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Report

drawn up on behalf of the Committee on Public Health and the Environment

on the proposal from the Commission of the European Communities to the Council (doc. 39/74) for a directive on the approximation of the laws of the member States relating to the driver perceived noise level of agricultural or forestry tractors fitted with wheels

Rapporteur: Mr Willi MULLER

PE 37.384/fin.

By letter of 2 April 1974, the President of the Council of the European Communities consulted the European Parliament, pursuant to Article 100 of the EEC Treaty, on the proposal submitted by the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to the driver-perceived noise level of agricultural or forestry tractors fitted with wheels (Doc. 39/74).

On 5 April 1974, the European Parliament referred this proposal to the Committee on Public Health and the Environment as the committee responsible and to the Legal Affairs Committee and the Committee on Economic and Monetary Affairs for their opinions.

On 24 May 1974 the Committee on Public Health and the Environment appointed Mr Willi Müller rapporteur.

It considered the proposal at its meetings of 7 June and 2 July 1974.

On 2 July 1974, the Committee on Public Health and the Environment unanimously adopted the motion for a resolution and explanatory statement, with one abstention.

The following were present: Mr Della Briotta, chairman; Mr Jahn and Mr Scott-Hopkins, vice-chairmen; Mr Willi Müller, rapporteur; Mr Adams, Mr Albertsen, Mr Eisma, Mr Martens, Mr Premoli, Mr Radoux (deputizing for Mr Lagorce), Lord St. Oswald, and Mr Walkhoff.

The opinions of the Legal Affairs Committee and the Committee on Economic and Monetary Affairs are attached to this report.

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A

The Committee on Public Health and the Environment 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 directive on the approximation of the laws of the Member States relating to the driver-perceived noise level of agricultural or forestry tractors fitted with wheels

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 39/74),
 - having regard to the report of the Committee on Public Health and the Environment and the opinions of the Legal Affairs Committee and the Committee on Economic and Monetary Affairs (Doc. 193/74),
1. Welcomes the Commission's proposal for a directive as an important step towards limiting the driver-perceived noise level of agricultural tractors and towards harmonization of the trade in these tractors within the Community;
 2. Approves the Commission's choice of Article 100 of the EEC Treaty as the legal basis;
 3. Requests the Commission to submit any future proposals for directives concerning the environment in good time to enable the Parliament to discuss them thoroughly;

¹OJ No. C 58, 18.5.1974, p. 23

4. Hopes, that the directive will be enforced before September 1975, the date on which the new British law enters into force;
5. Draws attention to the fact that, in addition to eliminating trade barriers, it is very important to ensure safe working conditions and, more specifically, to protect the hearing of tractor drivers;
6. Points out that in the rules and regulations provided for by the directives the overriding consideration should be the need to protect public health and the environment and not the manufacturers' interests;
7. Urges the Commission to adapt as soon as possible to technical progress not only the noise level but also the method of measurement;
8. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

EXPLANATORY STATEMENTI. Remarks

1. Although the Commission had requested the United Kingdom to delay implementation of a bill on the driver-perceived noise level of agricultural tractors until the Council had adopted a directive on the subject, this bill was adopted in November 1973.

The provisions are due to enter into force on 1 September 1975. In order to avoid the difficulties that will arise when this law enters into force, it is necessary that this proposal for a directive be adopted by the Council as soon as possible.

II. Contents of the directive

2. The proposed directive contains an operative part and two technical annexes :
 - Article 1 of the draft directive defines the term 'tractor'; Articles 2 and 3 stipulate that Member States may not refuse or prohibit the approval, sale, registration, entry into service or use of tractors if they comply with the provisions laid down in the annexes. Article 5 fixes the date by which these provisions are to enter into force i.e., 1 April 1976;
 - Annex I lays down the limit on the driver-perceived noise level, the measuring apparatus to be used and the conditions and method of measurement;
 - Annex II contains the determination of the seat reference point.

III. Discussion

3. In its general programme for the elimination of technical barriers to trade resulting from differences in the provisions laid down by law, regulation or administrative action in the Member States, adopted by the Council on 28 May 1969 (OJ No. C 76 of 17 June 1969, page 1), the Council undertook to take a decision before 1 July 1970 on a proposal for a directive, to be submitted to it before 1 January 1970, on the noise level of agricultural tractors and machinery.

It was only on 15 March 1974 that such a proposal¹ was submitted to the Council by the Commission of the European Communities, despite the committee's frequent appeals to the Commission to submit its proposals for directives on environmental protection in sufficient

¹OJ No. C 58, 18.5.1974, p. 23

time to allow the Parliament and its committee to discuss them thoroughly and without undue haste.

4. The object of this proposal is not only to eliminate barriers to intra-Community trade, but also and above all to ensure safer working conditions for certain agricultural workers by limiting the noise level in order to protect their hearing.
5. As regards the elimination of barriers to intra-Community trade, it is obvious that difficulties are bound to arise if this directive does not enter into force by 1 September 1975, when a similar law enters into force in the United Kingdom.

The Committee on Economic and Monetary Affairs, appointed to deliver an opinion, approves this proposal as part of a general regulation to eliminate technical barriers to trade within the Community and also draws attention to the difficulties that could arise if this directive is not adopted in good time by the Council.

6. The main problem involved in limiting noise was the determination of a maximum noise level that must not be exceeded and the method of measuring it.

The maximum permissible noise level was set at 90 dB. The method of measurement developed by the OECD, and accepted by all delegations except the French and the German, was the only one which the Commission felt was worthy of consideration at present.

On these two points your committee agrees with the Commission's views, all the more so since the latter promises that both the noise level and the method of measuring it will be adapted to technical progress in the future.

7. Articles 2 and 3 of the Commission's proposal for a directive are formulated in such a way that it would be impossible to prevent tractors remaining in use even if they did not comply with the provisions laid down in the annexes.

On previous occasions your committee has always preferred such provisions to be worded in a more binding fashion. In the present instance it has, by way of exception and for the sake of speed, agreed to the Commission's text despite its relative lack of binding force. Nevertheless, it would point out that in provisions relating to environmental protection and, particularly, workers' safety, the overriding consideration should not be the manufacturers' requirements

IV. Legal basis

8. The method chosen by the Commission of the European Communities for the harmonization allows national provisions to remain in force alongside the Community provisions.

If the tractors comply with the provisions laid down in the annexes, the Member States may not refuse the approval, sale or use of such tractors.

Your committee cannot agree with the Legal Affairs Committee, appointed to deliver an opinion, when it approves this harmonization procedure, under which it would still be possible for tractors that do not comply with the provisions to remain in use. This conflicts with the views of your committee on the need to protect the hearing of the drivers of these tractors.

OPINION OF THE LEGAL AFFAIRS COMMITTEE

Letter from Mr A. Bermani, Chairman of the Legal Affairs Committee, to
Mr L. Della Briotta, Chairman of the Committee on Public Health and the
Environment

Brussels, 10 May 1974

Dear Mr Della Briotta,

The Legal Affairs Committee considered the proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to the driver-perceived noise level of agricultural or forestry tractors fitted with wheels (Doc. 39/74) at its meeting of 9 May. In so doing, it confined itself to the legal aspects of the proposal.

The committee noted that the objective of the approximation of national laws as referred to in the proposal was twofold, viz.:

- safety of working conditions (limitation of noise level to protect the hearing of certain agricultural workers);
- the removal of barriers to intra-Community trade in tractors.

The method chosen by the Commission for the harmonization of laws permits the continued existence of national regulations side-by-side with Community regulations. The central importance of the proposal for a directive lies in the provision stating that no Member State may refuse the approval, sale or use of tractors complying with the provisions laid down in the annexes (Article 2 and Article 3).

The Legal Affairs Committee declared its acceptance of the harmonization procedure proposed by the Commission. It unanimously approved the proposal.¹

Nevertheless, it expressed disappointment at the fact that the proposal for a directive could not be submitted before the passing of the corresponding Bill in the United Kingdom, since added difficulties might now arise when it comes to adoption of the directive by the Council.² It was to prevent such difficulties that, within the framework of the General Programme for the abolition of technical obstacles to trade, an agreement was concluded on 28 May 1969 between representatives of the Governments of the Member States in the Council, concerning the status

¹The following were present: Mr Berthoin (deputizing for Mr Jozeau-Marigne), Mr Brewis, Mr Broeksz, Mr Brugger, Mr Heger, Mr Lautenschlager, Lord Mansfield, Mr Schwörer, Mr Vernaschi, Sir Derek Walker-Smith and Mr Yeats.

²See Section 1 (historical background) of the explanatory memorandum in the Commission's proposal.

quo and notification of the Commission.¹

The Legal Affairs Committee therefore hopes that the directive will be adopted before September 1975, which is when the new British Act is due to come into force.

Yours sincerely,

(sgd.) A. BERMANI

¹ Extracts from the agreement (OJ No. C 76, 17 June 1969):

- The representatives of the Governments of the Member States meeting in the Council, considering it necessary to ensure that implementation of this General Programme should not be placed in jeopardy by new initiatives by governments of the Member States, have agreed: 1) to act in such a way as to facilitate the execution of this General Programme, in particular by abstention, on the part of the Governments of the Member States, as further described below from taking legal or administrative initiatives in respect of products figuring in the General Programme b) also in the case of products in respect of which the Commission has not yet submitted a proposal for a directive to the Council, any Government which feels it necessary to take an initiative concerning the adoption or amendment of legal or administrative provisions, may not adopt the measure in question until at least five months after notifying the Commission of its intention, provided that the latter has not submitted a proposal for a directive in the sphere of the said measure to the Council within the abovementioned period.

OPINION OF THE COMMITTEE ON ECONOMIC AND
MONETARY AFFAIRS

Letter from Mr Erwin Lange, chairman of the Committee on Economic and Monetary Affairs to Mr Libero Della Briotta, Chairman of the Committee on Public Health and the Environment.

Strasbourg, 11 June 1974

Dear Colleague,

The Committee on Economic and Monetary Affairs was asked at the sitting on 5 April 1974 to give the Committee on Social Affairs and Environment its opinion on Working Document 39/74.

Meeting on 6/7 June 1974 the Committee approved unanimously the proposals contained in the above mentioned document concerning the approximation of the laws of the Member States relating to the driver perceived noise level of agricultural or forestry tractors fitted with wheels.

The Committee strongly welcomed the Commission's initiative to promote the abolition of technical obstacles to trade within the Common Market; it reserves the right to examine specific obstacles that apply to trade with Great Britain across internal Community frontiers, if the Council of Ministers has not adopted the proposed directive now before it by 1 September 1975, when a British law on driver perceived tractor noise level comes into effect.

The Committee on Economic and Monetary Affairs wishes to draw attention to the fact that it has repeatedly, in its reports and opinions, emphasized the need for an immediate investigation by the Commission of the question of speeding up the abolition of technical obstacles to trade within the framework of a general regulation; since the free movement of goods within the Common Market comes under its terms of reference, the Committee feels that it should be the committee responsible for considering the proposed directive since it would help to create an economic area within which the free movement of goods would progress impeded.

I would ask you to ensure that the foregoing opinion is taken into account in the report being prepared by your Committee for presentation to Parliament.

Yours sincerely,

Erwin LANGE

Members present : Mr Lange, chairman; Sir Brandon Rhys Williams, vice-chairman; Mr Artzinger, Mr Behrendt (representing Mr van der Hek), Mr Cousté, Mr Hougardy, Mr Krall, Mr Mitterdorfer, Mr Normanton, Mr Nøgard, Lord Reay, Mr Scholten, Mr Thornley, (deputizing for Mr Cifarelli) and Mr Wohlfart

