



**European Commission
Directorate-General for Energy and Transport
Unit E1 "Land Transport Policy"
B-1049 Brussels
Belgium**

Madrid, 1 de marzo de 2010

Estimados Señores:

Desde la **Confederación Española de Transporte de Mercancías (CETM)**, organización empresarial que aglutina a más de 34.000 empresas de transporte de mercancías por carretera, con 130.000 vehículos y 215.000 profesionales, y asociación representativa del Comité Nacional de Transporte por Carretera Español (CNTC), les remitimos respuesta a la consulta pública lanzada por la Comisión Europea: "Revision of the Community legislation on the recording equipment in road transport (tachographs)"

La CETM tiene, entre otros, como objetivos básicos representar, gestionar, defender y promocionar los intereses profesionales de las empresas del sector y participar en la regulación de las cuestiones referentes al perfeccionamiento de la concurrencia del mercado, acceso a la profesión y los generales de la actividad en el ámbito de su actuación, tanto a nivel nacional como de la UE.

En la confianza de que estas respuestas sean de utilidad para la Comisión y para el sector del transporte en general, quedamos a su disposición para cualquier consideración que estimen oportunas o necesarias.

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Presidente de la CETM

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CONSULTATION PAPER

REVISION OF THE COMMUNITY LEGISLATION ON THE RECORDING EQUIPMENT IN ROAD TRANSPORT (TACHOGRAPHS)

1. BACKGROUND: THE COMMUNITY ACQUIS ON RECORDING EQUIPMENT

Since its introduction, Council Regulation (EEC) No 3821/85 on recording equipment in road transport¹ has been amended by 16 legal acts, mainly in order to adapt the annexes to technical progress. The most important amendment has been the introduction of the digital tachograph through Council Regulation (EC) No 2135/98² and Commission Regulation (EC) No 1360/2002³. In 2009, the responsible Committee gave a favourable opinion on the tenth adaptation to technical progress of the annex; it will improve user-friendliness and increase the reliability of the system. The consolidated version of Council Regulation (EEC) No 3821/85 contains 269 pages.

The most important legal acts referring directly to Council Regulation (EEC) No 3821/85 are the following.

Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport⁴ defines maximum driving times and minimum rest periods. It contains several references to the recording equipment, in particular imposing the driver to record also other working activities than driving and periods of availability.

Directive 2006/22/EC on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85⁵ sets minimum targets for the control by Member States of the application of the social legislation by drivers and undertakings. From 1 January 2010, 3% of days worked by drivers of vehicles falling within the scope of Regulations (EC) No 561/2006 and (EEC) No 3821/85 have to be checked; not less than 30 % have to be checked at the roadside, and not less than 50 %

¹ Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport, OJ L 370, 31.12.1985, p. 8

² Council Regulation (EC) No 2135/98 of 24 September 1998 amending Regulation (EEC) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) No 3820/84 and (EEC) No 3821/85, OJ L 274, 9.10.1998, p. 1

³ Commission Regulation (EC) No 1360/2002 of 13 June 2002 adapting for the seventh time to technical progress Council Regulation (EEC) No 3821/85 on recording equipment in road transport, OJ L 207, 5.8.2002, p.1

⁴ Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, OJ L 102, 11.04.2006, p.1

⁵ Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC, OJ L 102, 11.04.2006, p. 35

have to be checked at the premises of undertakings. The directive also requires Member States to equip and train their control officers for the control of the digital tachograph.

The recording equipment is the central element to control the application of the legislation on driving times and rest periods in order to ensure road safety, fair competition and good working conditions for drivers. The digital tachograph is installed in more than 1.5 million vehicles and used approximately by more than 3 million drivers, 35.000 enforcers and 900.000 undertakings in the European Union. From June 2010, the digital tachograph will become also mandatory for new vehicles used in the international transport by the non-EU Contracting Parties of the AETR⁶ which adds 22 countries outside the EU in Europe and in the Commonwealth of Independent States.

2. CHARACTERISTICS OF THE NEXT GENERATION OF TACHOGRAPHS

2.1 Functioning of the recording equipment

Question 1 - Is it important that equipment of different manufacturers functions in exactly the same way? Or should legislation focus on essential requirements and give manufacturers more freedom to develop solutions and improve the equipment?

Entendemos que todo lo que haga referencia a los requisitos esenciales del tacógrafo, tanto los relacionados con las especificaciones técnicas de los aparatos como con el registro de los datos de control exigidos por la normativa y que puedan afectar de alguna manera a la compatibilidad en el uso de distintos aparatos de distintos fabricantes debe estar legislado de forma que los usuarios no encuentren problemas en la utilización de una u otra marca en los vehículos de su flota.

Adicionalmente no vemos inconvenientes en que los fabricantes, partiendo de los requisitos base establecidos en el párrafo anterior, puedan desarrollar soluciones y mejorar los equipos dando mayor valor añadido a sus clientes.

2.2 Integration of ITS applications

Question 2 - Should the legislation on the tachograph already foresee the integration of the digital tachograph into an open in-vehicle platform? If so, what other regulatory applications should be integrated in this platform (e.g. e-toll, recorder for accident investigation, e-call, speed control) and why? Would it be interesting for fleet management or other applications related to safety or security of transport, or to law enforcement, to have a real-time "tracking and tracing" function?

En relación con la respuesta anterior consideramos positivo cualquier avance tecnológico que permita la integración de funciones adicionales en un mismo aparato, evitando la dispersidad de equipos con distintas utilidades dentro de la cabina. Esto reduciría costes, aligeraría espacios y facilitaría la vida a los conductores.

⁶ European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport

No necesariamente hay que referirse a la integración de aplicaciones relacionadas con el control sino también a herramientas que permitan la mejora en el desarrollo del trabajo del conductor y de la interoperabilidad y la comunicación entre el vehículo y la empresa.

Habría que tener cuidado con que si se estropea una aplicación no afecte al funcionamiento del resto del equipo y sea posible la reparación por módulos.

2.3 Remote download of recorded data and speed of downloading

Question 3 - Should remote download of the digital tachograph be encouraged? Is a regulatory approach deemed appropriate in order to facilitate widespread introduction?

Todo lo que sea evitar cuellos de botella administrativos para las empresas y facilitar la agilidad en la transmisión de datos será un avance y un ahorro de costes para las empresas, permitiendo a la vez un control de la flota y de los tiempos de conducción y descanso de los conductores just in time, que redundara en una gestión más eficiente de los vehículos.

No pensamos que sea necesario un enfoque normativo para su introducción a gran escala, ya que las empresas lo utilizarán por convencimiento.

Question 4 - What is your practical experience? Are there any obstacles for speedy download of data?

Existen algunos problemas de incompatibilidad entre aparatos de distintas marcas que hacen en ocasiones más lenta la descarga de datos y en otras imposible. Se necesita un sistema universal compatible.

2.4 Improvement of controls

Question 5 - How could the equipment be changed in order to make controls more efficient? Should the mobile control of moving vehicles be envisaged in order to reduce administrative burden for industry and enforcement bodies?

Los controles móviles podrían servir para supervisar ciertos componentes electrónicos del aparato que puedan apreciar indicios de irregularidades, sirviendo para filtrar los camiones sospechosos antes de un control.

Esta posibilidad se podría complementar con la descarga remota de datos en el momento de un control en carretera que permitiese agilizar los tiempos de espera en los propios controles.

Cualquier novedad tecnológica que se pueda aplicar para agilizar los controles en carretera deberá contar con los requisitos necesarios para no vulnerar la seguridad jurídica de las empresas controladas.

2.5 Security level of the system

Question 6 - Is the current security level proportional? Can and should there be other sources of motion? Could the authenticated time/speed/positioning data provided by the future European "GPS" system, Galileo, be used as a second and independent source of motion to ensure security of data?

La fiabilidad de los aparatos de control esta bajo tela de juicio con la aplicación de ciertas prácticas que permiten la manipulación de los datos.

El sector verá con buenos ojos la integración de otras fuentes de movimiento que aseguren el correcto funcionamiento de los aparatos de control y eviten cualquier tipo de manipulación fraudulenta, siempre que no supongan mayores costes para las empresas.

3. PRINCIPLES AND SCOPE

3.1 Scope of the regulation

Question 7 - In case a vehicle is only occasionally used in the scope of Regulation (EC) No 561/2006, for example when exceeding from time to time the radius set in some exceptions, should it be possible to use different means of recording activities?

Las excepciones pueden ser razonables pero esa ventaja comparativa con otras actividades del transporte debe ser controlada sin que pueda dar pie a actuaciones fraudulentas.

3.2 Compatibility and interoperability

Question 8 Three options can be envisaged:

Option 1: No new generation of recording equipment should be introduced; make full interoperability with the current system of digital tachographs a strict requirement for all future developments.

Option 2: Foresee a new generation of recording equipment, but make sure that at least driver cards (or other parts of the equipment) can be used with the current generation of digital tachographs and the new generation of recording equipment (backwards compatibility).

Option 3: Foresee a new generation of recording equipment without any requirement on the compatibility.

Question 8 - Which option do you prefer? In case you prefer option 2: What are the most important issues for compatibility between a new generation of tachographs and the current digital tachograph, and what other parts of the equipment, apart from driver cards, should be compatible in your view?

La opción menos traumática parece la 2, ya que permitiría la convivencia de dos generaciones de tacógrafo sin necesidad de introducir modificaciones para asegurar la compatibilidad.

Debe ser compatible todo lo que haga referencia a los requisitos esenciales del tacógrafo, tanto los relacionados con las especificaciones técnicas de los aparatos como con el registro de los datos de control exigidos por la normativa.

4. TYPE APPROVAL

4.1 Introduction of equipment based on new specifications

Question 9 - Should the legislation specify how new equipment has to be introduced in the field? Should a retrofit be possible, mandatory or take place in case of replacement of defective equipment? What are the essential steps for the introduction of new equipment? Should type approval for tachographs fall under the general type approval scheme for vehicles?

La legislación debe especificar, sin dar lugar a equívocos, que los nuevos equipos se introducirán en el mercado por la adquisición de nuevos vehículos homologados, que los traerán ya instalados de fábrica, y excepcionalmente se hará obligatoria la instalación del nuevo equipo, sólo en el caso de la necesidad de sustitución por otro, debido al deterioro irreparable del mismo.

Question 10 - Should it be possible to carry out field tests before type approval is requested, while maintaining the same security standards? How should field test be limited (geographically, number of equipments, duration of the field test, etc.)?

Sí, con los controles necesarios.

4.2 Equipment in relation with the tachograph where no type approval is foreseen

Question 11 - The following options could be envisaged:

Option 1: Do not change the current situation

Option 2: Optional standardisation of this equipment through technical bodies

Option 3: Community legislation

Question 11 - Which option do you prefer and if you prefer option 2 or 3, for which parts: seals, downloading equipment, control equipment, calibration tools, etc.?

La opción 3, a través de un Reglamento Comunitario, que contemplara la regulación de precintos, la descarga de equipos, equipos de control, herramientas de calibración, etc, permitiría la aplicación armonizada en toda la UE.

4.3 Adaptation to technical progress

Question 12 - The following options could be envisaged:

Option 1: Commission continues to update the technical specifications of the equipment through comitology

Option 2: The Regulation sets essential requirements for the equipment and a normative or technical body (e.g. CEN, CENELEC) is empowered to take care of the detailed technical specifications

Option 3: The Regulation sets the basic principles for the equipment and manufacturers decide on detailed technical specifications

Question 12 - Is the current way of updating the specifications on the tachograph satisfying? Who should be responsible for the updating of the technical requirements? What is your preferred option?

Entre la opción 1 y 2

5. INSTALLATION AND INSPECTION

Question 13 - Should the trustworthiness of workshops be improved? If so, how? How can conflicts of interest be avoided for workshops that are living from delivering services to individual clients but play at the same time an important role in the security of the recording equipment?

Los talleres deben corresponsabilizarse, de las posibles manipulaciones de los aparatos siempre que se pueda demostrar su intervención. Para ello el tacógrafo tendría que ser inviolable. Para poder acceder a su lógica o parámetros habría que romper algún tipo de precinto, que no tendría por que ser físico, una especie de firma electrónica sería suficiente. De esta forma el taller sería tan responsable como el transportista, ya que sin la colaboración del taller no es posible manipular el tacógrafo.

La manipulación por parte de un taller podría suponer la retirada de la autorización para el mismo.

6. USE OF EQUIPMENT

6.1 Automatic and manual recording of information

Question 14 - What kind of data should be entered manually by the driver? What kind of information should be recorded automatically by the recording equipment? Is it appropriate to record more precisely the location (via GPS or GNSS for example)?

El objetivo último debe ser que cuantos menos datos tengan que introducir manualmente los conductores mejor, para lo cual se debe trabajar sobre

especificaciones técnicas que contemplen el mayor número de soluciones que permitan grabaciones automáticas.

Entre otras se debería contemplar la siguiente información: Conducción, trabajo no es posible, disponibilidad –solo es posible con el segundo conductor-, comienzo y fin de la jornada, cumplimiento de la pausa, cumplimiento del descanso diario, cumplimiento del descanso semanal, tiempo de conducción bisemanal –y no en los últimos 15 días como lo hace el tacógrafo en la actualidad-.

La integración del GPS o GNSS puede colaborar a dar mayor precisión a la grabación de datos de ubicación del vehículo, tanto para reflejar el comienzo y finalización de la jornada de la jornada, como los tránsitos en ferry, trasbordador o sobre tren.

6.2 Uniqueness of the driver card

Question 15 - Should the Regulation explicitly foresee the use of electronic data exchange on cards that are issued between card issuing authorities?

Si esto contribuye a erradicar practicas fraudulentas, Sí

6.3 Warnings

Question 16 - Should the Regulation explicitly foresee warnings for the driver in order to enhance compliance with the legislation on driving times and rest periods? Should it be up to manufacturers' choice to offer such warnings as an optional tool, including additional warnings for other aspects than the continuous driving time?

Sí; todo lo que colabore a una mayor información para el conductor, para realizar correctamente su trabajo debería tenerse en cuenta y además hay que dar la posibilidad a los fabricantes para introducir mejoras que contribuyan a facilitar el trabajo a los profesionales.

7. OTHER QUESTIONS

Question 17 - Do you have any other comments or suggestions which you consider should be taken into account during the revision of the European legislation on recording equipment?

No

Question 18 - Would you like to propose other measures to make the recording equipment more user-friendly and to improve the reliability of controls?

No

Translation

Letter dated: 1 March 2010

From: Marcos Montero Ruiz, President of CETM (Spanish confederation of freight transport)

To: DG TREN/E.1.

Encl.: Consultation paper "Revision of the Community legislation on the recording equipment in road transport (tachographs)

Dear Sirs,

The **Confederación Española de Transporte de Mercancías (CETM)**, a professional organisation that represents more than 34 000 road freight transport companies with 130 000 vehicles and 215 000 professionals, and the association representing the **Comité Nacional de Transporte por Carretera Español (CNTC)** are pleased to send you our reply to the consultation paper launched by the European Commission: Revision of the Community legislation on the recording equipment in road transport (tachographs).

CETM's basic objectives include representing, managing, defending and promoting the professional interests of companies in the sector and participating in the resolution of questions concerning competition on market access to the profession and general questions relating to the sector's field of activity, both at national and European level.

We hope that these responses will be useful for the Commission and for the transport sector in general. Please do not hesitate to contact us should you require any further information.

Marcos Montero Ruiz

Question 1

We understand that anything that makes reference to the essential requirements for tachographs, both to the technical specifications for the device and to the recording of data required by the rules, and can affect in some way the compatibility of devices from different manufacturers has to be legislated for so that users do not experience problems when using one or another make in the vehicles of their fleet.

In addition, we have no objection to manufacturers developing solutions and improving the equipment on the basis of the essential requirements outlined in the previous paragraph to offer better added value to their customers.

Question 2

In relation to the previous response, we feel that any technological advances that allow additional functions to be integrated into the same device, thereby avoiding the need for different devices for different uses in the cab, are a good thing. This would reduce costs, make more space and make life easier for the drivers.

This does not necessarily mean integrating applications related to the inspections but rather tools to improve the development of the driver's work and the interoperability and communication between the vehicle and the company.

Care will have to be taken that if one application is broken, this does not affect the rest of the equipment and that it is possible to repair the device by module.

Question 3

Anything that helps reduce administrative bottlenecks and makes it easier to transfer data will be an improvement and a reduction of costs for companies, allowing at the same time the fleet and the drivers' driving and rest times to be monitored, will result in vehicles being managed more efficiently.

We do not think a legislative approach is necessary to introduce it on a large scale as companies would use it by conviction anyway.

Question 4

There are some problems with incompatibility between devices of different makes which can mean that downloading the data is sometimes slow and sometimes impossible. A universally compatible system is needed.

Question 5

Mobile inspections could be used to supervise certain electronic components that can see indications of irregularity, helping to filter suspect lorries before an inspection.

This possibility could be complemented by the remote download of data during roadside inspections which would speed up waiting times for the company's own inspections.

Whatever new technology can be used to speed up roadside inspections will have to take into account the essential requirements so as not to jeopardise the legal safety of the companies being inspected.

Question 6

The reliability of the recording equipment is questionable with the application of certain practices for manipulating the data.

The sector will see the integration of other sources of movement that ensure that the recording equipment works properly and prevent fraudulent manipulations, providing that this does not mean higher costs for companies.

Question 7

The exceptions can be reasonable but this comparative advantage over other transport activities should be inspected otherwise it could give rise to fraudulent activity.

Question 8

The least disruptive option is No 2 as it would offer the convenience of 2 generations of tachograph without having to make modifications for them to be compatible.

Anything that relates to the essential requirements for tachographs should be compatible, both in terms of the technical specifications for the equipment and the recording of data required by the rules.

Question 9

The legislation should specify categorically that new equipment should be introduced onto the market when new, approved vehicles are purchased that were fitted with it in the factory. Exceptionally, new equipment will be installed only if it is necessary to replace the old equipment because it is beyond repair.

Question 10

Yes, with the necessary tests.

Question 11

Option 3, Community legislation that includes legislation for seals downloading equipment, control equipment, calibration tools etc. would lead to harmonised application across the EU.

Question 12

Between options 1 and 2.

Question 13

Workshops should also take some responsibility for manipulating the equipment providing they can prove their involvement. For them the tachograph should be inviolable. To access its software or parameters, they would have to break a type of seal, not necessarily a physical one, an electronic form would be sufficient. This way, the workshop would be as responsible as the driver, as it is not possible to manipulate a tachograph without the help of a workshop.

Manipulation by a workshop could lead to its authorisation being withdrawn.

Question 14

The ultimate aim should be for drivers to have to introduce as little data as possible by hand. For this the technical specifications that look at the large number of solutions for automatic recording need to be worked on.

The following should be taken into consideration, among others: driving, it is not possible to work, availability (only possible with the second driver), start and end of the day, the break, the daily rest period, the weekly rest period, twice-weekly driving time (and not in the last fortnight as with current tachographs).

Integrating GPS or GNSS would make the recording of the vehicle's location more accurate and would reflect the start and end of the day, as well as trips on ferries, transporters or trains.

Question 15

If this helps to eradicate fraudulent practices, yes.

Question 16

Yes. Anything that helps to provide the driver with better information so he can do his job correctly should be taken into account. Also, manufacturers should be given the opportunity to introduce improvements which can help to make the work of the professionals easier.