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REPORT

drawn up on behalf of the Committee on Transport

on the proposal from the Commission of the European Communities to the Council (Doc. 1-690/82 - COM(82) 578 final) for a Regulation on the formation of rates for the carriage of goods by road between Member States

Rapporteur: Mr J. MARSHALL

By letter of 6 October 1982 the Council of the European Communities consulted the European Parliament, pursuant to Article 75 of the Treaty, on the proposal from the Commission to the Council for a regulation on the formation of rates for the carriage of goods by road between Member States.

The President of the European Parliament referred this proposal to the Committee on Transport as the committee responsible and to the Committee on Economic and Monetary Affairs for an opinion.

On 20 October 1982 the Committee on Transport appointed Mr. J. MARSHALL rapporteur.

It considered the proposal at its meetings of 4 November and 25 November 1982, and 25 January and 16/17 March 1983.

At the last meeting the committee decided by to recommend to Parliament that it approve the Commission's proposal with the following amendments.

The committee then adopted the motion for a resolution unanimously with 2 abstentions.

The following took part in the vote:

Mr Seefeld, chairman; Mr Carossino, vice-chairman; Mr Marshall, rapporteur; Mr Albers, Mr Buttafuoco, Mr Cardia, Lord Harmer-Nicholls, Mr Hoffmann, Mr Janssen van Raay (deputizing for Mr Baudis), Mr Klinkenborg, Mr Loo (deputizing for Mr Gabert), Mr Martin, Mr O'Donnell, Sir James Scott-Hopkins (deputizing for Mr Cottrell) and Mr Vandewiele.

The opinion of the Committee on Economic and Monetary Affairs is attached.

The present report was tabled on 21 March 1983.

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

Proposal for a Council regulation of the formation of rates
for the carriage of goods by road between Member States
(Doc. 1-690/82)

Amendments tabled by the
Committee on Transport

Text proposed by the
Commission of the
European Communities

Preamble and Articles 1 - 6 unchanged

Amendment No 1

1. (unchanged)

The professional organizations referred to in paragraph 1 shall take account, inter alia, of the views obtained from the organizations representing transport users, and freight forwarders.

Article 7

1. Road hauliers' professional organizations in the Member States shall draw up proposals for the introduction or amendment of reference tariffs.

2. The professional organizations referred to in paragraph 1 shall consult the organizations representing transport users and freight forwarders.

Paragraphs 3 and 4 unchanged

Article 17
paragraphs (1) and (2) unchanged

Amendment No. 2

New paragraph (3)

to read

3. The report referred to in paragraph 1 above shall be forwarded by the Committee to the European Parliament for information.

Articles 18 - 20
unchanged.

Amendment No. 3

New Article 20 a
to read as follows

- 20a This Regulation shall be subject to review five years after the date of its entry into force.

Article 21 unchanged.

A

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a regulation on the formation of rates for the carriage of goods by road between Member States

The European Parliament,

- having regard to the proposal, from the Commission to the Council (COM(82) 578 final),⁽¹⁾
 - having been consulted by the Council pursuant to Article 75 of the EEC Treaty (Doc. 1-690/82),
 - having regard to the report of the Committee on Transport and the opinion of the Committee on Economic and Monetary Affairs (Doc. 1-76/83),
 - having regard to the result of the vote on the Commission's proposal,
1. Calls upon the Council and the Commission, once again, to ensure that the European Parliament is consulted in due time;
 2. Recognizes that the system for the formation of rates for goods transport is an element in the formulation of an effective common transport policy and in the general functioning of the common market;
 3. Considers it particularly important, therefore, that the Council should fulfil its obligations in this matter pursuant to Article 21 of Council Regulation (EEC) No. 2831/77 by deciding on the system of rates for the carriage of goods by road as soon as possible;
 4. Supports, therefore, as the Community's fundamental objective in this field the free formation of rates in accordance with the principles of free competition;
 5. Believes that, in the long term, the level of rates should be decided by free market forces;

(1) OJ No. C 265, 9.10.82, p. 5

6. Takes the view that the compulsory tariff system employed hitherto has tended to result in rates being set at an unrealistically high level;
7. Suggests that the use made by operators up to now of 'special contracts' reflects a desire of the market to distance itself from central tariff decisions;
8. Considers that a system of recommended tariffs would leave market operators free to decide on the extent to which exchange rate fluctuations should be reflected in their rates, without this necessarily having any adverse affect on monetary policy measures as has been the case hitherto;
9. Approves, subject to the above considerations, the broad lines of the Commission's proposal inasmuch as it provides for the application of price recommendations in the form of reference tariffs;
10. Believes, however, that in the interests of consistency the regulation should stipulate a maximum period for which compulsory minimum tariffs may apply, and calls upon the Commission to amend Article 11 of the proposed regulation accordingly;
11. Also calls upon the Commission to endorse the amendments proposed above pursuant to Article 149(2) of the EEC Treaty;
12. Instructs its President to forward to the Commission and Council and to the competent committees of the national Parliaments of the Member States, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

EXPLANATORY STATEMENTI. BACKGROUND

1. In submitting this proposal for a Council regulation on the formation of rates for the carriage of goods by road between Member States, the Commission is taking a further step with a view to attaining its ultimate objective in this field, which is 'the free formation of rates in accordance with the principles of free competition'¹.

2. As early as 1968, the Council of Ministers decided to introduce bracket tariffs (with the rate freely negotiated within fixed maximum and minimum limits) for the carriage of goods by road for hire or reward between Member States². This regulation was later replaced by an arrangement which allowed both bracket tariffs and reference rates (where the tariff has only the force of a recommendation). Common tariffs for the international carriage of coal and steel products by rail have existed since 1955. The Commission has also made proposals on the introduction of reference tariffs for goods transport by inland waterway and by rail. The European Parliament was consulted and delivered an opinion on these last two proposals³, which are included in the list of proposals pending before the Council cited in the letter forwarded by the President of the European Parliament to the Council calling upon it to act, pursuant to the resolution adopted by the European Parliament on 16 September 1982 on the basis of the report by Mr Seefeld⁴.

¹Cf. 'The European Community's Transport Policy', European Documentation, Periodical 2/1981, p. 20

²Council Regulation No 1174/68

³OJ C 293/76 and OJ C 6/1977

⁴Doc. 1-420/82

3. According to the Commission itself, its latest proposal is the result of experience gained in applying Council Regulations 1174/82 and 2831/77. However, what the Commission fails to mention in its explanatory statement is that, under Article 21 of Regulation No. 2831/77 of 12 December 1977¹, 'the Council shall decide on a Commission proposal before 31 December 1982 on the subsequent system for transport rates and conditions for the carriage of goods by road between Member States'. The Commission was reminded of this obligation in a Written Question No. 592/80 by Mr Moreland. Yet its proposal was submitted only on 22 September 1982, three months before a deadline fixed five years previously. Furthermore, the European Parliament was formally consulted only on 6 October 1982. The Committee on Transport must therefore once again call upon the Council and the Commission to ensure that the European Parliament is consulted in due time.

II. GENERAL CONSIDERATIONS

4. As is known, under Article 75 of the EEC Treaty, the Council must lay down 'common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States', together with 'the conditions under which non-resident carriers may operate transport services within a Member State'.

Thus the Treaty manifestly justifies the introduction of Community rules on the formation of rates for goods transport, however divergent the systems hitherto in force in the various Member States.

¹ OJ No L 334, 24.12.1977, p.22

5. At another level, the rate-formation system is clearly a factor which has some effect on the quality of the market organization and the common market in general. As Mr Carossino rightly observed in his report on the common transport policy¹, transport costs are an important factor of overall costs for all industrial and agricultural undertakings, as well as for many firms which provide services.

6. However, these cost factors must be properly dealt with at Community level if we are to achieve the principal aim of transport policy, namely to liberalize international transport movement and create a market which is as free as possible and where the prevailing conditions are similar to those in a domestic market.

The Commission's proposal on the formation of rates should therefore be considered within the context of the need to work for an end to any imbalance between liberalization and harmonization, and to distortions of competition between modes and between Member States. The position most frequently held hitherto by the Committee on Transport, as reaffirmed in the abovementioned Carossino report, is that it wishes to see the liberalization of transport, provided that a sufficient level of harmonization is achieved in parallel.

III. SUBSTANCE OF THE COMMISSION'S PROPOSAL

7. As indicated above, a Community system for the formation of rates for the carriage of goods by road is justified not only legally, but also on economic and transport policy grounds. What is less clear, however - and this is the central question arising out of this proposal - is which system would most effectively further the Community's objectives in this area, while at the same time taking account of the divergent national systems hitherto employed in the Member States.

¹Doc. 1-996/81, p.15, para. 41

8. The new system under the proposed regulation differs in a number of respects from that introduced in 1977:
- whereas under the system used up to now some transport operations have been governed by reference tariffs and some by compulsory tariffs, the new system lays down the general principle that reference tariffs should be established for all operations (Art. 2);
 - under the new system two or more Member States may, but only by mutual agreement, supplement the reference tariffs by introducing compulsory minimum tariffs (Art. 10);
 - by contrast with the present principle of 'bilateralism', the new tariffs are fixed for each Member State and apply to all transport operations starting in the Member State concerned, irrespective of the nationality of the carrier, thereby avoiding exchange rate difficulties, and the possibility of discrimination (Art. 4);
 - the proposed system should facilitate and simplify the various administrative procedures involved.
9. The Commission makes it clear that certain types of transport operations are to be exempted from all tariff arrangements, either because they are of minor economic importance (e.g. involving low weights or short distances) or because they have special characteristics or because of the technical problems involved in setting charges.
10. In short, the underlying principle of the proposed regulation is the application of price recommendations to all transport operations, although it leaves Member States with the option of supplementing the recommended prices by compulsory minimum tariffs.

IV. CONCLUSIONS

11. Just as the Commission states that it is well aware of the difficulties its proposal will encounter, the Committee on Transport knows full well that there are divergences in the approach of the various Member States to the whole question of rate formation and compulsory tariffs. It is nonetheless essential that the European Parliament takes a clear decision on this proposal, which is inevitably in the nature of a compromise between these divergent positions, particularly in the light of the institution by Parliament of proceedings against the Council for failure to act.

12. Given these considerations, your rapporteur is firmly convinced that the most suitable solution in the long term would be for the level of rates to be freely decided by the market itself. This view is also supported by the evidence provided by the workings of the compulsory tariff system as employed up to now, which has led in numerous cases to rates being fixed at an unrealistically high level, and the consequent use by operators of 'special contracts'.

13. Finally, he believes that it is hardly consistent with the Commission's own objectives to make provision for compulsory minimum tariffs without stipulating a maximum period for which they should apply, and suggests that the Commission should amend Article 11 of the proposed regulation accordingly.

O P I N I O N

(Rule 101 of the Rules of Procedure)

of the Committee on Economic and Monetary Affairs

Draftsman: Mr. WELSH

On 4 November 1982, the Committee on Economic and Monetary Affairs appointed Mr. Welsh as draftsman of the opinion.

The Committee considered the draft opinion at its meeting of 15 - 16 February 1983 and adopted it on that date by a vote of 9 votes for to 2 against with 1 abstention.

The following took part in the vote: Mr. Jacques MOREAU, Chairman, Mr. WELSH, Draftsman, Mr. BATTERSBY (deputizing for Mr. de Ferranti), Mr. Von BISMARCK, Mme. DESOUCHES, Mr. FORTH (deputizing for Mr. Beazley), Mr. HERMAN, Mr. PRAG (deputizing for Miss Forster), Sir Brandon RHYS-WILLIAMS, Mr. Van MIERT (deputizing for Mr. Rogers), Mr. Van ROMPUY, Mr. Von WOGAU

BACKGROUND

1. "Administrative rules, however well thought out, are no substitute for rates which are freely formed in markets subject to the free play of the forces of competition and which provide an objective instrument for providing information and guidance" (1) says the introduction to the Commission's latest proposal on the formation of haulage rates for the traffic of goods by road between member States. The proposed regulation is an attempt to bring one step closer the ultimate Community objective of the free determination of haulage rates through the unrestricted interplay of market forces.
2. The first, very limited, step in this direction was taken in 1968 when the Council approved the introduction of a compulsory tariff system² whereby rates could be negotiated within fixed brackets, the upper limit corresponding to a published price schedule and a lower limit 23% below this. This regulation also provided for the conclusion of special contracts at rates below the lower limit when circumstances deemed it necessary.
3. With the accession of the United Kingdom, Ireland and Denmark a new regime was called for which would better reflect the more liberal rate-formation methods existing in the new member States. In 1977, therefore, a regulation was passed³ giving individual states the choice between compulsory tariffs and a system of reference rates designed to act only as a guide to carriers.

GENERAL CONSIDERATIONS

4. Experience has shown that the operation of both systems is unsatisfactory, often for similar reasons. The biggest
1. COM (82) 578 fin, page 2, point 2.
 2. Council Regulation No. 1174/68
 3. Council Regulation No. 2831/77

stumbling block has been the lack of progress towards economic and monetary union among member States. Currency fluctuations and differing cost development has made it difficult to maintain a reasonable relationship, between member States rates which are determined bilaterally and therefore denominated in two currencies. For example because of currency fluctuations there were two considerable amendments to the price schedule in Italian lira in quick succession - first of 30% in 1974 and a second of more than 60% in 1977.

5. In any case, the practice of amending tariffs in line with fluctuations in exchange rates is not consistent with the economic policy aims of governments who are seeing the value of their currency fall. If tariffs are adjusted automatically, the positive effect which falling currency values or devaluation would have had on prices is cancelled out in addition to the positive effect they would have had on the balance of payments situation.
6. When tariffs are amended, the variations in rates charged do not fully reflect changes in tariffs. Furthermore, adjustments often only formalise price movements which have already taken place. This is particularly evident, for example, in the case of traffic between Germany and The Netherlands and Germany and Italy, where there have been regular price increases a good year before they have been authorised by a tariff amendment.
7. Market forces, too, are seen to be stronger than price control systems imposed from outside. When compulsory tariffs were first introduced in the early seventies they were generally too high for the market and rates therefore tended towards the lower limit of the bracket. As a result much use was made of special contracts. Later, as costs rose rates also moved up within the permitted limits and the number of special contracts declined.

8. But there is much evidence to suggest that tariffs play a passive role in the formation of haulage rates. Ironically, increasing tariffs often result in a rise in the number of special contracts for operations which were previously carried out at the lower limit. This reflects a desire among hauliers to retain a degree of freedom from the imposed tariff decisions even to the extent that they should be ignored altogether.
9. For a compulsory tariff system to be workable nothing short of exhaustive monitoring is necessary to ensure compliance. But only West Germany has been prepared to invest sufficient funds so that adequate checks are taken. Such a monitoring mechanism gives rise to a complicated bureaucracy whose high cost is reflected in haulage charges. In Cologne, there are more than 300 people involved in monitoring rates.
10. A system of recommended rates, on the other hand, does not require a vast and expensive monitoring apparatus. The Commission feels that such a system, applied throughout the Community is far superior to compulsory tariffs because "it is the most suitable means of helping to establish a climate of healthy competition"¹. It also makes a positive contribution to rate-formation by providing hauliers with the information they need for the correct calculation of charges and helps to establish a dialogue between hauliers and users and thereby prevents a slump in rates.
11. However, the recommended rates approved in 1977 ran into many of the same problems that afflict compulsory tariffs. Wide variations between member States rates have resulted from currency fluctuations and differing cost movements. The methods used to raise them also leaves much to be desired. There is a tendency to increase them in line with the cost of living even though a depressed market can mean it is unwarranted.

(1) COM (82) 578 fin, page 5 point 3.4

THE COMMISSION'S NEW PROPOSAL

12. The 1977 Regulation provided that the existing system of reference rates would only be temporary and laid down that "the Council shall decide on a Commission proposal, before the 31st December 1982 on the subsequent system for transport rates and conditions for the carriage of goods by road between member States".
13. The latest proposal advocates that recommended tariffs should apply to all transport operations in all member States. These rates are to be established unilaterally (in the currency of the member State where the transport operation begins irrespective of the nationality of the carrier) thereby avoiding exchange rate fluctuations. Two member States can, by mutual agreement, introduce compulsory minimum tariffs for specific operations and tonnages over a limited period. Up to now these rates have been decided by the Council.

CONCLUSIONS

14. The Committee on Economic and Monetary Affairs re-affirms its commitment to a Common Market operating on free market principles. It therefore considers that in principle operators should be free to fix their price levels according to their particular economic circumstances.
15. Since transport is an important element in the final cost of goods, it is in the interests of producers and consumers alike that the road haulage industry should provide the most economic service possible in terms of quality, reliability and price. The Committee believes that a liberal system of price formation is the most likely to provide a cost effective transport system.
16. Road haulage in common with other sectors is subject to the Competition Articles of the Treaty of Rome. The Committee considers

that the Commission already has adequate instruments at its disposal to prevent distortion of the market notably through the exploitation of dominant positions and national aids. It recognizes that a system of reference prices established by the Member States would provide a valuable source of data for the enforcement of competition policy.

17. The committee notes with regret that there has been a marked lack of progress in developing a common market in road haulage which remains hedged around with restrictions and dogged by differing national standards. It believes that the liberalization of prices would gain a valuable impetus if harmonization in other areas notably weight and vehicle restrictions, permit regulations and the social aspects progressed further. It therefore considers that the Council should press ahead with action in this sphere and not wait until all aspects of the road haulage sector have been harmonized. This form of parallelism has been responsible to some extent for the lack of progress in the transport sector.
18. The Committee on Economic and Monetary Affairs welcomes the Commission proposal as a useful step towards freely determined rates which it considers to be an essential element in a Common Transport Policy. It urges the Council to adopt these proposals at its meeting in June 1983.

