

implementation of the new provisions, so that their benefits will be accessible even to those who, for purely

technical reasons, are unable to comply with the deadlines.

Done at Brussels, 27 October 1988.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

**Additional Opinion on the proposal for a Council Regulation amending Regulation (EEC) No 3820/85 on the harmonization of certain social legislation relating to road transport and Regulation (EEC) No 3821/85 on recording equipment in road transport<sup>(1)</sup>**

(88/C 337/17)

On 11 May 1988 the Bureau of the Economic and Social Committee, acting under the third paragraph of Article 20 of the rules of procedure, decided to draw up an Opinion on the abovementioned proposal.

The section for transport and communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 12 October 1988. The rapporteur was Mr von der Decken.

At its 259th plenary session (meeting of 27 October 1988), the Committee adopted the following Opinion by a large majority with 1 abstention.

## 1. Introduction

1.1. The Committee expressed reservations about the aforementioned Commission proposal in its Opinion of 2 June 1988<sup>(2)</sup>, because not enough information had been provided about the real reasons for the amendments. It therefore announced its intention to produce an additional Opinion, which would deal mainly with the new proposals amending Regulation (EEC) No 3820/85 and Regulation (EEC) No 3821/85.

## 2. General comments

2.1. The basic aim of the Commission's proposed amendments of 24 March 1988 [doc. COM(88) 21 final] is to eliminate the difficulties which have supposedly arisen with regard to the interpretation and monitoring of Regulations (EEC) No 3820/85 and (EEC) No 3821/85—which did not enter into force until 29 September 1986—and also with regard to cooperation

between Member States on this matter. To support its case, the Commission lists a number of reasons, which do in fact go beyond this limited objective and call to question the very substance of the Regulations.

2.1.1. Even after giving further careful consideration to the purpose of the technical adjustments to the social legislation governing Community road transport it is not clear to the Committee why Regulations (EEC) No 3820/85 and (EEC) No 3821/85 are to be amended. It considers that the new definitions for driving periods, breaks and rest periods will be of little use for the monitoring. The Commission will not achieve what it hopes to achieve; the new definitions will not benefit transport or social policy and do not make any sense in administrative terms.

2.2. The Committee also fails to see the Commission proposals providing an indirect stimulus, which, in a roundabout way, might make for more social progress in Community road transport in the medium or long term or make the social legislation easier to accept.

<sup>(1)</sup> OJ No C 116, 3. 5. 1988, p. 15.

<sup>(2)</sup> OJ No C 208, 8. 8. 1988, p. 26.

2.3. The Committee considers that the proposed amendments are not suitable for eliminating or even alleviating the problems involved in observing and monitoring the social legislation. Therefore it cannot endorse these amendments even though it has advocated<sup>(1)</sup>, and still advocates<sup>(2)</sup>, the objective and a number of measures for simplifying, streamlining and standardizing the monitoring of the legislation.

The Committee's own recommendations of 27 February 1985 were accepted by both the European Parliament and the Commission as a reasonable basis for more effective enforcement. The Economic and Social Committee stands by these recommendations and calls for them to be re-introduced.

2.4. The reasons for the Committee's response are as follows:

2.4.1. The Commission has undoubtedly attempted to obtain from the Member States all the information required for pinpointing the real reasons for the alleged difficulties with regard to the social legislation. Nevertheless, according to the Committee, there is a decisive gap in information available about the whole problem so that the significance of the Commission's new initiative cannot be assessed in full.

The two Regulations did not enter into force until 29 September 1986 and have not yet been fully implemented in all Member States. The Commission's reports so far about the application of the social legislation and its consequences therefore do not provide a full picture for the Community as a whole; they are also of little use for a conclusive appraisal of the legal situation and the position with regard to competition because their statistics are based on data from 1984 and 1985, prior to the Regulations' entry into force. The Committee considers this in particular to represent a failure to pinpoint the problem; it is therefore unable to deduce why provisions which did not enter into force until 1986 have to be amended again after only one and a half year.

2.4.2. The Committee also thinks that there are no factual or policy reasons for the technical revision of the social legislation at this stage:

<sup>(1)</sup> Simpler, more efficient and uniform checks were called for by the Committee in its Opinion of 27 February 1985 on the proposal amending Council Regulation (EEC) No 543/69 (OJ No C 104, 25. 4. 1985, p. 4).

<sup>(2)</sup> Its approval of and views on the objective of implementing uniform checks in all Member States as quickly as possible have been voiced by the Economic and Social Committee, in particular in its most recent Opinion on the proposal for a Council Directive on the uniform application of Regulations (EEC) No 3820/85 and (EEC) No 3821/85 (Opinion of 2 June 1988, p. 2).

— Legally justifiable reasons, e.g. the need for more equality before the law (same legal status), greater legal certainty or improved administrative procedures, are not quoted by the Commission as being to blame for the difficulties. The Committee cannot therefore understand the legal reasons for the Commission's move.

— Policymaking reasons e.g. more protection of legal rights or of occupational health and safety, improved road safety or a better competitive footing for smaller carriers and their drivers are hardly taken into consideration or are merely mentioned as background.

— The concerns of interested parties are also not an apparent reason. At any rate the section is not aware of any current moves on the part of trade unions or employers' associations to amend the Regulations along the lines proposed by the Commission.

— There is also no clear justification to be found for the new technical proposals in the programme for the completion of the barrier-free Community market. The sole aim of the proposals is to simplify the interpretation of social legislation, checking procedures and the exchange of information by authorities, and the Commission can clearly think of no good reason why the proposals should represent a major contribution towards the completion of the barrier-free market.

2.4.3. The Committee is definitely aware of the problems associated with the establishment of uniform and unifying social legislation in Community road transport, but thinks that first of all the use of Community Directives (as proposed by the Commission) and national implementing provisions should and could be explored in full as a means of achieving the uniform interpretation which is required for monitoring purposes.

2.5. The Committee agrees basically with the Commission that uniform, clear and applicable provisions with regard to driving periods, breaks and rest periods are required in a common barrier-free market. If legislation is to be applied properly, it must be simple enough to be monitored and enforced uniformly and effectively

2.6. However, this means standardizing the measures which make the monitoring effective and provide for sanctions. It is not only legally self-evident and vital for the monitoring procedures but also necessary for the social legislation per se to have uniform powers to impose sanctions which are governed by the same or comparable stipulations. The Committee would there-

fore stress once again that technical provisions which are adopted for monitoring purposes lose their real meaning if no provision is made for appropriate sanctions and bodies with sufficient powers. This is missing at the moment in the Commission's proposals and is thus a point against them.

2.7. The Commission also does not refer to the connections between driving and rest periods and the safeguarding of health when making out its case for its new technical provisions. However, this matter will be of fundamental importance in the Committee's view when questions relating to working conditions in road transport are eventually voted on in a barrier-free Community market. One question which should be discussed in due course is to what extent the uniform restriction of working hours might serve road safety and occupational health and safety. It is impossible to imagine a barrier-free Community market in which working hours are not regulated.

2.8. After weighing up the factual and political arguments for and against the Commission's legal proposals, the Committee thinks it would be wise to comment on a number of details in the proposed Regulation.

### 3. Specific comments

#### 3.1. Article 1

3.1.1. For the Committee, the main proposal being made is that each driver should work a moveable week. The moveable week worked by the driver is to be a period of seven consecutive days which no longer coincide with the calendar week. Each driver is to be bound individually by this general concept.

3.1.2. The Committee thinks that the present definition of a week in Article 1 (4) of Regulation (EEC) No 3820/85 is clear and should not be changed. This norm is practical and recognized worldwide; it seems to be acceptable to both sides of industry and complies with convention 153 of the International Labour Organization (ILO), which however has not been ratified by the EC Member States. The introduction of a moveable rolling week would merely create confusion and give drivers two weekends, viz. the weekend belonging to the normal calendar week and the weekend which is part of their moveable driving week. In the long run this may be to the disadvantage of drivers' and crews' working and private lives.

The moveable week also reduces the flexibility which Regulation (EEC) No 3820/85 was meant to introduce. For example,

- rest not taken one week cannot be compensated for the following week because a weekly rest period which has not been taken may not be carried forward to the following week, or
- driving for the maximum permissible number of hours one week can reduce the time which may be spent at the wheel the following week. There is no way in which this can be justified in terms of road safety or occupational health and safety. Instead of the average 45 hours only 34 hours may be worked in such instances.

Checking procedures would not be made any easier for the authorities. Drivers and crews want to stick to the calendar week. The Committee rejects the proposal not only for this reason but also because the calendar week is the unit of time generally adopted by shipping agents, customers and the authorities.

#### 3.2. Article 2

The Committee also rejects the amendment to Article 4 (6) of Regulation (EEC) No 3820/85, because private carriers working for public authorities cannot be treated differently to private carriers with private customers.

#### 3.3. Article 3

This new provision is the logical consequence of Article 1 and should accordingly be rejected.

#### 3.4. Article 5

There is no recognizable need for this proposal, which is linked to the moveable driving week.

#### 3.5. Article 6

The Committee supports the line taken in this proposal. The Directive presented by the Commission and already approved by the Section would achieve this.

#### 3.6. Article 7

The annual report on the social regulation's implementation should be forwarded not only to the Council and the European Parliament but also to the Economic and Social Committee.

#### 3.7. Article 8

This provision would certainly be endorsed as being appropriate and necessary for the monitoring if the

moveable week were considered desirable and advisable. However, it must be rejected since the Committee

regards the moveable week as being as retrogressive step if the aim is greater simplicity and flexibility.

Done at Brussels, 27 October 1988.

*The Chairman  
of the Economic and Social Committee*

Alberto MASPRONE

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**Opinion on the current state and future prospects of the GATT/Uruguay Round negotiations  
as regards agriculture and the agro-food sector**

(88/C 337/18)

On 31 May 1988 the Economic and Social Committee, acting under the fourth paragraph of Article 20 of its rules of procedure, decided to draw up an Opinion on the current state and future prospects of the GATT/Uruguay Round negotiations as regards agriculture and the agro-food sector.

The section for external relations, trade and development policy, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on September 1988. The rapporteur was Mr Clavel.

At its 259th plenary session (meeting of 27 October 1988), the Economic and Social Committee unanimously adopted the following Opinion.

1. The Punta del Este declaration of 20 September 1986, which launched the new round of multilateral trade negotiations, gave an important place to negotiations in the agricultural sector. The course of the initial phases of the negotiations and the attitudes and proposals of the contracting parties concerning the conduct of the negotiations in the agricultural sector, as well as the deliberations at the major intergovernmental meetings, have tended to add to this importance. That is why the Committee with the ministerial meeting in Montreal in mind, considers it appropriate to make known its views on the conduct of these agricultural negotiations, it being understood that the general aspects of the multilateral trade negotiations, which concern also agriculture, are covered by the Committee Opinion on the current state and future prospects of the GATT/Uruguay Round negotiations<sup>(1)</sup>.

**General points**

2. After two years devoted to identifying problems of presentation and to examining various proposals and objectives concerning the agricultural negotiations, the ministerial session scheduled for 4 and 5 December in Montreal would seem to be extremely necessary in order to draw up a balance sheet at the mid-way stage of the negotiations.

This session should also be the occasion for finally entering into a genuine dialogue, for taking stock of the points on which convergence is discernible and, on the basis thereof, for mapping out, if possible, the broad outlines of negotiations in the coming two years aimed at establishing a better balance between supply and demand.

3. In this connection it is necessary to reaffirm the principle that the negotiations form part of a whole, as laid down in the Punta del Este declaration: 'The launching, the conduct and the implementation of the outcome of the negotiations shall be treated as parts of a single undertaking.'

<sup>(1)</sup> ESC of 29 September 1988 (OJ No C 318, 12. 12. 1988).