

Working Party on Road Transport

(One hundredth session, 17-19 October 2006
agenda item 4)

Proposals and remarks submitted by the Russian Federation
on the question of the amendment to the AETR, regarding new rules
concerning driving and rest times and increasing checks on compliance with
those provisions

1. Until the adoption of the new version of the AETR, elaborated and harmonized, taking into account the new EC regulations, according to Article 4 of the existing version of the AETR, all international transports, carried out on the territories of countries-participants of the above mentioned Agreement should be carried out according to the regulations of the AETR.

2. **Article 1 of the AETR**

To agree in principle with:

- Proposals regarding Article 1 of the AETR (see table in document ECE/TRANS/SC.1/AC.6/2006/1).

To agree with:

- Proposals of the Turkish delegation regarding Article 1 paragraph “f”: precise the accuracy of replacing the term “*permissible maximum weight*” by the term “*permissible maximum mass*”;
- The secretariat proposal concerning Article 1 paragraph “n”: correct the definition “*other work*” “...It does not include waiting time and time not devoted to driving, spent in a vehicle in motion, a ferry or a train”.

To examine:

- The proposal of the secretariat to include the additional following definitions: “break”, “daily rest period”, “weekly rest period”, “driving time”, “daily driving time”, “weekly driving time”, “driving period”, “daily rest period”, “weekly rest period”.

3. Article 2 of the AETR

To agree in principle with:

- The secretariat proposal concerning Article 2 of the AETR (see table in document ECE/TRANS/SC.1/AC.6/2006/1).

To agree with:

- The proposal of the Ukrainian delegation to exclude subparagraph a) in paragraph 2 of Article 2 of the AETR.

4. Article 3 of the AETR

To agree with:

- The proposal of the Ukrainian delegation to amend paragraph 2 in Article 3 of the AETR: “...*for the period of time from the moment of entry on the territory of this Contracting Party*”.

5. Articles 4 and 5 of the AETR: to agree without modifications.

6. Article 6 of the AETR.

To agree in principle with:

- The proposition concerning Article 6 of the AETR (see table in document ECE/TRANS/SC.1/AC.6/2006/1).

To modify the text:

- Paragraph 3 of proposals regarding Article 6 of the AETR by the following text: “... *all driving on the territory of Contracting and non-Contracting Parties*”;

- Paragraph 4 of proposals regarding Article 6 of the AETR: “...*spent as described in Article 1 “n”,...*”.

7. Article 7 of the AETR.

To agree in principle with:

- Proposals regarding Article 6 of the AETR (see table in document

ECE/TRANS/SC.1/AC.6/2006/1).

To amend:

- The content of paragraph 3 of Article 7 of the AETR with the following paragraph: “For the purpose of this Article, waiting time and the time not devoted to driving spent in a vehicle in motion, a ferry or a train, shall not be considered as “other work”, but shall be considered as a “break”.

REFERENCES. In case that the driving of a transport vehicle is made by two drivers, a cycle of 30 hours is considered. Within this cycle, each driver can drive for a maximum of 10 hours and at the same time, they should replace each other driving every 4.5 hours at the beginning, and every hour in the end. As a result, they will have 10 hours from 30 hours remaining for rest, 9 of which they can take consecutively to rest. If the time spent by the second driver is not considered as a “break”, both drivers will have to spend an additional 3 hours 45 minutes for “breaks” and will not be able to take the necessary rest (figure 1).

8. Article 8 of the AETR

To agree fully with:

- The following subparagraphs of the proposals made to Article 8 of the AETR (see table in document ECE/TRANS/SC.1/AC.6/1) – 1,3,6,8,9,10.

To modify:

- The second paragraph of paragraph 2 with the following text: “For the first hour ...”.

Important to keep:

- The original text of the secretariat proposals (see table in document ECE/TRANS/SC.1/AC.6/2006/1), in particular paragraph 3: “In the course of each week, one of the rest periods referred to in paragraphs 1 and 2, shall be extended by way of weekly rest, to a total of forty-five consecutive hours. This rest period may be reduced to a minimum of 24 consecutive hours. Each reduction shall be compensated by an equivalent rest taken en bloc before the end of the third week following the week in question”, and then the second paragraph of proposals.

REFERENCES. The new proposals presented by the delegation of Luxemburg contain requirements for the introduction of a full obligatory weekly rest of 45 hours every second week (according to new EC Regulations). For the CIS

countries, these proposals do not meet the conditions for equal competition, inasmuch as they lead to the forced stoppage of transport vehicles during long trips (3-4 weeks) and do not allow to realize the maximum driving time of the transport vehicle during 2 weeks, both in case that there are two drivers or 1 driver, if we take into consideration the forced stoppages at border crossing and the time lost when loading/unloading goods. Consequently, these proposals cannot be accepted.

In the case that a transport vehicle is driven by 2 drivers, the maximum possible time of work for each of them (90 hours for 2 weeks) is feasible with the following driving schedule: 5 consecutive periods of 30 hours (in this case each driver works for 45 hours), then they make a break for 24 hours, and then they repeat that cycle again. The 24 hours of rest can be accepted in this case, since it includes 9 hours of daily rest time from the last 30 hours cycle (see figure 2).

To modify:

- Paragraph 7, with the following text: “...if it is equipped with specially fitted sleeping places, as stipulated by the regulations for the construction of vehicles...”.

9. Articles 9, 10, 11 of the AETR.

To agree fully with:

- Proposals made to Articles 9, 10, 11 of the AETR (see table in document ECE/TRANS/SC.1/AC.6/2006/1).

10. Article 12 of the AETR

To agree in principle with:

- Proposals made to Article 12 of the AETR (see table in document ECE/TRANS/SC.1/AC.6/2006/1).

To modify:

- Paragraph 6 to Article 12 with the following text: “A Contracting Party shall enable the competent authorities to impose a penalty on an undertaking and/or a driver for an infringement of this Agreement detected on its territory and for which a penalty has not already been imposed, even where that infringement has been committed on the territory of another Contracting Party or of a non-Contracting Party.

By way of exception to the implementation requirements of the above mentioned paragraph until fulfillment of paragraph 8 of the said Article (about the introduction of a uniform scale of penalties and fines), if an infringement is detected:

- Which was not committed on the territory of the Contracting Party concerned, and
- Which has been committed by an undertaking, which is established on the territory of another Contracting Party or a country, which is not a Contracting Party of this Agreement, the competent authority of the Contracting Party on whose territory the infringement was detected may inform the competent authority of the Contracting Party, where the undertaking is established, for the purpose of information about the facts of the infringement. The Contracting Party on whose territory the undertaking committed the infringement to the Agreement, should apply administrative sanctions on this enterprise according to its internal legislation and notify about it the competent authority of the Contracting Party, which sent the information about the violation.

Drivers may be fined on the territory of the Contracting Party where the infringement was detected, and on the territory of the Contracting Party where the undertaking was established.

REFERENCES. The proposal of undertakings' penalty on the territory, where it was detected, if it was committed in another country is not acceptable. This practice can only be applied to drivers. With them the controller can put order on the spot. For the penalty of an undertaking, it is necessary to send to the undertaking a protocol and an account, which can be rejected by the accused undertaking. This can lead to a process of negotiations (maybe with a judicial procedure), and the transport vehicle will remain stationary during all that time. As a result the undertaking will loose its contracts or even worse, it will loose its clients. It is clear that in this situation the undertaking will pay the fine only not to loose its clients. Even worse, the level of fines varies among different countries. In the Russian Federation it is of maximum 100 US dollars, while in EC countries it can reach several thousands of euros.

11. Article 11 of the Annex to AETR.

To agree fully with:

Proposals made to Article 11 of the Annex to the AETR.

12. Article 12 of the Annex to the AETR.

To agree in principle with:

- Proposals to Article 12 of the Annex to the AETR (see table in document ECE/TRANS/SC.1/AC.6/2006/1).

To add:

The report form, which should be presented by the driver in case he is not able to provide tachograms for the preceding 15 (28) days because of sickness reasons, holidays or other work.

To modify:

- Providing of information for 28 days shall be required from 16 June 2010, only if the transport vehicle is fitted with the recording device, meeting the requirements of Appendix 1B.
- First paragraph of subparagraph 3 “c”: *“waiting time, i.e. the period of time during which drivers are not obliged to remain...”*, according to the first paragraph of paragraph 4 a) (III), of paragraph C “Recording devices”, Annex – Appendix 1: *“waiting time, i.e. period of time during which drivers should remain ...”*.

To remove:

- Paragraph 6 from Article 12 of the Annex to the AETR.

13. Article 13 of the Annex to the AETR.

To agree in principle with:

- Proposals made to Article 13 of the Annex to the AETR (see table in document ECE/TRANS/SC.1/AC.6/2006/1).

To modify:

- In Article 13, the term “temporary sheet” should be excluded, since in case of break of recording device (break of tachograph), the driver can always give a “record sheet” filled out by hand (if the recording device meets requirements of Appendix 1) or a printed form (if the recording device meets the requirements of Appendix 1B).

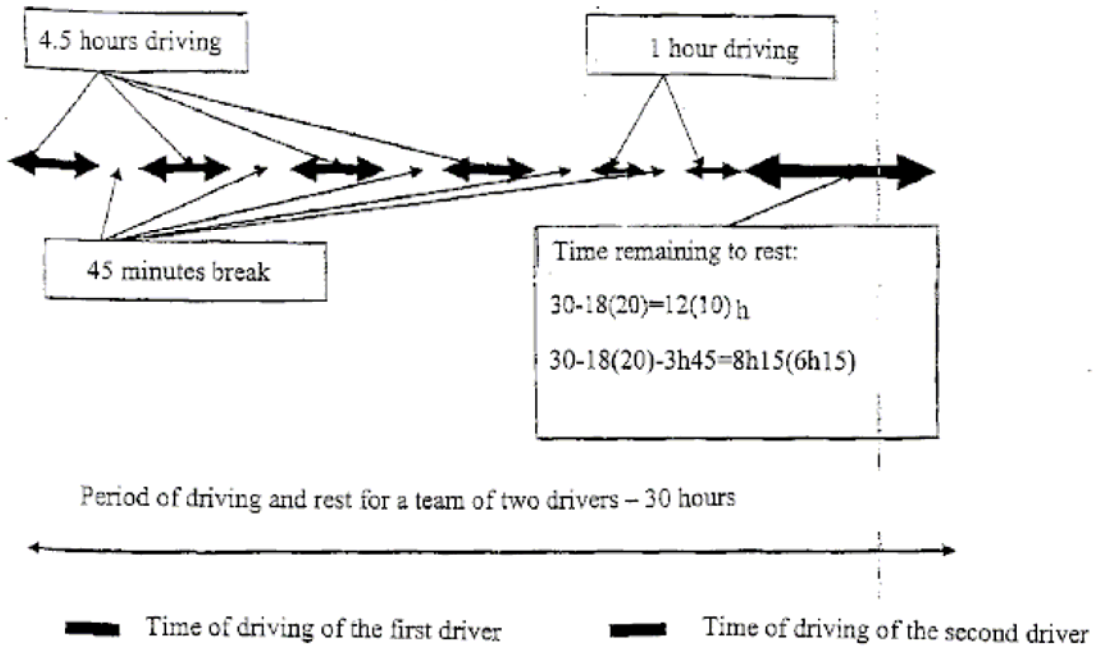


Figure N.1

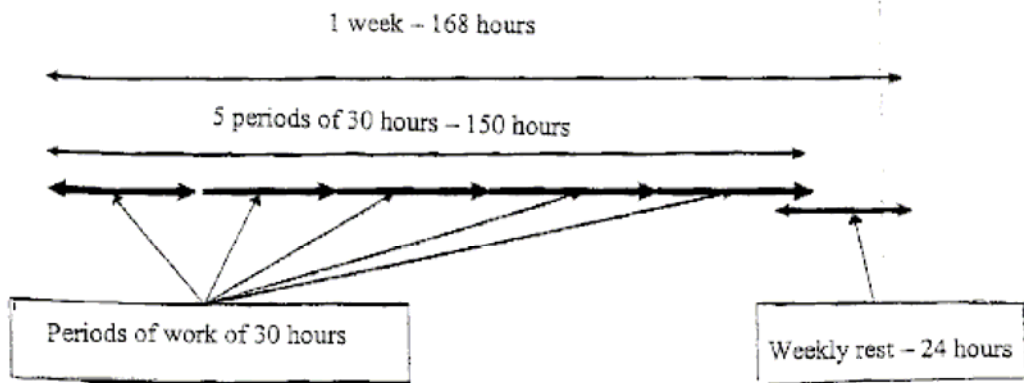


Figure N.2