedure requiring a single reading
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**II	= Cooperation procedure (second reading) which requires the votes of the majority of the Members of Parliament
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**I	= Cooperation procedure (first reading)
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***	= Parliamentary assent which requires the votes of the majority of the current Members of Parliament
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By letter of 26 November 1990 the Council consulted the European Parliament, pursuant to Article 75 of the EEC Treaty, on the Commission proposal for a Council directive amending Directive 85/3/EEC on the weights, dimensions and certain other technical characteristics of certain road vehicles (COM(90) 0486 final - C3-0395/90).

At the sitting of 10 December 1990 the President of Parliament announced that he had referred this proposal to the Committee on Transport and Tourism as the committee responsible and to the Committee on Economic and Monetary Affairs and Industrial Policy for its opinion.

At its meeting of 27 November 1990 the Committee on Transport and Tourism had appointed Mr Romera I Alcàzar rapporteur.

By letter of 23 April 1991, the committee, pursuant to Rule 36(3) of the Rules of Procedure, consulted the Committee on Legal Affairs and Citizens' Rights on the proposed legal basis.

At its meetings of 22 April and 28 May 1991 the committee considered the Commission proposal and the draft report.

At the latter meeting, it adopted the draft legislative resolution by 20 votes to 0, with 2 abstentions.

The following were present for the vote: Amaral, chairman; Topmann, vice-chairman; Romera I Alcàzar, rapporteur; Bettini (for Fernex), Bourlanges, Braun-Moser (for Fantini), Coimbra Martins (for Denys), Joanny, Lalor (for Marleix), McIntosh, Megahy, Porrazzini, Porto (for von Alemann), Rosmini (for Stamouilis), Sarlis, Schlechter, B. Simpson, Sisó Cruellas (for Bonetti), Stewart, Visser, van der Waal and Wijsenbeek.

The opinions of the Committee on Economic and Monetary Affairs and Industrial Policy and the Committee on Legal Affairs and Citizens' Rights are attached.

The report was tabled on 30 May 1991.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A

Commission proposal for a Council directive amending Directive 85/3/EEC on the weights, dimensions and certain other technical characteristics of certain road vehicles

Commission text¹

Amendments

(Amendment No. 1)

Article 1(1)

Directive 85/3/EEC is hereby amended as follows:

1. The following third and fourth paragraphs are added to Article 4:

'For vehicles referred to in Annex I which are first put into circulation from January 1993 the provisions of Article 3(1) shall apply when the drive axle is at its maximum authorized weight of 11.5 tonnes and where it is equipped with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III.

Where the drive axle of any vehicle referred to in the third paragraph is not equipped with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III when the maximum authorized weight of that drive axle shall be limited to 10.5 tonnes.'

Directive 85/3/EEC is hereby amended as follows:

1. The following third and fourth paragraphs are added to Article 4:

'For vehicles referred to in Annex I which are first put into circulation from January 1995 the provisions of Article 3(1) shall apply when the drive axle is at its maximum authorized weight of 11.5 tonnes and where it is equipped with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III.

Where the drive axle of any vehicle referred to in the third paragraph is not equipped with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III when the maximum authorized weight of that drive axle shall be limited to 10.5 tonnes.'

¹ For full text see COM(90) 0486 final - OJ No. C 232, 22.11.1990, p. 12

(Amendment No. 2)
Article 1(2)
ANNEX I, point 2.3.2.

2.3.2. Three-axle motor vehicles
- 25 tonnes
- 26 tonnes where the driving axle is fitted with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III.

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- 26 tonnes where the driving axle is fitted with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III.
There is no need to demonstrate such equivalence for tandem axles the heaviest of which does not exceed 9.5 tonnes in weight.

(Amendment No. 3)
Article 1(2)
ANNEX I, point 2.3.3.

2.3.3. Four-axle motor vehicles with two steering axles
- 32 tonnes where the driving axle is fitted with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III.

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- 32 tonnes where the driving axle is fitted with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III.
There is no need to demonstrate such equivalence for tandem axles the heaviest axle of which does not exceed 9.5 tonnes in weight.

(Amendment No. 4)
Article 1(2)
ANNEX I, point 3.5.3.

3.5.3. 1.3 m or greater but less than 1.8 m ($1.3 \text{ m} < d < 1.8 \text{ m}$) - 18 tonnes
- 19 tonnes where the driving axle is fitted with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III.

3.5.3. 1.3 m or greater but less than 1.8 m ($1.3 \text{ m} < d < 1.8 \text{ m}$) - 18 tonnes
- 19 tonnes where the driving axle is fitted with twin tyres and air suspension or suspension recognized as being equivalent within the Community as defined in Annex III.
There is no need to demonstrate such equivalence for tandem axles the heaviest axle of which does not exceed 9.5 tonnes in weight.

(Amendment No. 5)
Article 2(1)

1. The Member States shall, after consultation with the Commission, bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1993.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

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(Amendment No. 6)
ANNEX III, point 1

1. Drive axles

The drive axle at a maximum authorized weight above 10.5 tonnes shall be fitted with twin tyres and be supported by a suspension system as defined in paragraphs 3 and 4.

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The drive axle at a maximum authorized weight above 10.5 tonnes shall be fitted with twin tyres and be supported by a suspension system as defined in paragraphs 3 and 4.

The same shall apply to tandem axles with a total weight exceeding 18 tonnes.

(Amendment No. 7)

ANNEX III

6. Test procedure

To establish by test the damping ratio D , the damping ratio with hydraulic dampers removed, and the frequency F of the suspension the loaded vehicle should either:

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(a) be driven at slow speed (5 km/hr +/- 1 km/hr) over an 80 mm step with the profile shown in Figure I. The transient oscillation to be analysed for frequency and damping occurs after the wheels on the drive axle have left the step;

or

(b) be pulled down by its chassis so that the drive axle load is 1.5 times its maximum static value. The vehicle hold down is suddenly released and the subsequent oscillation analysed;

or

(c) be pulled up by its chassis so that the sprung mass is lifted by 80 mm above the drive axle. The vehicle hold up is suddenly dropped and the subsequent oscillation analyzed.

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or

(b) be pulled down by its chassis so that the drive axle load is 1.5 times its maximum static value. The vehicle hold down is suddenly released and the subsequent oscillation analysed;

or

(c) be pulled up by its chassis so that the sprung mass is lifted by 80 mm above the drive axle. The vehicle hold up is suddenly dropped and the subsequent oscillation analyzed;

or

(d) other procedures may also be used where their equivalence has been demonstrated by the constructor to the satisfaction of the technical service.

The vehicle should be instrumented with a vertical displacement transducer between drive axle and chassis, directly above the drive axle. From the trace, the time interval between the first and second compression peaks can be measured to obtain the frequency F and the amplitude ratio to obtain the damping. For twin drive bogies, vertical displacement transducers should be fitted between each drive axle and the chassis directly above it.

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DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament on the Commission proposal for a Council directive amending Directive 85/3/EEC on the weights, dimensions and certain other technical characteristics of certain road vehicles

The European Parliament,

- having regard to the Commission proposal to the Council (COM(90) 0486 final)¹,
 - having been consulted by the Council pursuant to Article 75 of the EEC Treaty (C3-0395/90),
 - having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Economic and Monetary Affairs and Industrial Policy and the Committee on Legal Affairs and Citizens' Rights (A3-0154/91),
1. Approves the Commission proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Commission to amend its proposal accordingly, pursuant to Article 149(3) of the EEC Treaty;
 3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 4. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
 5. Instructs its President to forward this opinion to the Council and Commission.

¹ OJ No. C 292, 22.11.1990, p. 12

EXPLANATORY STATEMENT

INTRODUCTION

1. The proposal under review is the latest of a series of amendments to the Council directive of 19 December 1984 on the weights, dimensions and certain other technical characteristics of certain road vehicles (Directive 85/3/EEC²) - a framework directive intended to harmonize the technical characteristics of heavy road vehicles in the Community.

Under the proposal, all heavy vehicles for international goods and passenger traffic manufactured from 1 January 1993 with a drive axle weight of more than 10.5 tonnes - up to the maximum authorized weight of 11.5 tonnes - are required to be equipped with twin tyres and air suspension or suspension recognized as being equivalent within the Community.

In addition, Annex III gives a definition of equivalence to air suspension within the Community, a concept which was introduced by Directive 89/338/EEC³ but for which no technical definition was given.

EXISTING COMMUNITY LEGISLATION

2. A brief summary of developments in Community legislation in this area is given below, in order to clarify the scope of the proposal.

2.1 Article 7(2) of framework Directive 85/3/EEC merely laid down that the weight on the drive axle of a five or six-axle vehicle used in international goods traffic should be specified by 31 December 1985. The Directive only laid down the maximum authorized weight for single (non-driving) axles and for tandem axles and tri-axles of trailers and semi-trailers. As regards the weight on the drive axle, in the absence of Community legislation the legislation of the Member States would apply.

2.2 Directive 86/360/EEC⁴, adopted by the Council on 24 July 1986, set the maximum authorized weight for the drive axle at 11.5 tonnes but only in respect of certain combined vehicles (road trains with five or six axles and articulated vehicles with five or six axles). This figure was to apply from 1 January 1992.

On the same date, the Council also called upon the Commission to look into the possibility of reducing wear and tear on the roads through appropriate vehicle design and to submit a report to it accompanied by a proposal for Community legislation on the matter.

² OJ No. L 2, 3.1.1985, p. 14

³ OJ No. L 142, 25.5.1989, p. 3

⁴ OJ No. L 217, 5.8.1986, p. 19

2.3 At its meeting of 14 March 1989, the Council asked the Commission to set the weight for the drive axle of two, three and four-axle rigid vehicles and four-axle vehicle combinations at 11.5 tonnes and to take into account the need to reduce wear and tear on the roads through the use of various vehicle construction techniques (twin tyres and air suspension or suspension recognized as being equivalent).

2.4 Directive 89/338/EEC, adopted by the Council on 27 April 1989, laid down that the maximum authorized weight on drive axles of 11.5 tonnes should be extended to all remaining categories of vehicle and combined vehicles from 1 January 1993, without stipulating a need for any additional equipment (as regards tyres or suspension).

At the same time, certain types of vehicle (articulated vehicles with four axles - 2 + 2 - and rigid vehicles with three or four axles - which account for around 12% of all heavy vehicles in international traffic) were allowed a maximum total weight which was one or two tonnes heavier, provided that the drive axle was equipped with twin tyres and air suspension or suspension recognized as being equivalent within the Community. Thus, the stipulation concerning equipment emerged only as a precondition for allowing a heavier total vehicle weight.

Directive 89/338/EEC gave no definition of the equivalence of air suspension within the Community. The proposal under review provides such a definition.

2.5 Less than two years after the adoption of Directive 89/338/EEC, the proposal under review aims to extend the requirement for twin tyres and air suspension or suspension recognized as being equivalent within the Community to all vehicles manufactured from 1 January 1993 with a drive axle weight of more than 10.5 tonnes. The reason for this is the beneficial effect of such equipment as regards wear and tear on the roads: the Commission believes that twin tyres and air suspension or the equivalent will reduce the damage done by tyres to road surfaces.

GENERAL COMMENTS

3. It should be pointed out that, at present, nine Member States permit a drive axle weight of 11.5 tonnes or more without any other restrictive conditions of the kind envisaged in the proposal. The Federal Republic of Germany, Belgium, Luxembourg and the Netherlands recently altered their legislation to comply with Directive 89/338/EEC (i.e. setting a maximum authorized weight of 11.5 tonnes for the drive axle) without, however, laying down any restrictions regarding the type of suspension to be used.

4. The changes required by the proposal for a directive will increase the cost of vehicles and oblige the European automobile industry to alter its production plans for 1993, less than two years after the adoption of the previous directive. However, the Commission claims that drive axles with air suspension are more efficient and that their price could be reduced as the manufacture of heavy vehicles is adapted to the new requirements.

5. In the light of the above, your rapporteur believes that the European automobile industry should be given a longer deadline to adapt to the technical requirements of the directive. Thus, while acknowledging the benefits of the proposal for road infrastructures, he proposes that the date for the entry into force of the directive should be 1 January 1995.

6. He also proposes that, as regards the test procedures set out under Annex III, point 6, a new provision be introduced to extend the procedures while relying on the methods approved by the technical services.

LEGAL BASIS

7. The legal basis proposed for this directive by the Commission is Article 75 of the Treaty.

The proposal requires the Member States to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive (Article 2(1)). Its aim - the free movement of vehicles with certain characteristics within the Community - comes under the heading of the establishment and functioning of the internal market. It would therefore appear that Article 100a of the Treaty would be the appropriate legal basis for the proposal, which means using the cooperation procedure rather than just the consultation procedure.

8. Clearly, when the framework directive (85/3/EEC) was drawn up and adopted on the basis of Article 75, the Single European Act had not been introduced. However, your rapporteur has noted that for all subsequent amendments to the framework directive, the Committee on Transport and Tourism did not propose the application of Article 100a as the legal basis. He therefore wishes to bring this matter to the committee's attention.

However, it should be pointed out in this connection that other proposals for directives submitted by the Commission on the harmonization of technical norms for vehicles, such as the approximation of the laws of the Member States relating to the spray-suppression devices of certain categories of motor vehicles and their trailers⁵ and the harmonization of glazing, masses, dimensions and pneumatic tyres for motor vehicles and their trailers⁶, always took as their legal basis Article 100a, under which the cooperation process was used.

Why is the present case any different? Why is Article 75 being proposed?

9. Having consulted the Committee on Legal Affairs and Citizens' Rights, pursuant to Rule 36(3) of the Rules of Procedure, on the proposed legal basis, and having received an opinion arguing in favour of applying Article 75 of the Treaty, the rapporteur decided not to propose any amendments in this respect.

He considers that the institutional reforms currently being discussed by the Intergovernmental Conferences on revision of the Treaties should include application of the final cooperation procedure to the common transport policy.

⁵ COM(89) 0377 final

⁶ COM(89) 0653 final

OPINION

of the Committee on Economic and Monetary Affairs and Industrial Policy

Letter from the Chairman of the committee to Mr Amaral, chairman of the Committee on Transport and Tourism

Brussels, 30 January 1991

Subject: Proposal for a Council Directive amending Directive 85/3/EEC on the weights, dimensions and certain technical characteristics of certain road vehicles.
COM(90) 0486 final - C3-0395/90

Dear Mr Amaral,

At its meeting of 29-30 January 1991, the Committee on Economic and Monetary Affairs and Industrial Policy considered the above subject and expressed the wish to make the following observations.

The proposal concerns the application of Article 7 of Council Directive 89/338/EEC¹ amending Directive 85/3/EEC² on the weights, dimensions and certain other technical characteristics of certain road vehicles. The said article requires that as from 1 January 1993, heavy motor vehicles having an 11.5 tonnes drive axle should carry twin tyres and should be fitted with an air suspension or a suspension considered to be equivalent. An air suspension or a suspension recognized as being equivalent is considered by the Commission to be 'road friendly' in that they could reduce the road wear and tear: its characteristics are specified in Annex III.

As far as the Economic Committee is concerned, four criteria are of particular relevance in assessing the proposal:

- (a) whether harmonization of national norms and of standards is encouraged,
- (b) whether the competitiveness of the Community's heavy vehicles industry is improved,
- (c) whether high-quality standards are to be adopted, and
- (d) whether a Community industrial policy is promoted.

As far as criterion (a) is concerned, it would appear that only limited harmonization would be achieved. The definition of 'equivalence' (proposed in Annex III) allows room for the basic Directive 85/3/EEC to allow two kinds of drive axles: one of a weight of 10.5 tonnes and the other of 11.5 tonnes, provided that the latter is equipped with twin tyres and has an air or equivalent suspension.

¹ OJ No. L 142, 25.5.1989, p. 3

² OJ No. L 2, 3.1.1985, p. 4

By prescribing twin tyres and an air or equivalent suspension to all heavy motor vehicles in international transport, one would expect an increase in the initial cost of the motor vehicle. This increase would be felt by EEC hauliers that purchase trucks after 1.1.1993 if they are not to suffer a penalty. Existing trucks will not be affected. This would imply that criterion (b) is not fully met. The Commission argues, however that air suspension drive axles have superior performance and that their relative price could be reduced as heavy vehicle manufacturers adapt to the new requirements.

The proposal is based on the premise that the definition of air suspension or suspension considered to be equivalent in Annex III is 'road friendly' and would have a beneficial effect on pavement loading which would lead to the minimization of road wear and tear. This high-quality standard (criterion (c)), it is claimed, would also provide a 'softer' ride for the driver. However, the Economic and Social Committee in its draft opinion says that '.... mechanically-connected tandem axles (with a symmetrical or quasi-symmetrical distribution of the load between the two axles) ... are generally and justifiably recognized, by government experts and others, as more 'road friendly''.

As to criterion (d), one might argue that if certain technical specifications in Annex III are clarified, the adoption of a drive axle with a maximum authorized weight of 11.5 tonnes and the recognition of air or its equivalent suspension fitted to heavy vehicles would spur new research and development in the field. It might be argued that should these new specifications be adopted by industry, a new industrial policy in the manufacture of heavy motor vehicles would be possible.

Subject to the above observations concerning the obligatory linking of the 11.5 tonne drive axle to the requirement of twin tyres and air or equivalent suspension, the committee approves the proposal under consideration.

Yours sincerely,

(sgd) Bouke BEUMER

The following were present for the vote: Beumer, chairman; Barton, Bofill Abeilhe, Braun-Moser (for Friedrich), Cassidy, David (for Ford), de Donnea, De Piccoli, Donnelly, Ernst de la Graete, Herman, Hoff, Lataillade, Pinxten, Siso Cruellas, Stevens and von Wogau.

OPINION

of the Committee on Legal Affairs and Citizens' Rights

Letter from the chairman of the committee to Mr Amaral, chairman of the Committee on Transport and Tourism

Brussels, 22 May 1991

Dear Mr Amaral,

At its meeting of 21 and 22 May 1991, the Committee on Legal Affairs and Citizens' Rights, of which I am chairman, examined the question of the appropriateness of the legal basis of the proposal for a Council directive amending Directive 85/3/EEC on the weights, dimensions and certain other technical characteristics of certain road vehicles (COM(90) 0486 final).

After hearing the conclusions submitted by Lord Inglewood (deputizing for Mr Anthony Simpson, the member responsible for questions concerning legal bases), the committee decided (*) that Article 75 of the EEC Treaty should be considered the appropriate legal basis for the above proposal for a directive, in accordance with the Commission's proposal.

The committee considered that the principal objective of this proposal for a directive was to enable Member States to prevent their road infrastructures from deteriorating as a result of the passage of certain heavy goods vehicles, via the introduction of common rules on the technical characteristics of the vehicles concerned by Directive 85/3/EEC. This objective is perfectly consistent with Article 75 of the Treaty, in the context of the achievement of a common transport policy. Consequently, this provision of the Treaty should be considered as having the status of 'lex specialis" via-à-vis Article 100a, which is therefore not applicable in this case.

(sgd) Graf STAUFFENBERG

* The following were present for the vote: Stauffenberg, chairman; Vayssade, vice-chairman; Inglewood, draftsman; Bandres Molet, Bontempi, Cabanillas Gallas, Fontaine (for Anastassopoulos), Garcia Amigo, Medina Ortega and Salema.

