II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 December 1975

authorizing the United Kingdom of Great Britain and Northern Ireland to take protective measures in respect of Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport

(Only the English text is authentic)

(76/208/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Act concerning the conditions of accession and the adjustments to the Treaties, and in particular Article 135 thereof,

Whereas, by virtue of Article 133 of the Act of Accession and paragraph 1 of Table III of Annex VII to the Act, the application of Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to national transport operations in the new Member States is postponed until 1 January 1976;

Whereas the Government of the United Kingdom of Great Britain and Northern Ireland has requested by letter dated 15 December 1975 authorization under Article 135 of the Act of Accession for the taking of protective measures in the road transport sector, and in particular for the suspension until 31 December 1977 of the application of Regulation (EEC) No 543/69 (except Article 5) to national traffic;

Whereas the road transport industry in the United Kingdom is made up largely of very small enterprises — 70 000 out of 130 000 operators of goods vehicles over 3·5 tons gross permitted weight having only one vehicle and only 13 % having more than 5 vehicles;

Whereas, according to information supplied by the United Kingdom Government, the freight industry is suffering, under the effects of the current recession, severe economic difficulties with 60 % of the industry making less than a basic return of 15 % on capital;

Whereas the percentage of individual bankruptcies has almost doubled of late; whereas new goods vehicle registrations have declined to 29 802 between April and September 1975 from 37 901 in the same period in 1973; whereas a major undertaking representing 10 % of the industry reports a decline in business handled of 15 % compared with 1974; whereas reduction in driving time attendant on the Regulation would require increases in the number of drivers and vehicles and result in reduced productivity and lower capital utilization; whereas additional costs would be imposed by the need to renegotiate local wages agreements and working schedules;

Whereas, according to information supplied by the United Kingdom, the road passenger transport sector is also in a weak economic state; whereas the publicly owned part is not making a profit overall; whereas the planned Government subsidy for factors other than the effects of the application of the Regulation is £ 157 000 000 in the next financial year; whereas the elasticity of demand as revealed by a recent study shows that the industry's ability to recover increased costs by fare increases is low; whereas the United

Kingdom states that there is little scope for increasing efficiency and that there is a nationwide shortage of bus drivers ; whereas, the application of the Regulation would aggravate that situation ;

Whereas the application of Regulation (EEC) No 543/69 would add to the serious and persistent difficulties in the road transport industry ; whereas the United Kingdom estimates alll the additional costs of the Regulation to be at least £ 100 000 000 per annum for the freight sector alone ; whereas in the present bad economic situation the burden of such additional cost on the road transport industry in the United Kingdom is now relatively larger than was the case in the six original Member States when Regulation (EEC) No 543/69 entered into force under more favourable conditions ;

Whereas it appears unlikely that employees in the industry would be willing to accept a reduction in earnings proportionate to the enforced reduction in driving times consequent on application of the Regulation ; whereas a likely result of that would be an increase in rates of pay in excess of that permitted under the United Kingdom's wages policy ; whereas, a breach of that policy involving 750 000 drivers could have widespread influence on the willingness of others to adhere to that policy ; whereas, this could add further to the difficulties of the industry ;

Whereas application of the Regulation would be particularly serious in remote, rural areas where the distances between centres of industry and population are much greater than in the rest of the United Kingdom, and where the roads are generally inferior and more liable to be adversely affected by severe winter weather conditions ;

Whereas at present the permitted daily driving time in Northern Ireland is one hour longer than in Great Britain and the reduction consequent on application of the Regulation would be greater in that province than in the rest of the United Kingdom ; whereas the already serious situation in Northern Ireland would be aggravated thereby ;

Whereas these difficulties faced by the United Kingdom road transport industry are of such a nature as to render insufficient the period between accession and application of the Regulation provided for in the Act of Accession ; whereas a period of six months will give the United Kingdom the opportunity to continue to rectify the situation and adjust the sector concerned to the economy of the common market ; whereas a derogation from Articles 6 to 12, 14 and 15 is sufficient to achieve the objectives of Article 135 of the Treaty of Accession ;

Whereas such authorization for a derogation should not lead to any lowering of the existing social conditions enjoyed by road transport workers ;

Whereas the United Kingdom should report on the development of the situation in the sector concerned in order to enable the Commission to review its decision,

HAS ADOPTED THIS DECISION :

Article 1

1. The United Kingdom of Great Britain and Northern Ireland is authorized to take national measures with respect to national transport operations for a period until 30 June 1976 derogating from articles 6 to 12, 14 and 15 of Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport.

2. These national measures shall be at least as favourable to transport workers as the existing national legislation, but may include measures which progressively implement the rules contained in Regulation (EEC) No 543/69.

Article 2

1. The United Kingdom of Great Britain and Northern Ireland shall notify the Commission immediately of the measures taken in application of Article 1.

2. The United Kingdom of Great Britain and Northern Ireland shall inform the Commission of the development of the situation in the sector concerned and shall forward to the Commission before 1 April 1976 a statement of the measures which are being taken to implement Regulation (EEC) No 543/69.

Article 3

1. The Commission shall review this Decision not later than 30 April 1976.

2. Without prejudice to the review provided for in the preceding paragraph, the Commission may modify or revoke the present Decision if it determines that the conditions which have led to its adoption

have changed or that its effects prove to be more extensive than its purpose requires.

Article 4

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 22 December 1975.

For the Commission

The President

François-Xavier ORTOLI