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Director General  
European Commission  
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By email and post

Brussels, 26 July 2017

**IRU REPLY TO THE 1ST PHASE CONSULTATION OF THE SOCIAL PARTNERS  
ON A POSSIBLE REVISION OF THE ROAD TRANSPORT WORKING TIME  
DIRECTIVE (2002/15/EC)**

Dear Director General,

IRU, as the EU Social Partner representing employers in the Sectoral Social Dialogue Committee on Road Transport, has been invited to submit its views on the possible revision of Directive 2002/15/EC in the framework of the 1<sup>st</sup> phrase consultation of the social partners. Please find below IRU's answers to the questions in the consultation document,

1. *Do you consider that the Commission has correctly and sufficiently identified the issues and possible areas for further EU action in section 5?*

*Are there any other issues which you consider should be added?*

IRU considers that it is next to impossible to evaluate the implementation and effectiveness of Directive 2002/15/EC as very little evidence and statistical data exist. It seems that the EU conclusions are based on studies that do not cover the whole EU. According to the information available to IRU, the actual implementation and enforcement of Directive 2002/15/EC on the national level is rather limited and done in practice only in certain Member States. This is also the conclusion of the ex-post evaluation study.

In general, IRU is of the opinion that this Directive makes it more challenging to comply with the existing complex rules for drivers and operators and that its requirements add to the administrative burden on operators, most of whom are SMEs.

Other issues:

While the definitions contained in the Directive are certainly important (such as the definition of working time and periods of availability), the problems seem to be linked to the wide scope which also covers self-employed drivers. In this case, IRU supports a general exclusion for genuine self-employed drivers in the EU (as proposed by the EC in 2008, but voted down by the EP), but emphasises the right of each Member State to introduce national rules to include them if they so wish.

2. *Do you consider that the Commission should launch an initiative to amend the Directive? If so, do you agree with the objectives and scope of a review as set out in this paper? If not, what other form of action should be taken and on what issues?*

No, IRU does not see the need to review the Directive. IRU supports the balanced approach taken by the EC in the Mobility Package, that is, rather than revising the Directive to strengthen the Member States' enforcement and reporting obligations as stipulated in Directive 2006/22/EC. IRU also welcomes the emphasis on the exchange of information and 'forced cooperation' between Member States. This approach is the only way to gather robust evidence and an overview of the situations in individual Member States on the actual implementation of the Directive and indicate what type of action, if any, is needed.

IRU therefore advocates to keep the Directive with its current wording that considers labour needs in relation to seasonal fluctuations in demand both for freight and passenger transport and reflects the geographical characteristics (i.e. long distances) of some Member States. There seems to be a high degree of convergence between the national social partners regarding the issues tackled by the Directive, which is demonstrated by the fact that 23 Member States have concluded collective agreements or other types of social dialogue instruments.

The EU regulatory framework should concentrate on the logical area for further improvements, namely improved enforcement without changing the rules. As a specific suggestion, the EC could look into better application of availability periods (rather than looking at reference periods).

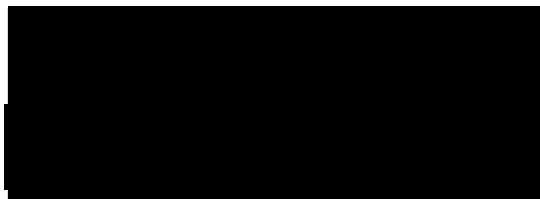
Last but not least, analysing working time at the roadside will severely prolong checks. This should be left to checks at premises or other targeted controls carried out by specialised staff. Enforcing Directive 2002/15/EC appears to be particularly challenging as many pieces of evidence need to be analysed on top of the driving and rest time records. IRU Members also report differences in the national transpositions of Directive 2002/15/EC therefore checking foreign drivers at the roadside would add legal uncertainty, unnecessary fines and stress. It should also be remembered that in many Member States the enforcement working time compliance is not within the competences of the police or other enforcement bodies responsible for roadside and company checks, but rather with the trade unions and the employers' organisations.

3. *Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation pertaining to health and safety and the working conditions of workers as such?*

The European social partners in road transport (IRU and the European Transport Workers' Federation – ETF) have been discussing the possibility to engage in Article 155 negotiations for some time. Several issues for further detailed consideration were identified and three preparatory meetings took place in 2016 with guidance from the EC, however without a definitive outcome. It seems that the scope for such a dialogue is rather limited given the advanced regulatory framework in the road transport sector.

However, IRU is open to continue discussing the option of dialogue under Article 155.

Yours sincerely,



IRU General Delegate to the EU