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*****II**

RECOMMENDATION FOR SECOND READING

on the Council Common Position for adopting a European Parliament and Council directive on the organisation of the working time of persons whose occupation is the performance of mobile road-transport activities (5919/1/2001 – C5-0134/2001 – 1998/0319(COD))

Committee on Employment and Social Affairs

Rapporteur: Stephen Hughes

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

At the sitting of 6 May 1999 Parliament confirmed as its first reading under the codecision procedure its vote of 14 April 1999 on the proposal for a European Parliament and Council directive concerning the organisation of working for mobile workers performing road transport activities and for self-employed drivers ((COM(1998) 662 - 1998/0319 (COD)).

At the sitting of 11 December 2000 the President of Parliament announced that the amended proposal for a European Parliament and Council directive concerning the organisation of working time for mobile workers performing road transport activities and for self-employed drivers had been received and referred to the Committee on Employment and Social Affairs (COM(2000) 754 – C5-0639/2000 - 1998/0319(COD)).

At the sitting of 5 April 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Employment and Social Affairs (5919/1/2001 - C5-0134/2001).

The committee had appointed Stephen Hughes rapporteur at its meeting of 27 July 1999.

The committee considered the common position and the draft recommendation for second reading at its meetings of 21 March 2001, 24 April 2001, 3 May 2001 and 29 May 2001.

At the last meeting it adopted the draft legislative resolution by 38 votes to 3, with 0 abstentions.

The following were present for the vote: Michel Rocard, chairman; Winfried Menrad, vice-chairman; José Ribeiro e Castro, vice-chairman; Stephen Hughes, rapporteur; Sylviane H. Ainardi, Jan Andersson, María Antonia Avilés Perea, Elspeth Attwooll (for Daniel Ducarme), Regina Bastos, Ieke van den Burg, Philip Bushill-Matthews, Chantal Cauquil (for Arlette Laguiller), Luciano Caveri, Alejandro Cercas, Luigi Cocilovo, Brian Crowley, Elisa Maria Damião, Den Dover (for Carlo Fatuzzo), Jillian Evans, Ilda Figueiredo, Hélène Flautre, Fiorella Ghilardotti, Anne-Karin Glase, Anne Elisabet Jensen (for Luciana Sbarbati), Pierre Jonckheer (for Ian Stewart Hudghton, pursuant to Rule 153(2)), Karin Jöns, Ioannis Koukiadis, Jean Lambert, Elizabeth Lynne, Thomas Mann, Claude Moraes, Manuel Pérez Álvarez, Bartho Pronk, Tokia Saïfi, Herman Schmid, Miet Smet, Ilkka Suominen, Helle Thorning-Schmidt, Anne E.M. Van Lancker, Barbara Weiler and Sabine Zissener (for Rodi Kratsa-Tsagaropoulou).

The recommendation for second reading was tabled on 31 May 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the Council common position for adopting a European Parliament and Council directive on the organisation of the working time of persons whose occupation is the performance of mobile road-transport activities (5919/1/2001 – C5-0134/2001 – 1998/0319(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council Common Position (5919/1/2001 – C5-0134/2001)¹,
 - having regard to its position at first reading² on the Commission proposal to Parliament and the Council (COM(1998)662³),
 - having regard to the amended proposal (COM(2000) 754⁴,
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Employment and Social Affairs (A5-0196/2001),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 142, 15.5.2001, p. 24

² OJ C 219, 30.7.1999, p. 235.

³ OJ C 43, 17.2.1999, p. 4.

⁴ OJ C 120E, 24.4.2001, p. 284

Amendment 1
Title

Directive 2001/.../EC of the European Parliament and of the Council **on** the organisation of working time **of persons whose occupation is the performance of** mobile road-transport activities

Directive 2001/.../EC of the European Parliament and of the Council **concerning** the organisation of working time **for mobile workers performing** road transport activities **and for self-employed drivers**

Justification

With the reintroduction of self-employed drivers in other amendments, it is necessary to change also the title of this directive.

Amendment 2
Recital 8

As self-employed drivers are included within the scope of Regulation (EEC) No 3820/85 but excluded from that of Directive 93/104/EC, they should be excluded temporarily from the scope of this Directive **on the understanding that the Commission will assess the consequences of that temporary exclusion.**

As self-employed drivers are included within the scope of Regulation (EEC) No 3820/85 but excluded from that of Directive 93/104/EC, they should be excluded temporarily from the scope of this Directive.

Justification

To be seen in conjunction with Amendment 4 to Article 2(1), this amendment lays down a temporary exclusion of self-employed drivers, but their automatic inclusion after three years without this being based on any Commission assessment. While recognising difficulty in Council reaching agreement on the inclusion of the self-employed, Parliament has repeatedly stressed that, for reasons of road safety, health and safety and fair competition, it is vital to include self-employed drivers in the scope of this Directive.

Amendment 3
Recital 14

The provisions of Regulation (EEC) No 3820/85 on driving time in international and national passenger transport, other than regular services,

The provisions of Regulation (EEC) No 3820/85 on driving time in international and national passenger transport, other than regular services,

should continue to apply. ***The working time of drivers carrying out such transport may therefore, subject to certain conditions, exceed the maximum weekly average laid down in this Directive for goods transport and for regular passenger transport services.***

should continue to apply ***until such time as the Regulation is revised with a view to including a definition of working time compatible with this directive.***

Justification

To be seen in conjunction with Amendment 5, the aim of this amendment is to ensure that the forthcoming revision of Regulation 3820/85 includes a definition of working time which is compatible with this Directive, rather than the current Regulation which allows a maximum of 65 hours a week of driving time.

Amendment 4 Article 2(1)

1. This Directive shall apply to mobile workers employed by undertakings established in a Member State, participating in road-transport activities covered by Regulation (EEC) No 3820/85 or, failing that, by the AETR Agreement.

By*, the Commission shall submit an assessment of the consequences of the temporary exclusion of self-employed drivers to the European Parliament and to the Council. The assessment shall analyse in particular the effects of the exclusion of self-employed drivers on road safety, on conditions of competition, on the structure of the profession and on social aspects. Depending on the outcome of that analysis, the Commission will propose if appropriate conditions under which this Directive will apply to self-employed drivers, the definition of which will have to be made clear, at the latest on**.

1. This Directive shall apply to mobile workers employed by undertakings established in a Member State, participating in road-transport activities covered by Regulation (EEC) No 3820/85 or, failing that, by the AETR Agreement ***and to self-employed drivers established in a Member State.***

The provisions of this Directive shall apply to self-employed drivers three years after the end date for transposition of the Directive by Member States fixed by Article 14.

* *Five years after the entry into force of this Directive.*

** *Six years after the entry into force of this Directive.*

Justification

To be seen in conjunction with Amendment 2 to Recital 8, this amendment lays down a temporary exclusion of self-employed drivers, but their automatic inclusion after three years without this being based on any Commission assessment. While recognising difficulty in Council reaching agreement on the inclusion of the self-employed, Parliament has repeatedly stressed that, for reasons of road safety, health and safety and fair competition, it is vital to include self-employed drivers in the scope of this Directive.

Amendment 5 Article 2, paragraph 5 (new)

The Commission will present no later than one year after this Directive enters into force a proposal for revision of Regulation 3820/85 on the harmonisation of certain social legislation relating to road transport which will broaden the scope of the Regulation to include a definition of working time compatible with this directive and in order that the Regulation should apply to all mobile workers performing road transport activities employed by undertakings established in a Member State and to self-employed drivers.

Justification

This amendment seeks to ensure that in the context of the forthcoming review of Regulation 3820/85 a definition of working time is included which is more compatible with this directive than with the current regulation which permits 65 hours driving per week, and to ensure that the revised regulation applies to all persons performing mobile work and to self-employed drivers.

Amendment 6 Article 3(a)

For the purposes of this Directive:
(a) "working time" shall mean ***the time from the beginning to the end of work, during which the mobile worker is at his workstation, at the disposal of the employer and exercising his functions or activities, that is to say:***
– ***the time devoted to all road transport activities. These activities are in***

For the purposes of this Directive:
(a) "working time" shall mean:
– ***in the case of self-employed drivers, stand-by duty and the time during which the following activities are carried out:***

- (i) driving;
- (ii) loading and unloading;
- (iii) ***checking or supervising*** passengers boarding and

particular, the following: driving, loading and unloading, ***assisting*** passengers boarding and disembarking from the vehicle, cleaning and technical maintenance as well as all other work intended to ensure the safety of the vehicle, its cargo and passengers;

- (iv) disembarking from the vehicle; cleaning and technical maintenance as well as all other work intended to ensure the safety of the vehicle, its cargo and passengers;
- (v) ***inspection of the vehicle and monitoring of loading and unloading***;
- (vi) ***administrative formalities with police, customs, immigration officers, etc***;
- (vii) ***cooperation with police, customs or immigration officers for checks required by the law***;

- ***in the case of mobile workers, the time from the beginning to the end of work, that is all activities or standby duty, excluding breaks.***

Activities include, in particular:

- (i) ***driving***;
- (ii) ***loading and unloading***;
- (iii) ***checking or supervising passengers getting in/out of the bus/coach***;
- (iv) ***cleaning of the vehicle***;
- (v) ***inspection of the vehicle and monitoring of loading and unloading***;
- (vi) ***other work to ensure the safety of the vehicle, the load or the passengers***;
- (vii) ***technical maintenance of the vehicle***;
- (viii) ***administrative formalities with police, customs, immigration officers, etc.***
- (ix) ***administrative work.***

– the times during which the mobile worker is required to remain at his workstation, ready to take up work, ***and cannot, on the instructions of his employer, dispose freely of his time, in particular during periods awaiting loading or unloading, where their foreseeable duration is not known in***

– ***"stand-by duty" means*** the times during which the mobile worker is required to remain at his workstation, ready to take up work ***where appropriate on his own initiative, and generally with certain tasks associated with being on duty.***

advance, that is to say either before departure or just before the actual start of the period in question, or under the general conditions negotiated between the social partners and/or under the terms of the legislation of the Member States.

The break times referred to in Article 5, the rest times referred to in Article 6 and, without prejudice to the legislation of Member States or agreements between the social partners providing that such periods should be compensated or limited, the periods of availability referred to in (b) of this Article, shall be excluded from working time;

The break times referred to in Article 5, the rest times referred to in Article 6 and, without prejudice to the legislation of Member States or agreements between the social partners providing that such periods should be compensated or limited, the periods of availability referred to in (b) of this Article, shall be excluded from working time;

Justification

This amendment returns to Parliament's 1st reading definition of working time and stand-by duty. In the first part, it reintroduces a definition of working time for self-employed drivers. In the second part, we return to the definition for mobile workers which clarifies exactly what is to be considered as stand-by duty, which had been made extremely unclear by the Common Position's formulation.

Amendment 7 Article 3(b), indent 1

(b) “periods of availability” shall mean:
- periods other than those relating to break times and rest times during which the mobile worker is not required to remain at his workstation, but must be available to answer any calls to start or resume driving or to carry out other work. In particular such periods of availability shall include periods during which the mobile worker is accompanying a vehicle being transported by ferryboat or by train as well as periods of waiting at frontiers and those due to traffic prohibitions.

These periods and their foreseeable duration shall be known in advance by the mobile worker, ***that is to say either before departure or just before the actual start of the period in question***, or under the general conditions negotiated between the social partners and/or under the terms of the legislation of the Member States;

(b) “periods of availability” shall mean:
– periods other than those relating to break times and rest times during which the mobile worker is not required to remain at his workstation, but must be available to answer any calls to start or resume driving or to carry out other work. In particular such periods of availability shall include periods during which the mobile worker is accompanying a vehicle being transported by ferryboat or by train as well as periods of waiting at frontiers and those due to traffic prohibitions.

These periods and their foreseeable duration shall be known in advance by the mobile worker ***at least one day in advance and prior to the completion of the previous shift*** or under the general conditions negotiated between the social partners ***at the level*** and under the terms of the legislation of the Member States;

Justification

This amendment reintroduces the idea from Amendment 8 at 1st reading, allowing drivers one day advance notice for their availability, rather than the Common Position which could result in drivers finding out immediately before departure.

Amendment 8
Article 3(b), indent 2

- for mobile workers driving in a team, the time spent sitting next to the driver or on the couchette while the vehicle is in motion; ***deleted***

Justification

This amendment seeks to delete new text brought in by the Common Position. In fact, second drivers cannot be considered to be having a break while sitting in the cab as they will often be called upon to navigate or do administrative work while the vehicle is moving. This should be seen in conjunction with the ECJ Ruling (C-030/98) which found that stand-by duty done by doctors in the workplace must be considered as working hours.

Amendment 9
Article 3, subparagraph (c), first indent

- the location of the undertaking for which the mobile worker carries out duties,
- the location of the undertaking for which the mobile worker carries out duties, ***together with its various branch departments or offices, regardless of whether they are located in the same place as its head office or main place of business,***

Justification

The many and frequent instances in which the parent company and branch offices of a given undertaking are located in different places should be catered for here.

Amendment 10
Article 3, letter e

(e) 'self-employed driver' shall mean anyone whose main occupation is to carry passengers or goods by road at a

(e) 'Self-employed drivers' are the head of a commercial entity, owner of a professional certificate where appropriate, have the

customer's request;

freedom to work on their own account, do not work directly for an undertaking or employer, are at liberty to choose which freight they carry, have commercial relations with several customers, can negotiate prices and their own fees, can schedule their working hours freely and are owner of one or more vehicles.

Those who do not meet these criteria are subject to the same rights and obligations under this directive as employees.

Justification

This amendment reintroduces, in a slightly more specific form, the definition adopted by the Parliament in 1st reading. In the first instance, the Common Position definition is far too general and open to misinterpretation. However, more importantly, given that Parliament is calling for automatic inclusion of the self-employed after three years, it is all the more important that the definition of what constitutes a self-employed driver should be as precise as possible. To avoid a category of 'pseudo self-employed', it is important to ensure that self-employed drivers have commercial relations with several customers.

Amendment 11 Article 3(g)

(g) "night time" shall mean a period of at least **four** hours, as defined by national law, **between 00.00 hours and 07.00 hours**;

(g) "night time" shall mean a period of at least **seven** hours, as defined by national law, **and in any case encompassing the period between midnight and 5 a.m.**

Justification

As regards the definitions of night time and night workers, the more specific definitions from Parliament's 1st reading and the Commission's Amended Proposal are preferable to the Common Position.

Amendment 12 Article 3(i) (new)

- "night workers" shall mean mobile workers or self-employed drivers who perform 48 days of their annual working time during night time.

Justification

As regards the definitions of night time and night workers, the more specific definitions from Parliament's 1st reading and the Commission's Amended Proposal are preferable to the Common Position.

Amendment 13
Article 5

1. Member States shall take the measures necessary to ensure that, without prejudice to the level of protection provided by Regulation (EEC) No 3820/85 or, failing that, by the AETR Agreement, mobile workers in no circumstances work for more than six consecutive hours without a break. Working time shall be interrupted by a break of at least thirty minutes, if working hours total between six and nine hours, and of at least forty-five minutes, if working hours total more than nine hours.

2. Breaks may be subdivided into periods of at least fifteen minutes each.

1. Member States shall take the measures necessary to ensure that, without prejudice to the level of protection provided by Regulation (EEC) No 3820/85 or, failing that, by the AETR Agreement, mobile workers **and self-employed drivers** in no circumstances work for more than six consecutive hours without a break. Working time shall be interrupted by a break of at least thirty minutes, if working hours total between six and nine hours, and of at least forty-five minutes, if working hours total more than nine hours.

2. Breaks may be subdivided into periods of at least fifteen minutes each.

Justification

In line with other amendments, this amendment reintroduces self-employed drivers into the Directive.

Amendment 14
Article 7(1), indent 1

1. Member States shall take the measures necessary to ensure that:
– if night work is performed, the daily working time does not exceed **ten** hours in each twenty-four-hour period,

1. Member States shall take the measures necessary to ensure that:
– if night work is performed, the daily working time does not exceed **eight** hours in each twenty-four-hour period,
It may be extended to ten hours only if an average of eight hours a day is not exceeded within a reference period to be determined after consultation of the social partners or in collective agreements or agreements between the social partners; for periods in which night workers are not requested to perform night work, Article 4 shall apply;

Justification

This amendment reintroduces Parliament's position at 1st reading. Considerable research has shown that excessive night work leads to additional stress for drivers concerned and increased risk to road safety. The automatic 10 hour working time is therefore too flexible when it includes night work.

Amendment 15 Article 8(1)

1. Derogations from Articles 4 **and 7** may be adopted **by means of laws, regulations or administrative provisions or by means of collective agreements or agreements between the two sides of industry**, provided that the persons concerned are afforded equivalent periods of compensatory rest.

1. Derogations from Articles 4 may be adopted by means of collective agreements, provided that the persons concerned are afforded equivalent periods of compensatory rest.

Justification

In line with Parliament's position at 1st reading, this amendment allows derogations only on maximum weekly working time and only by means of collective agreements. Derogations on night work should not be allowed.

Amendment 16 Article 9(b)

(b) the working time of mobile workers is recorded. Records shall be preserved for at least **one year** after the end of the period covered. Employers shall be responsible for recording the working time of mobile workers. Employers shall upon request provide mobile workers with copies of the records of hours worked.

(b) the working time of mobile workers is recorded. Records shall be preserved for at least **two years** after the end of the period covered. Employers shall be responsible for recording the working time of mobile workers. Employers shall upon request provide mobile workers with copies of the records of hours worked.

Justification

This amendment is in line with Amendment 14 at 1st reading.

Amendment 17 Article 9, letter c (new)

Member States shall take measures necessary to ensure that the self-employed driver shall maintain a record of his working time. These records shall be kept for at least two years. Member States shall carry out controls on working and driving times equivalent to at least 2% of all the working days in this sector. The most important instrument for such controls is the digital tachograph.

Justification

In line with Amendment 16 at 1st reading, it is vital that self-employed drivers also keep records of their working time.

Amendment 18
Article 10

This Directive shall not affect Member States' right to apply or introduce laws, regulations or administrative provisions more favourable to the protection of the health and safety of mobile workers or their right to facilitate or permit the application of collective agreements or other agreements concluded between the two sides of industry which are more favourable to the protection of the health and safety of mobile workers.

This Directive shall not affect Member States' right to apply or introduce laws, regulations or administrative provisions more favourable to the protection of the health and safety of mobile workers ***or self-employed drivers***, or their right to facilitate or permit the application of collective agreements or other agreements concluded between the two sides of industry which are more favourable to the protection of the health and safety of mobile workers. ***Implementation of this Directive shall not constitute valid grounds for reducing the general level of protection afforded to workers.***

Justification

This amendment brings back the non-regression clause from Parliament's 1st reading (Amendment 17). This wording is clearer and less open to misinterpretation than the wording in Article 14(2) of the Common Position. To be seen in conjunction with Amendment 21.

Amendment 19

Article 11

Member States shall lay down a **system** of penalties for breaches of the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that these penalties are applied. The penalties thus provided for shall be effective, proportional and dissuasive.

Member States shall lay down a **common range** of penalties for breaches of the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that these penalties are applied. The penalties thus provided for shall be effective, proportional and dissuasive. ***Member States shall notify these provisions to the Commission by the date mentioned in Article 14 at the latest, and any subsequent amendment thereto in good time.***

Justification

This amendment reintroduces the text of Amendment 18 of Parliament's 1st reading. Effective sanctions are vital to ensuring full implementation of the terms of this Directive and the laying down of a common range of penalties is the most appropriate way of achieving these.

Amendment 20
Article 14(1)

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by* or shall ensure by that date that the two sides of industry have established the necessary measures by agreement, the Member States being obliged to take any steps to allow them to be able at any time to guarantee the results required by this Directive.

When Member States adopt the measures referred to in the first subparagraph, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by* or shall ensure by that date that the two sides of industry have established the necessary measures by agreement, the Member States being obliged to take any steps to allow them to be able at any time to guarantee the results required by this Directive.

When Member States adopt the measures referred to in the first subparagraph, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Justification

It has always been Parliament's position that the transposition period for directives in the social policy field should be two years, and not three years as proposed by the Council in this and other recent legislative proposals.

Amendment 21
Article 14(2)

2. Without prejudice to the right of Member States to develop, in the light of changing circumstances, different legislative, regulatory or contractual provisions in the field of working time, as long as the minimum requirements provided for in this Directive are complied with, implementation of this Directive shall not constitute valid grounds for reducing the general level of protection afforded to the persons referred to in Article 2(1).

deleted

* ***Three*** years after the entry into force of this Directive.

* ***Two*** years after the entry into force of this Directive.

Justification

The wording for the non-regression clause in Amendment 18 is clearer and less open to misinterpretation than the text in this paragraph of the Common Position.

Amendment 22
Article 14(4)(new)

Member States shall take the necessary steps to ensure that the relationships between shippers, freight forwarders, prime contractors and sub-contractors are regulated through the adoption of obligatory contracts allowing the verification of compliance with this Directive.

Justification

This amendment reintroduces Amendment 19 from 1st reading and seeks to put in place all possible mechanisms and instruments in contractual relations of the transport chain to ensure the adequate implementation of the Directive.

EXPLANATORY STATEMENT

Parliament adopted its first reading in April 1999, with 21 amendments strengthening, but largely supporting, the original proposal from the Commission. Some of these amendments were aimed at reinforcing the provisions on self-employed drivers, others sought to tighten controls and sanctions. Overall, the aim throughout was to be aware of both road safety and driver health and safety, given the dual aim and the double legal basis for the directive. The third aim was of course to prevent unfair competition, and the rapporteur, in presenting his draft recommendation, would recall that agreement on working time provisions in the railway sector was reached already between the social partners in September 1998, and incorporated in the revised general directive on working time (93/104/EC¹ amended by 2000/34/EC²).

The Commission's amended proposal accepted 11 of the Parliament's amendments from 1st Reading, but difficulties in Council led to the dossier being blocked for almost two years, while a consensus was sought in particular on the inclusion of self-employed drivers. When the Common Position was finally agreed in December 2000, the Council had included, wholly or in part, only 8 of Parliament's amendments.

In the rapporteur's view, the Common Position is far too flexible and unclear in a number of areas. Of particular importance are the following:

- The self-employed: This is one of the key issues in the directive, particularly in the current climate where many lorry drivers are being forced to switch to self-employed status in effect (the so-called 'bogus self-employed') in order precisely to avoid such limitations as these on their working time. The Common Position, in making the inclusion of the self-employed conditional on long-term assessments of the consequences of their exclusion, opens the door to a massive transfer of drivers to self-employed status, with no guarantee that they will ever be protected by legislation on working time. This is totally unacceptable. However, the rapporteur acknowledges the potential difficulty involved in the immediate inclusion of the self-employed and is willing to allow their temporary exclusion, provided that after a specified period, they are automatically included in the provisions of the directive.
- Link with Regulation 3820/85: The rapporteur has introduced new amendments not tabled in first reading, on the link between this directive and Regulation 3820/85 on driving time. This is justified by the fact that, as the Council itself acknowledges in its statement of reasons, a revision of the Regulation 3820/85 is imminent, and it is vital that definitions of working time and the scope in the revised Regulation should be compatible with the provisions of this directive.
- Definitions: The rapporteur has retabled a number of amendments from 1st reading and/or the Commission's amended proposal on definitions of working time, standby-duty, night work and self-employed drivers. These aim to improve the clarity of the definitions or, in the case of standby-duty, to tighten the text where the Common Position has omitted important aspects from the original proposal. As regards night work, moreover, and in line

¹ OJ L 307, 13.12.1993, p. 18.

² OJ L 195, 1.8.2000, p. 41.

with the Parliament's position at first reading, the derogation to the Article on night work has been deleted: in the interests of both road safety and drivers' health and safety, it is essential to maintain strict limits to night work, and only to allow flexibility where this is negotiated between the social partners in the sector.

Other amendments have been retabled from 1st reading, such as on the maintaining of records with a view to monitoring implementation of the working time limits, the relationship between shippers, freight forwarders and subcontractors, and on the provisions for sanctions for non-compliance with the directive, a vital tool to ensure that this directive is fully implemented.

Conclusion

While recognising that some of these amendments will inevitably lead to difficult negotiations ahead with the Council, the rapporteur is convinced that these amendments are vital if we are to end up with a text which meets the goals of improving road safety, guaranteeing a minimum level of health and safety for all road transport drivers, and in achieving a level playing field with other transport sectors already covered by similar regulations.