



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 31 October 2012

15581/12

**Interinstitutional File:
2011/0196 (COD)**

**TRANS 368
CODEC 2513**

REPORT

From: General Secretariat

To: Coreper

No. prev. doc.: 13725/12 TRANS 292 CODEC 2124

No. Cion prop.: 13195/11 TRANS 222 CODEC 1274

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council ("Tachograph")
- Preparation for the first informal trilogue

I. Introduction

1. The Commission submitted the above-mentioned proposal on 19 July 2011, amending Council Regulation 3821/85 of 20 December 1985 on recording equipment in road transport. This proposal also amends Regulation 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. The Communication from the Commission "Digital tachograph: Roadmap for future activities" accompanies the above-mentioned proposal and was transmitted in parallel to the European Parliament and to the Council.

2. The European Data Protection Supervisor issued an opinion on the Commission's proposal on 5 October 2011. The opinion of the Economic and Social Committee was issued on 7 December 2011 and the Committee of the Regions decided not to draw up an opinion or report.
3. The European Parliament's Committee on Transport and Tourism appointed Ms Silvia-Adriana Ticău (S&D, RO) as rapporteur. The shadow rapporteurs are: Mr Higgins (EPP, IE), Ms Lichtenberger (Greens, AT), Ms Meissner (ALDE, DE). The vote in the TRAN Committee took place on 31 May 2012 and the European Parliament voted the outcome of its first reading in plenary on 3rd July 2012.
4. In Council, a political agreement was reached on 29 October 2012.
5. To move forward on negotiations, the Cyprus Presidency had some exploratory meetings with the EP rapporteur in order to identify the major divergences between co-legislators and explore possible areas for compromise to make an early second reading agreement viable during the second semester of 2012.
6. During these exploratory meetings, Ms Ticău proposed to conduct negotiations on the basis of four packages of amendments: package I on smart tachographs, package II on enforcement aspects, and package III on essential elements as well as on delegated/implementing acts and package IV on the social Regulation.
7. The first informal trilogue will take place in Brussels on 15 November 2012.

II. Preparation of the first trilogue on 15 November 2012

During the exploratory meetings held with the EP at technical level, it appeared clearly that several issues remain unresolved and will require further work. In some cases, further clarification from the European Parliament is still necessary. The Presidency has decided to submit this file to Coreper but to limit the discussion to a few outstanding issues, which the Presidency intends to discuss with the rapporteurs during the first informal trilogue:

- Retrofitting of vehicles: the EP considers that by 2020 all vehicles should be fitted with a smart tachograph;
- Introduction of weight sensors in the digital tachograph;
- Recording of additional points of the daily working period.

The other major outstanding issues, which the Committee will be invited to examine at a later stage, concern in particular the following issues: Member State's obligation to equip their control authorities in order to efficiently control smart tachographs, training and certification of control officers in order to allow them to check smart tachographs, data protection provisions, harmonisation of sanctions to make it easier for drivers to follow the legislation in force, interoperability with different Intelligent Transport Systems, introduction of some flexibility in the scope of Regulation 561/2006 that should be applied to vehicles exceeding 2.8 tonnes instead of 3.5 tonnes for road safety reasons, delegated acts versus implementing acts and date of entry into force of the smart tachograph.

It should be noted that the recitals will also be examined at a later stage.

III Major outstanding issues

- Retrofitting (amendment 38, Article 3(3a))

The European Parliament considers that by 2020 all vehicles should be fitted with a smart tachograph in order to facilitate the activity of control officers and transport undertakings. It is a crucial issue for all EP groups.

On the contrary, the Council's political agreement does not include any provision to deal with the retrofitting of vehicles. Several delegations underlined that it could have a disproportionate economic impact, in particular on small and medium enterprises.

The Presidency proposes to keep the Council's political agreement on the above issue of retrofitting unchanged at this stage but also to invite delegations to indicate whether some flexibility could be found for vehicles involved in international transport. The Presidency underlines that the possibility to conclude an early second reading agreement on this file will significantly depend on the Council's position on the retrofitting issue.

- Inclusion of weight sensors in the smart tachographs (EP AM 13+147+148 (Article 2(2a); AM 149 (Article 2 (ca); AM 63+150 (Article 7(1); and AM 71+151 (Article 15(1))

The European Parliament is strongly in favour of including the weight sensors in the smart tachographs in order to record data on loading and unloading of the vehicle and, therefore, to improve the compliance by road transport undertakings with the legislation in force.

In its political agreement, the Council did not include the weight sensors in the smart tachographs, on the grounds that it would not only increase the costs of the smart tachograph but also delay the time necessary to make the smart tachograph available on the market. In addition, the Council believes that this issue should be discussed in the context of the future Commission proposal regarding the revision of Directive 96/53 laying down for certain road vehicles the maximum authorized weights and dimensions.

The Presidency intends to explore whether some flexibility could be obtained from the delegations on the inclusion of weight sensors in the smart tachographs.

- Recording of additional points of the daily working period (EP amendment 46 (Article 4(1) and 13+147+148 (Article 2(2a))

In the Council's political agreement, only the starting and ending place of the working day shall be recorded.

On the contrary, the European Parliament insists on recording additional points of the daily working period, namely of each transport segment in order to improve the compliance by professional road transport drivers with the social legislation in force. The Presidency would like to invite delegations to signal whether some flexibility can be shown on this issue.

IV. Conclusion

The Permanent Representatives Committee is therefore invited to examine the proposals presented by the Presidency on the above issues, as set out in the four table document in annex, and to give the Presidency a mandate for the first informal trilogue on 15 November 2012. The Committee could also invite the Land Transport Working Party to continue the examination of the other issues which are still unresolved.

Revised 4-column table following the 2nd technical meeting with the EP in Strasbourg (23 October 2012)

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council ("Tachograph")

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Title			
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council		REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL [...] on tachographs in road transport and repealing Council Regulation (EEC) No 3821/85 and amending Regulation (EC) No 561/2006 of the European Parliament and the Council	
Amendment 1 Citation 5			
After consulting the European Data Protection Supervisor,	<i>Having regard to the opinion of the European Data Protection Supervisor of 5 October 2011¹,</i>	After consulting the European Data Protection Supervisor,	Package I Acceptable (to be confirmed by Council)

¹ OJ C 37, 10.2.2012, p. 6.

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Recital 1			
<p>(1) Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport² lays down provisions concerning the construction, installation, use and testing of recording equipment. It has been substantially amended on several occasions, and in order to ensure greater clarity, its main provisions should therefore be simplified and re-structured.</p>		<p>(1) Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport³ lays down provisions concerning the construction, installation, use and testing of [...] tachographs. It has been substantially amended on several occasions, and in order to ensure greater clarity, its main provisions should therefore be simplified and re-structured.</p>	<p><u>Package I</u> Council's text accepted</p>
Recital 2			
<p>(2) Experience has shown that in order to ensure the effective application of Regulation (EEC) No 3821/85, certain technical elements and control procedures should be improved.</p>		<p>(2) Experience has shown that in order to ensure the [...] effectiveness and efficiency of the tachograph system, certain technical elements and control procedures should be improved.</p>	<p><u>Package I</u> Council's text accepted</p>
Recital 3			
<p>(3) Certain vehicles are subject to an exemption from the provisions of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social</p>		<p>(3) Certain vehicles are subject to an exemption from the provisions of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social</p>	<p><u>Package IV</u></p>

² OJ L 370, 31.12.1985, p. 8

³ OJ L 370, 31.12.1985, p. 8

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85⁴. In order to ensure coherence, it should also be possible to exempt such vehicles from the scope of Regulation (EEC) No 3821/85.</p>		<p>legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85⁵. In order to ensure coherence, it should also be possible to exempt such vehicles from the scope of this Regulation [...].</p>	
<p>Amendment 2 Recital 4</p>			
<p>(4) In order to ensure coherence between the different exemptions set out in Article 13 of Regulation (EC) No 561/2006, and to reduce the administrative burden on transport undertakings whilst respecting the objectives of that Regulation, the maximum permissible distances set out in its Articles 13(d), (f) and (p) should be revised.</p>	<p>(4) In order to ensure coherence between the different exemptions set out in Article 13 of Regulation (EC) No 561/2006, to reduce the administrative burden on transport undertakings, to reduce bureaucracy and to ensure that recording equipment continues to develop in line with practice, whilst respecting the objectives of that Regulation, the maximum permissible distances set out in its Articles 13(d), (f) and (p) should be revised.</p>		<p><u>Package IV</u></p>

⁴ OJ L 102, 11.04.2006, p.1

⁵ OJ L 102, 11.04.2006, p.1

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Recital 4a (new)			
		<p>(4a) It is understood that the Commission will consider extending the period of validity of the adaptor for M1 and N1 vehicles until 2015 and will give further consideration to a long term solution for M1 and N1 vehicles before 2015.</p>	<p>Package I EP wants more information</p>
Recital 5			
<p>(5) The recording of location data facilitates the cross checking of driving times and rest periods in order to detect anomalies and fraud. The use of recording equipment connected to a global navigation satellite system is an appropriate and cost-efficient means of allowing the automatic recording of such data in order to support control officers during controls, and should therefore be introduced.</p>		<p>(5) [...] The use of [...] tachographs connected to a global navigation satellite system is an appropriate and cost-efficient means of allowing the automatic recording of [...] the position of the starting and ending place of the daily working period in order to support control officers during controls, and should therefore be introduced.</p>	<p>Package I</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p>Recital 5a (new)</p>	<p>(5a) <u>Taking into account that in the case C-394/92 the European Court of Justice has provided a definition of the "daily working period", the control authorities should read the provisions of the present Regulation in the light of that definition. The "daily working period" commences at the time when the driver switches on the tachograph following a weekly or daily rest period, or, if the daily rest is divided into separate periods, following the rest period of at least nine hours' duration. It ends at the beginning of a daily rest period or, if the daily rest is divided into separate periods, at the beginning of a rest period extending over a minimum of nine consecutive hours.</u></p>	<p><u>Package I</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>(6) 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) 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC⁶ requires Member States to carry out a minimum number of checks at the roadside. Remote communication between the recording equipment and control authorities for roadside control purposes facilitates targeted roadside checks, making it possible to reduce the administrative burden created by random checks on transport undertakings, and should accordingly be introduced.</p>	<p>Recital 6</p>	<p>(6) 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) 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC⁷ requires Member States to carry out a minimum number of checks at the roadside. Remote communication between the [...] tachograph and control authorities for roadside control purposes facilitates targeted roadside checks, making it possible to reduce the administrative burden created by random checks on transport undertakings, and should accordingly be introduced.</p>	<p>Package I Council's text accepted</p>

⁶ OJ L 102, 11.04.2006, p. 35

⁷ OJ L 102, 11.04.2006, p. 35

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Recital 7			
<p>(7) Intelligent transport systems (ITS) can help to meet the challenges faced by the European transport policy, such as increasing road transport volumes and congestion or rising energy consumption. Standardised interfaces should therefore be provided in recording equipment in order to ensure interoperability with ITS applications.</p>		<p>(7) Intelligent transport systems (ITS) can help to meet the challenges faced by the European transport policy, such as increasing road transport volumes and congestion or rising energy consumption. Standardised interfaces should therefore be provided in [...] tachographs in order to ensure interoperability with ITS applications.</p>	<p><u>Package I</u> Council's text accepted</p>
Recital 8			
<p>(8) The security of the recording equipment and its system is essential to ensure that trustworthy data is produced. Manufacturers should therefore design, test and continuously review recording equipment throughout its life cycle in order to detect, prevent and mitigate security vulnerabilities.</p>		<p>(8) The security of the [...] tachograph and its system is essential to ensure that trustworthy data is produced. Manufacturers should therefore design, test and continuously review [...] recording equipment the tachograph throughout its life cycle in order to detect, prevent and mitigate security vulnerabilities.</p>	<p><u>Package I</u> Council's text accepted</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>(9) Field tests of recording equipment that has not yet been type approved allow equipment to be tested in real life situations before it is widely introduced, thereby allowing faster improvements. Field tests should therefore be permitted , on condition that participation in such tests and compliance with Regulation (EC) No 561/2006 is effectively monitored and controlled.</p>	<p>Recital 9</p> <p>(9) Field tests of [...] a tachograph that has not yet been type approved allow equipment to be tested in real life situations before it is widely introduced, thereby allowing faster improvements. Field tests should therefore be permitted, on condition that participation in such tests and compliance with Regulation (EC) No 561/2006 is effectively monitored and controlled.</p>	<p><u>Package I</u></p> <p>Council's text accepted</p>	
	<p>Recital 9a (new)</p> <p><u>(9a) Considering the importance of maintaining the highest possible security level, security certificates should be issued by a certification body recognised by the Management Committee within the framework of the "Mutual Recognition Agreement of Information Technology Security Evaluation Certificates" of the European Senior Official Group on Information Security (SOG-IS). In the context of international</u></p>	<p><u>Package I</u></p>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
		<p><u>relations with third countries, the Commission should not recognise any certification body for the purposes of this regulation without such a body providing equivalent conditions of security evaluation as foreseen under the Mutual Recognition Agreement referred to above. In this respect, the advise of the Management Committee should be relied upon.</u></p>	
<p>(10) Fitters and workshops play an important part in the security of recording equipment. It is therefore appropriate to lay down certain minimum requirements for their approval and audit. and to ensure that conflicts of interest between workshops and transport undertakings are prevented.</p>	<p>Recital 10</p>	<p>Fitters and workshops play an important part in the security of <u>L...I tachographs</u>. It is therefore appropriate to lay down certain minimum requirements for their approval, <u>reliability</u> and audit <u>L...I. Moreover, Member States should take appropriate measures</u> to ensure that conflicts of interest between workshops and transport undertakings are prevented. <u>Nothing in this Regulation would prevent Member States from ensuring their approval, control and certification, as set out herein, through the procedures laid</u></p>	<p>Package I</p> <p><u>1st part:</u> Council's text accepted</p> <p><u>2nd part:</u> EP asks for clarification</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
		<u>down in Regulation 765/2008.</u>	
	Recital 11a (new)		
		<u>(11a) When checking the uniqueness of the driver card, Member States should use the procedures such as the ones included in the Commission Recommendation of 13 January 2010 on the secure exchange of electronic data between Member States.</u>	<u>Package I</u> EP asks for clarification
	Recital 11b (new)		
		<u>(11b) Consideration should be given to the special situation in which a Member State should be able to provide a driver who does not have his normal residence in a Member State or an AETR state with a temporary, non-renewable driver card. In such cases, the Member States concerned are to fully apply the relevant provisions of this Regulation.</u>	<u>Package I</u> EP asks for clarification <i>[Mirrors Article 21(3a)].</i>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p>Recital 11c (new)</p>	<p><u>(11c) Furthermore, the possibility for Member States to issue driver cards to drivers resident on its territory also when the Treaties do not apply to certain parts thereof should be recognised. In such cases, the Member States concerned are to fully apply the relevant provisions of this Regulation.</u></p>	<p><u>Package I</u> EP asks for clarification [Mirrors Article 21(3a)].</p>
<p>(12) As fraud and misuse in relation to driving licences is less likely to occur than with driver cards, the recording equipment system would be more reliable and effective if driver cards were in future incorporated into driving licences. This approach would also reduce the administrative burden for drivers who would no longer need to apply for, receive and hold two different documents. An amendment to Directive 2006/126/EC should accordingly be envisaged.</p>	<p>Recital 12</p> <p><u>Deleted</u></p>		<p><u>Package I</u> EP wants this recital to be drafted according to EP AMD. (Replacement of "recording equipment system" with "tachograph system" .</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Recital 13			
<p>(13) In order to reduce the administrative burden on drivers and transport undertakings, it should be clarified that there is no need for written proof of daily or weekly rest periods. For control purposes, periods for which no activity has been recorded for the driver should accordingly be considered as rest periods.</p>		<p><u>Deleted</u></p>	<p><u>Package II</u> EP: Agreed?</p>
Recital 14			
<p>(14) Control officers face continuous challenges as a result of changes to the recording equipment and new manipulation techniques. In order to ensure more effective control, and to enhance the harmonisation of control approaches throughout the Union, a common methodology should be adopted for the initial and continuing training of control officers.</p>		<p>(14) Control officers face continuous challenges as a result of changes to the [...] <u>tachograph</u> and new manipulation techniques. In order to ensure more effective control, and to enhance the harmonisation of control approaches throughout the Union, a common methodology should be adopted for the initial and continuing training of control officers.</p>	<p><u>Package II</u> EP: Control officers</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>(15) The recording of data by recording equipment, as well as developing technologies for the recording of location data, remote communication and the interface with Intelligent Transport Systems will entail the processing of personal data. Union legislation concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁸ and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection</p>	<p>Recital 15</p> <p>(15) The recording of data by <u>the tachograph</u>, as well as developing technologies for the recording of <u>[...] position</u> data, remote communication and the interface with Intelligent Transport Systems will entail the processing of personal data. Union legislation concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹⁰ and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection</p>	<p>Package I EP insists on the use of "location". [linked to Article 4]</p>	

⁸ OJ L 281, 23.11.1995, p. 31–50

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
of privacy in the electronic communications sector ⁹ should be applied.		of privacy in the electronic communications sector ¹¹ should be applied.	
Amendment 3 Recital 16			
(16) To ensure fair competition in the internal road transport market and to give a clear message to drivers and transport undertakings, the Member States' highest category of sanctions should be imposed for 'very serious' infringements (as defined in Commission Directive 2009/5/EC of 30 January 2009 amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities), without prejudice to the principle of subsidiarity.	(16) To ensure fair competition in the internal road transport market and to give a clear message to drivers and transport undertakings, the <i>definition of very serious infringements against this Regulation should be harmonised and binding in nature and the Member States' highest category of sanctions</i> should be imposed for 'very serious' infringements (as defined in Commission Directive 2009/5/EC of 30 January 2009 amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social	(16) To ensure fair competition in the internal road transport market and to give a clear message to drivers and transport undertakings, [...] Member States should impose, in compliance with the categories of infringements as defined in Directive 2006/22/EC, effective, proportionate, dissuasive and non-discriminatory penalties, [...] without prejudice to the principle of subsidiarity.	Package II EP keeps idea but open to redrafting.

⁹ OJ L 201, 31.7.2002, p. 37–47

¹⁰ OJ L 281, 23.11.1995, p. 31–50

¹¹ OJ L 201, 31.7.2002, p. 37–47

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p>legislation relating to road transport activities), without prejudice to the principle of subsidiarity. <i>Efforts should also be taken to ensure that the penalties imposed for any infringements are always 'effective, dissuasive and proportionate'. In particular concrete steps should be taken to eliminate the practice of excessively high fines for minor infringements.</i></p>		
Amendment 4 Recital 16a (new)			
	<p><i>(16a) Differing rules for calculating daily driving times lead to a lack of uniformity in the application of Regulation (EC) No 561/2006 and create legal uncertainty for international drivers and transport undertakings. In the interest of a clear, effective, proportionate and uniform implementation of social security rules in road transport it is essential that the Member States' authorities apply the rules in a uniform manner.</i></p>		<p><u>Package II</u> EP keeps its text.</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 5 Recital 17			
<p>(17) Through the adaptations of the European agreement concerning the work of crews of vehicles engaged in international road transport, signed in Geneva on 1 July 1970, including its six amendments, deposited with the Secretary-General of the United Nations (AETR), the use of the recording equipment referred to in Annex IB has been made mandatory as regards vehicles registered in neighbouring third countries. As these countries are directly affected by changes to the recording equipment introduced by the present Regulation, they should be able to participate in dialogue on technical matters. A Tachograph Forum should accordingly be set up.</p>	<p>(17) Through the adaptations of the European agreement concerning the work of crews of vehicles engaged in international road transport, signed in Geneva on 1 July 1970, including its six amendments, deposited with the Secretary-General of the United Nations (AETR), the use of the digital tachograph has been made mandatory as regards vehicles registered in neighbouring third countries. As these countries are directly affected by changes to the recording equipment introduced by the present Regulation, they should be able to participate in dialogue on technical matters and on the establishment of a single electronic system for the exchange of information on driver cards. A Tachograph Forum should accordingly be set up. <i>(This amendment ("digital tachograph" replaces "recording equipment referred to in Annex IB") applies throughout the text.)</i></p>	<p>Through the adaptations of the European agreement concerning the work of crews of vehicles engaged in international road transport, signed in Geneva on 1 July 1970, including its six amendments, deposited with the Secretary-General of the United Nations (AETR), the use of the [...] digital tachograph has been made mandatory as regards vehicles registered in neighbouring third countries which are signatories of the AETR Agreement. As these countries are directly affected by changes to the [...] tachograph introduced by the present Regulation, they should be able to participate in dialogue on technical matters. A Tachograph Forum should accordingly be set up.</p>	<p>1st part: Package II Agreed in principle</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>(18) In order to reflect technical developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the adaptation of Annexes I, IB and II to technical progress and the supplementing of Annex IB with the technical specifications necessary for the automatic recording of the location data, for enabling remote communication and for ensuring an interface with Intelligent Transport Systems. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.</p>	<p>Recital 18</p>	<p><u>Deleted</u></p>	<p><u>Package III</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Recital 19			
<p>(19) In order to ensure uniform conditions for the implementation of this Regulation concerning field tests, the electronic exchange of information on driver cards between Member States and the training of control officers, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers¹².</p>		<p>In order to ensure uniform conditions for the implementation of this Regulation [...] implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers¹³.</p>	<p><u>Package III</u></p>

¹² OJ L 55, 28.2.2011, p. 13–18.

¹³ OJ L 55, 28.2.2011, p. 13–18.

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p>Recital 19a (new)</p>	<p><u>(19a) The Commission should adopt implementing acts for the purpose of this Regulation which correspond to the provisions in Annexes I, IB and II to Regulation 3821/85 so that they will be in place at the date of application of Articles other than 19, 30 and 43. However if for some reason these implementing acts have not been adopted in time, transitional measures should safeguard the necessary continuity.</u></p>	<p><u>Package III</u></p>
	<p>Recital 19b (new)</p>	<p><u>(19b) In the context of the application of the AETR Agreement, references to Regulation 3821/85 are to be understood as references to the present Regulation. In the context of the application of Article 22bis of the AETR Agreement, references to Annex IB of Regulation 3821/85 are to be understood as references to the implementing act as referred to in Article 3a. The</u></p>	<p><u>Package III</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
		<p><u>EU will consider the appropriate steps to be taken in UNECE to ensure the necessary coherence between this Regulation and Article 22bis of the AETR Agreement.</u></p>	
Recital 20			
<p>(20) The advisory procedure should be used for the adoption of the procedures to be followed for carrying out field tests and the forms to be used for monitoring such tests, as well as the methodology for the initial and continuing training of control officers.</p>		<p><u>Deleted</u></p>	<p><u>Package III</u></p>
Recital 21			
<p>(21) The examination procedure should be used for the adoption of the specifications for the electronic exchange of information on driver cards between Member States.</p>		<p>(21) The examination procedure should be used for <u>the adoption of the procedures to be followed for carrying out field tests and the forms to be used for monitoring such tests, as well as the methodology for the initial and continuing training of control officers and the adoption of the specifications for the electronic exchange of information on driver cards between Member States.</u></p>	<p><u>Package III</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 6 Recital 21a (new)			
	<i>(21a) The transport of passengers and goods takes place under very widely differing terms and conditions. Accordingly, a revision of the tachograph requirement and the rules on driving and rest periods for bus drivers should be submitted as soon as possible, and at any rate by the end of 2013.</i>		<u>Package II</u> EP keeps its text
Amendment 7 Recital 21b (new)			
	<i>(21b) Standards and specifications should be drawn up as open standards allowing for the incorporation into one and the same device, following examination by the Commission, of other functions such as accident recorders and 112 e-calls.</i>		<u>Package I</u> EP keeps its text

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 8			
	<p>Article 1 - point -1 (new) - Council Regulation (EEC) No 3821/85 - Title</p> <p><i>(-1) The title is replaced by the following:</i> "Council Regulation (EEC) No 3821/85 of 20 December 1985 on tachographs in road transport" <i>(This amendment applies throughout the text.)</i></p>		<u>Package III</u>
Article 1			
<p>Council Regulation (EEC) No 3821/85 is amended as follows:</p> <p>1) Articles 1 to 21 are replaced by the following articles:</p>		<u>Deleted</u>	<u>Package III</u>
Amendment 9			
Article 1 - Point 1 - - Council Regulation (EEC) No 3821/85 - Chapter I - Title			
Principles <i>and</i> scope	Principles, scope <i>and requirements</i>	Principles, scope <u>and requirements</u>	<u>Package III</u> EP: agreed
Amendment 10			
Article 1 - Point 1 - - Council Regulation (EEC) No 3821/85 - Article 1 - Title			
Subject matter and <i>principle</i>	Subject matter and <i>principles</i>	Subject matter and principle	<u>Package III</u> EP keeps its text

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 11 Article 1 - Point 1 - - Council Regulation (EEC) No 3821/85 - Article 1 - paragraph 1			
This Regulation sets out requirements <i>for</i> the construction, installation, use and testing <i>of recording equipment</i> used in road transport to control compliance with Regulation (EC) No 561/2006, Directive 2002/15/EC and Directive 92/6/EEC.	1. This Regulation sets out <i>the obligations and</i> requirements <i>in relation to</i> the construction, installation, use, testing <i>and control of tachographs</i> used in road transport to control compliance with Regulation (EC) No 561/2006, Directive 2002/15/EC and Directive 92/6/EEC.	This Regulation sets out requirements for the construction, installation, use and testing of [...] tachographs used in road transport to control compliance with Regulation (EC) No 561/2006, Directive 2002/15/EC ¹⁴ and Directive 92/6/EEC ¹⁵ .	Package III
Amendment 12 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 1 - paragraph 1a (new)			
	<i>1a. This Regulation sets out the conditions and requirements under which the information and data recorded, processed or stored by the tachograph as referred to in Article 2 may be used for purposes other than the control of compliance with the legislation referred to in paragraph 1.</i>		Package III EP text based on EDPS opinion

¹⁴ OJ L 80, 23.3.2002, p. 35-39

¹⁵ OJ L 57, 2.3.1992, p. 27

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Recording equipment shall, as regards construction, installation, use and testing, comply with the requirements of this Regulation.	Article 1 - Point 1 - Article 1 - Paragraph 2	L...I Tachographs shall, as regards construction, installation, use and testing, comply with the requirements of this Regulation.	Package III EP: agreed
Article 1 means the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semi-automatically details of the movement of such vehicles and of certain work periods of their drivers;	(a) 'tachograph' means the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semi-automatically details of the movement, speed and weight of such vehicles in relation to the different periods of time being part of the driver's daily working period, and of data referred to in Article 30 of this Regulation;	(a) 'tachograph or recording equipment' means the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semi-automatically details of the movement of such vehicles and of certain periods of activity of their drivers;	Package I EP keeps its text <i>1st part:</i> <i>Replacement of "tachograph or recording equipment" by "tachograph" only is generally acceptable to delegations.</i> <i>2nd part:</i> <i>Inclusion of speed and weight is not acceptable to Council, but a compromise proposal could be found on speed (i.e. refer to "speed in accordance with Article 3a (3)').</i> <i>No flexibility at all on weight at Council level. EP insists in order to cover loading/unloading.</i> <i>3rd part: EP insists on recording different periods of time of the</i>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 14 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point b			
(b) 'vehicle unit' means the recording equipment excluding the motion sensor and the cables connecting the motion sensor. The vehicle unit may be a single unit or several units distributed in the vehicle, provided that it complies with the security requirements of this Regulation;	(b) 'vehicle unit' means the tachograph excluding the motion sensor and the cables connecting the motion sensor. The vehicle unit may be a single unit or several units distributed in the vehicle, provided that it complies with the security requirements of this Regulation. The vehicle unit includes a processing unit, a data memory, a real time clock, two smart card interface devices (driver and co-driver), a printer, a display, a visual warning, a calibration/downloading connector, and facilities for entry of user's inputs;	(b) 'vehicle unit' means the [...] tachograph excluding the motion sensor and the cables connecting the motion sensor. The vehicle unit may be a single unit or several units distributed in the vehicle, provided that it complies with the security requirements of this Regulation;	Package III
Article 2 - paragraph 2 - point c			
(a) (c) 'motion sensor' means part of the recording equipment, providing a signal representative of vehicle speed and/or distance travelled;		(b) (c) 'motion sensor' means part of the [...] tachograph , providing a signal representative of vehicle speed and/or distance travelled;	Package III EP: agreed

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85	Amendment 149 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point ca (new) <i>(ca) 'weight sensor' means a part of the digital tachograph that provides information on the weight of the vehicle, therefore recording data on loading and unloading of the vehicle;</i>	Package I Weight sensors <i>No flexibility at Council level</i>	
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point d	Amendment 15 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point d (d) 'tachograph card' means a smart card intended for use with the tachograph which allows identification by the tachograph of the role of the cardholder, its access rights to data and data transfer and storage;	(d) 'tachograph card' means a smart card intended for use with the [...] tachograph which allows identification by the [...] tachograph of the role of the cardholder and data transfer and storage;	Package I EP keeps its text <i>Council could show flexibility on this EP amendment.</i>
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point e	Amendment 16 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point e (e) 'record sheet' means a sheet designed to accept and retain recorded data, to be placed in the analogue tachograph and on which the marking devices of the latter inscribe a continuous record of the information to be recorded; <i>(This amendment applies throughout the text.)</i>	(e) 'record sheet' means a sheet designed to accept and retain recorded data, to be placed in the [...] analogue tachograph and on which the marking devices of the latter inscribe a continuous record of the information to be recorded;	Package I Agreed

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	Amendment 17 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point fa (new)		
	<i>(fa)</i> 'analogue tachograph' means a tachograph using a record sheet in accordance with this Regulation;	<u>(fa) 'analogue tachograph' means a tachograph using a record sheet in accordance with this Regulation;</u>	Package I Agreed
	Amendment 18 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point fb (new)		
	<i>(fb)</i> 'digital tachograph' means a tachograph using a tachograph card in accordance with this Regulation;	<u>(fb) 'digital tachograph' means a tachograph using a tachograph card in accordance with this Regulation;</u>	Package I Agreed
	Amendment 19 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point g		
(g) 'control card' means a tachograph card issued by the authorities of a Member State to a national competent control authority which identifies the control body and <i>optionally</i> the control officer and allows access to the data stored in the data memory <i>or</i> in the driver cards for reading, printing and/or downloading;	(g) 'control card' means a tachograph card issued by the authorities of a Member State to a national competent control authority which identifies the control body and the control officer and allows access to the data stored in the data memory, in the driver cards <i>and in the workshop cards</i> for reading, printing and/or downloading;	(g) 'control card' means a tachograph card issued by the authorities of a Member State to a national competent control authority which identifies the control body and optionally the control officer and allows access to the data stored in the data memory or in the driver cards for reading, printing and/or downloading;	Package II Workshops <i>Council is opposed to the inclusion of workshops cards but EP insists on the strengthening of the conditions imposed to workshops.</i>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>(d) means a tachograph card issued by the authorities of a Member State to the owner or holder of vehicles fitted with recording equipment which identifies the owner or holder and allows for the displaying, downloading and printing of the data stored in the recording equipment which has been locked by that owner or holder;</p>	<p>Article 2 - paragraph 2 - point h</p> <p>(h) 'company card' means a tachograph card issued by the authorities of a Member State to the <u>[...] road transport undertaking which needs to operate vehicles fitted with tachograph</u> which identifies <u>the road transport undertaking</u> and allows for the displaying, downloading and printing of the data stored in the <u>[...] tachograph</u> which has been locked by that <u>[...] road transport undertaking</u>;</p>	<p>(h) 'company card' means a tachograph card issued by the authorities of a Member State to the <u>[...] road transport undertaking which needs to operate vehicles fitted with tachograph</u> which identifies <u>the road transport undertaking</u> and allows for the displaying, downloading and printing of the data stored in the <u>[...] tachograph</u> which has been locked by that <u>[...] road transport undertaking</u>;</p>	<p>Package I EP raised concerns related to self-employed drivers. <i>Presidency suggestion:</i> <i>[...] road transport undertaking, being a natural or legal person, which needs to operate vehicles fitted with tachograph which identifies the road transport undertaking...</i></p>
<p>(e) means a tachograph card issued by the authorities of a Member State to <i>a recording equipment</i> manufacturer, a fitter, a vehicle manufacturer or a workshop approved by that Member State which identifies the cardholder and allows for the testing, calibration and/or downloading of <i>the recording equipment</i>;</p>	<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point i</p> <p>(i) 'workshop card' means a tachograph card issued by the authorities of a Member State to <i>designated staff of a tachograph</i> manufacturer, a fitter, a vehicle manufacturer or a workshop approved by that Member State which identifies the cardholder and allows for the testing, calibration and/or downloading of <i>tachographs</i>;</p>	<p>(i) 'workshop card' means a tachograph card issued by the authorities of a Member State to <u>[...] designated staff of a tachograph</u> manufacturer, a fitter, a vehicle manufacturer or a workshop, approved by that Member State which identifies the cardholder and allows for the testing, calibration and/or downloading of <u>[...] tachographs</u>;</p>	<p>Package II EP: Agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point j</p> <p>(j) 'daily work period' means the period comprising the driving time, all other periods of work, the periods of availability, breaks in work and periods of rest not exceeding nine hours.</p>	<p>Amendment 21</p> <p>(j) 'daily working period' means the period which commences at the time when the driver activates the tachograph following a weekly or daily rest period, or, if the daily rest period is divided into separate periods, following a rest period of at least nine hours' duration. It ends at the beginning of a daily rest period or, if the daily rest is divided into separate rest periods, at the beginning of a rest period extending over a minimum of nine consecutive hours.</p>	<p>Deleted</p>	<p>Package I</p> <p>Council included this concept in recital 5a (new)</p> <p><i>Council keeps its initial position (i.e. recital) and considers that the inclusion of this text into the main body of the text is not appropriate.</i></p>
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point ja (new)</p> <p>(ja) 'activation' means the phase where the tachograph becomes fully operational and implements all functions, including security functions; activating a tachograph requires the use of a workshop card;</p>	<p>Amendment 22</p> <p>(ja) 'activation' means the phase where the tachograph becomes fully operational and implements all functions, including security functions; activating a tachograph requires the use of a workshop card;</p>		<p>Package III</p> <p>AMDS 22 to 27: essential definitions</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jb (new)	Amendment 23 <i>(jb) 'authentication' means a function intended to establish and verify a claimed identity;</i>		Package III AMDS 22 to 27: essential definitions
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jc (new)	Amendment 24 <i>(jc) 'authenticity' means the property that an information is coming from a party whose identity can be verified;</i>		Package III AMDS 22 to 27: essential definitions
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jd (new)	Amendment 25 <i>(jd) 'calibration' means updating or confirming vehicle parameters to be held in the data memory. Vehicle parameters include vehicle identification and vehicle characteristics. Calibrating a tachograph requires the use of a workshop card;</i>		Package III AMDS 22 to 27: essential definitions

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point je (new)	Amendment 26 <i>(je) 'downloading' means copying, together with the digital signature, of a part, or of a complete set of data files stored in the data memory of the vehicle or in the memory of the tachograph card, for which these data are necessary to establish compliance with the provisions set out in Regulation (EC) No 561/2006;</i>		Package III AMDS 22 to 27: essential definitions
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jf (new)	Amendment 27 <i>(jf) 'event' means an operation detected by the tachograph which may come from a fraud attempt;</i>		Package III AMDS 22 to 27: essential definitions
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jg (new)	Amendment 28 <i>(jg) 'fault' means an abnormal operation detected by the tachograph which may come from an equipment malfunction or failure;</i>		Package III AMDS 22 to 27: essential definitions
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jh (new)	Amendment 29 <i>(jh) 'installation' means mounting of the tachograph in a vehicle;</i>		Package III AMDS 22 to 27: essential definitions

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point ji (new)	<p style="text-align: center;">Amendment 30</p> <p>(ji) <i>'non valid card' means a card detected as faulty, or which initial authentication failed, or which start of validity date is not yet reached, or which expiry date has passed;</i></p>		<p style="text-align: center;">Package III</p> <p>AMDS 22 to 27: essential definitions</p>
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jj (new)	<p style="text-align: center;">Amendment 31</p> <p>(jj) <i>'periodic inspection' means a set of operations performed to control that the tachograph works properly and that its settings correspond to the vehicle parameters;</i></p>		<p style="text-align: center;">Package III</p> <p>AMDS 22 to 27: essential definitions</p>
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jk (new)	<p style="text-align: center;">Amendment 32</p> <p>(jk) <i>'printer' means a component of the tachograph which provides printouts of stored data;</i></p>		<p style="text-align: center;">Package III</p> <p>AMDS 22 to 27: essential definitions</p>
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jl (new)	<p style="text-align: center;">Amendment 33</p> <p>(jl) <i>'repair' means any repair of a motion sensor or of a vehicle unit that requires disconnection of its power supply, or disconnection from other tachograph components, or opening of it;</i></p>		<p style="text-align: center;">Package III</p> <p>AMDS 22 to 27: essential definitions</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jm (new)	Amendment 34 <i>(jm) 'type approval' means a process to certify, by a Member State, that the tachograph (or component), software or the tachograph card under investigation fulfils the requirements of this Regulation;</i>		Package III AMDS 22 to 27: essential definitions
	Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jn (new)	Amendment 35 <i>(jn) 'vehicle identification' means the numbers identifying the vehicle: vehicle registration number (VRN) with indication of the registering Member State and vehicle identification number (VIN);</i>	
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jo (new)		Amendment 36 <i>(jo) 'interoperability' means the capacity of systems and the underlying business processes to exchange data and to share information and knowledge;</i>	
	Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 2 - paragraph 2 - point jp (new)	Amendment 37 <i>(jp) 'interface' means a facility between systems which provides the media through which they can connect and interact.</i>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>1. Recording equipment shall be installed and used in vehicles registered in a Member State which are used for the carriage of passengers or goods by road falling within the scope of Regulation (EC) No 561/2006.</p>	<p>Article 3 - paragraph 1</p>	<p>1. [...] Tachographs shall be installed and used in vehicles registered in a Member State which are used for the carriage of passengers or goods by road to which Regulation (EC) No 561/2006 applies.</p>	<p><u>Package IV</u></p>
<p>3. Member States may, after authorisation by the Commission, exempt from the application of this Regulation vehicles used for the transport operations referred to in Article 14(1) of Regulation (EC) No 561/2006.</p>	<p>Article 3 - paragraph 3</p>	<p>3. Member States may [...] exempt from the application of this Regulation vehicles used for the transport operations which have been granted an exception referred to in Article 14(1) of Regulation (EC) No 561/2006.</p>	<p><u>Package IV</u> EP: agreed</p>
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 3 - paragraph 3a (new)</p> <p><i>(3a) By 2020 all vehicles which are not exempted from the application of this Regulation in accordance with paragraphs 2 and 3 shall be fitted with a smart tachograph within the meaning of this Regulation.</i></p>	<p>Amendment 38</p>		<p><u>Package I</u> <u>Retrofitting</u></p> <p><i>Not acceptable for Council. EP considers the retrofitting a key priority on this file.</i></p> <p><i>Presidency question: could MS agree to focus retrofitting on the vehicles involved in international transport only?</i></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
4. In the case of national transport operations, Member States may require the installation and use of recording equipment in accordance with this Regulation in any of the vehicles for which its installation and use are not required by paragraph 1.	Article 3 - paragraph 4	4. In the case of national transport operations, Member States may require the installation and use of <u>[...] tachographs</u> in accordance with this Regulation in any of the vehicles for which its installation and use are not required by paragraph 1.	Package IV EP: agreed
Amendment 39			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 3a (new)			
	<p style="text-align: center;">Article 3a</p> <p style="text-align: center;"><i>Essential requirements</i></p> <p>1. Tachographs, tachograph cards and record sheets shall be subject to stringent technical, functional and other requirements so as to ensure that they fulfil the essential requirements set out in paragraph 2 and that they achieve the objectives of this Regulation.</p>	<p style="text-align: center;">Article 3a</p> <p style="text-align: center;"><i>Requirements</i></p> <p>1. Recording equipment, tachograph cards and record sheets must fulfill stringent technical and other requirements so as to permit the proper implementation of the provisions of this Regulation.</p>	Package III AMDS 39 to 43: essential requirements, functions of the tachograph, data to be recorded, display, warnings
	<p>2. To allow for compliance with the applicable social legislation to be efficiently controlled the tachograph shall comply with the following essential requirements. It shall to this effect:</p>	<p>2. The tachograph shall comply with the following essential requirements:</p>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>(a) record accurate and reliable data related to the driver activity and the vehicle;</i>	<u>- record data related to the driver and the vehicle;</u>	
	<i>(b) be secure, in order to guarantee the integrity and the origin of the source of data recorded by and retrieved from vehicle units, motion sensors and tachograph cards;</i>	<u>- be secure;</u>	
	<i>(c) be interoperable;</i>	<u>- be interoperable;</u>	
	<i>(d) be user friendly.</i>	<u>- allow for efficient control of compliance with the applicable legislation;</u>	
		<u>- be user friendly.</u>	
	3. Tachographs shall be designed and used in such a way as to ensure privacy and the protection of personal data.	<u>3. The digital tachograph shall record the following data:</u>	
		<u>(a) distance travelled, and speed of the vehicle;</u>	
		<u>(b) time measurement;</u>	
		<u>(c) position of starting and ending of the driver's daily working period;</u>	
		<u>(d) identity of the driver;</u>	
		<u>(e) activity of the driver;</u>	
		<u>(f) calibration data, including the identity of the workshop;</u>	
		<u>(g) events and faults.</u>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p>4. <i>Tachographs shall be positioned in the vehicle in such a way that they are fully reachable and readable from the driver's normal sitting position, allow the driver whilst driving to access and operate safely the necessary functions from his seated position and do not divert the driver's attention from the road.</i></p>	<p>4. <u>The analogue tachograph shall record at least the data referred to in paragraph 3 (a), (b) and (e).</u></p>	
	<p>5. <i>Downloading of data shall be performed with the minimum delay to transport undertakings or drivers.</i></p>	<p>5. <u>The further detailed requirements necessary for the uniform implementation of this Article shall be adopted by the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(3).</u></p>	
	<p>6. <i>Downloading of data may not result in data being altered or deleted. The downloading of the detailed speed file may not be necessary to ensure compliance with Regulation (EC) No 561/2006, but may nonetheless be performed and used for other purposes, such as accident investigation.</i></p>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 40			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 3b (new)			
	<p style="text-align: center;"><i>Article 3b</i></p> <p style="text-align: center;"><i>Functions of the tachograph</i></p>		<p>Package III AMDS 39 to 43: essential requirements, functions of the tachograph, data to be recorded, display, warnings</p>
	<p><i>The tachograph shall ensure the following functions:</i></p>		
	<i>(1) monitoring cards, insertions and withdrawals,</i>		
	<i>(2) speed and distance measurement,</i>		
	<i>(3) time measurement,</i>		
	<i>(4) monitoring driver activities,</i>		
	<i>(5) monitoring driving status,</i>		
	<i>(6) drivers manual entries,</i>		
	<i>(7) entry of places where daily work periods begin and/or end,</i>		
	<i>(8) manual entry of driver activities,</i>		
	<i>(9) entry of specific conditions,</i>		
	<i>(10) company locks management,</i>		
	<i>(11) monitoring control activities,</i>		
	<i>(12) detection of events and/or faults,</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>(13) built-in and self tests,</i>		
	<i>(14) reading from data memory,</i>		
	<i>(15) recording and storing in data memory,</i>		
	<i>(16) reading from tachograph cards,</i>		
	<i>(17) recording and storing in tachograph cards,</i>		
	<i>(18) displaying,</i>		
	<i>(19) printing,</i>		
	<i>(20) warning,</i>		
	<i>(21) data downloading to external media,</i>		
	<i>(22) output data to additional external devices,</i>		
	<i>(23) calibration,</i>		
	<i>(24) time adjustment,</i>		
	<i>(25) indication of remaining driving time,</i>		
	<i>(26) indication of rest time taken.</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 41 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 3c (new)			
	<i>Article 3c</i> Data to be recorded		Package III AMDS 39 to 43: essential requirements, functions of the tachograph, data to be recorded, display, warnings
	1. The digital tachograph shall record the following data:		
	<i>(a) distance travelled, and speed of the vehicle;</i>		
	<i>(b) time measurement;</i>		
	<i>(c) position of starting and ending of the driver's daily working period and of each transport operation;</i>		
	<i>(d) identity of the driver;</i>		
	<i>(e) activity of the driver;</i>		
	<i>(f) calibration data, including the identity of the workshop;</i>		
	<i>(g) events and faults.</i>		
	2. The analogue tachograph shall record at least the data referred to in paragraph 3 (a), (b) and (e).		
	3. Access to the data stored in the tachograph may be granted at all times to:		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>(a) the competent control authorities for control checks, and,</i>		
	<i>(b) the relevant transport undertaking so that it can comply with its legal obligations, in particular as set out in Articles 28 and 29.</i>		
	<i>Access to data containing personal data shall only be granted after the appropriate authorisation in accordance with data protection legislation has been granted.</i>		
Amendment 42			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 3d (new)			
	<i>Article 3d Display</i>		Package III AMDS 39 to 43: essential requirements, functions of the tachograph, data to be recorded, display, warnings
	<i>1. The tachograph shall be able to display:</i>		
	<i>(a) default data,</i>		
	<i>(b) data related to warnings,</i>		
	<i>(c) data related to menu access,</i>		
	<i>(d) other data requested by the user in accordance with paragraph 1 of Article 3c,</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>(e) information related to the driver:</i>		
	<i>- if his current activity is DRIVING, his current continuous driving time and his current cumulative break time,</i>		
	<i>- if his current activity is NOT DRIVING, the current duration of this activity (since it was selected) and his current cumulative break time.</i>		
	<i>2. Additional information may be displayed by the tachograph, provided that it is clearly distinguishable from the information required above.</i>		
	<i>3. When no other information needs to be displayed, the tachograph shall display, by default, the following:</i>		
	<i>- time,</i>		
	<i>- mode of operation,</i>		
	<i>- current activity of the driver and the current activity of the co-driver.</i>		
	<i>Display of data related to each driver shall be clear, plain and unambiguous. In the event that the information related to the driver and the co-driver cannot be displayed at the same time, the</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>tachograph shall display by default the information related to the driver and shall allow the user to display the information related to the co-driver.</i>		
	<i>4. The tachograph shall display warning information in accordance with Article 3d. A literal description of the warning may also be added in the driver's preferred language.</i>		
Amendment 43			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 3e (new)			
	<i>Article 3e Warnings</i>		Package III AMDS 39 to 43: essential requirements, functions of the tachograph, data to be recorded, display, warnings
	<i>1. The tachograph shall warn the driver when detecting any event and/or fault. The tachograph shall warn the driver 15 minutes before and at the time of exceeding the maximum allowed continuous driving time.</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>2. Warnings shall be visual. Visual warnings shall be clearly recognisable by the user, shall be displayed in the driver's field of vision and shall be clearly legible both by day and by night. Audible warnings may also be provided in addition to visual warnings.</i></p>		
	<p><i>3. Warnings shall have a duration of at least 30 seconds, unless acknowledged by the user by pushing any key of the tachograph.</i></p>		
	<p><i>4. The warning cause shall be displayed on the tachograph and remain visible until acknowledged by the user using a specific key or command of the tachograph. Additional warnings may be provided, as long as they do not confuse drivers in relation to previously defined ones.</i></p>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 44 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 3f (new)			
	<i>Article 3f</i> Data protection and privacy		
	1. The processing of personal data in the context of this Regulation shall be carried out in accordance with Directive 95/46/EC and Directive 2002/58/EC and under the supervision of the public independent authority of the relevant Member State referred to in Article 28 of Directive 95/46/EC.		Package I <i>EP keeps its text and considers that this Article should be in Chapter I.</i> <i>Council considers that the data protection aspects should be covered under Article 34.</i> <i>Council will discuss further the possibility that points 5 and 6 are covered in a recital (to be discussed at a later stage).</i>
	2. Only data strictly necessary for the purpose of the processing shall be processed.		
	3. The specifications referred to in this Regulation shall ensure the confidentiality of the personal data recorded, processed and stored by the tachograph, data integrity and prevent fraud and unlawful manipulation of this data.		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>Appropriate security measures shall be adopted to guarantee that personal data is protected in particular in relation to:</i>		
	<i>- the use of a global navigation satellite system (GNSS) for the recording of location data as referred to in Article 4,</i>		
	<i>- the use of remote communication for control purposes as referred to in Article 5,</i>		
	<i>- the use of tachographs with a harmonised interface as referred to in Article 6,</i>		
	<i>- the electronic exchange of information on driver cards as referred to in Article 26,</i>		
	<i>- the keeping of records by transport undertakings as referred to in Article 29.</i>		
	<i>4. The owners of vehicles and/or transport undertakings shall comply with the relevant provisions on the protection of personal data.</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>5. In order to promote good data protection practices, the European Data Protection Supervisor and the Article 29 Working Party of Data Protection Authorities shall be part of the Tachograph Forum foreseen in Article 41 of this Regulation.</i></p> <p><i>6. Any cross-border exchanges of data with third country authorities in the context of the application of this Regulation shall require the existence of appropriate data protection safeguards to ensure that an adequate level of protection is guaranteed, in compliance with Articles 25 and 26 of Directive 95/46/EC.</i></p>		
	<p>Amendment 45</p> <p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 3g (new)</p> <p><i>Article 3g</i> <i>Specifications</i></p> <p><i>1. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 to adopt the detailed specifications necessary to amend and supplement the Annexes to this Regulation to</i></p>		
			<p>Package III Specifications</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>ensure that the tachograph, the tachograph cards and software used by control officers for the analysis and interpretation of data stored in the tachograph comply with the principles and requirements set out in this Regulation, in particular in Chapter I and Chapter II.</i></p>		
	<p><i>2. The Commission shall adopt the detailed specifications referred to in paragraph 1 two years after</i></p>		
	<p><i>3. Where relevant, and depending on the area covered by the specification, the specification may include one or more of the following types of provisions:</i></p>		
	<p><i>(a) functional provisions that describe the roles of the various users and the information flow between them;</i></p>		
	<p><i>(b) technical provisions that provide for the technical means to fulfil the functional provisions and requirements set down in this Regulation;</i></p>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>(c) organisational provisions that describe the procedural obligations of the various stakeholders;</i>		
	<i>(d) service provisions that describe the various levels of services and their content.</i>		
	4. <i>The specifications shall, where appropriate, be based on standards and shall guarantee the interoperability and compatibility between the various versions and generations of vehicle units, tachographs cards and equipment of enforcement authorities.</i>		
	5. <i>In relation to the performance of the functions of the smart tachograph referred to in Chapter II, the specifications shall include the necessary requirements to guarantee the accuracy and reliability of data provided by the use of external devices connected to the tachograph.</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p>6. <i>Any data that can be transmitted or collected in or out of the tachograph whether wirelessly or electronically, whether forming part of a legal requirement or not, shall be in the form of publicly available protocols.</i></p>		
	<p>7. <i>The Commission shall conduct an impact assessment including a cost-benefit analysis prior to the adoption of the specifications referred to in Chapter II.</i></p>		
	<p>* <i>OJ: please insert date of entry into force of this Regulation.</i></p>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Chapter II - title			
Smart recording equipment		Smart [...] <u>tachograph</u>	<u>Package I</u> Agreed
Amendment 46			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 4 - paragraph 1			
<p><i>Location data shall be recorded to allow the identification of the starting and ending place of the daily work period.</i> For that purpose, vehicles put into service for the first time [48 months after the entry into force of this Regulation] shall be fitted with recording equipment connected to a global navigation satellite system (GNSS).</p>	<p><i>1. In order to facilitate verification of compliance with the relevant legislation, the position of the starting and ending place of the daily working period and of each transport operation shall be recorded automatically.</i> For that purpose, vehicles put into service for the first time 24 months after the entry into force of <i>the specifications referred to in this Article and in Article 3g</i> shall be fitted with a <i>tachograph</i> connected to a global navigation satellite system (GNSS).</p>	<p><u>1. [...] Whenever possible, the position of the starting and ending place of the daily working period shall be recorded.</u> For that purpose, vehicles [...] <u>registered</u> for the first time <u>40 months</u> after the entry into force of [...] <u>technical specifications as referred to in Article 6a</u> shall be fitted with a [...] <u>tachograph</u> connected to a [...] <u>satellite positioning service</u>.</p>	<p><u>Package I</u> <i>EP insists on the recording of each transport segment; while Council wants to record only the starting and ending place of the daily working period (red line for several delegations)</i></p> <p><i>Council prefers a reference to "satellite positioning service".</i></p> <p><i>At this stage, as regards the period, Council sticks to 40 months after the entry into force of the technical specifications.</i></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 47			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85	<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 4 - paragraph 1a (new)</p> <p><i>1a. As regards the connection of the tachograph to a GNSS, as referred to in paragraph 1, use shall be made only of satellite positioning service connections that exploit a positioning service free of charge.</i></p> <p><i>No position data other than those expressed, wherever possible, in geographical coordinates for determining the starting and ending points referred to in paragraph 1 shall be stored in the tachograph.</i></p>	<p><u>2. As regards the connection of the tachograph to a satellite positioning service, as referred to in paragraph 1, use shall be made only of such satellite positioning service connections that exploit a positioning service free of payment.</u></p> <p><u>No position data other than the one expressed, wherever possible, in geographical coordinates for determining the starting and ending points referred to in paragraph 1 shall be stored in the recording equipment.</u></p>	<p><u>Package I</u></p> <p><i>Acceptable to EP if "satellite positioning service" is replaced by GNSS. See above compromise.</i></p>
Amendment 48			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85	<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 4 - paragraph 2</p> <p>2. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the <i>development of</i> the detailed specifications necessary to enable the processing of the location data received from the GNSS by the <i>tachograph as set out in this Article.</i></p>	<p><u>Deleted</u></p>	<p><u>Package III</u></p>
The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the <i>supplementing of Annex IB with</i> the detailed <i>technical</i> specifications necessary to enable the processing of the location data received from the GNSS by the <i>recording equipment.</i>			

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>In particular, the specifications shall comply with the following conditions:</i>		
	<i>- they shall be based on the use of a free of charge GNSS service;</i>		
	<i>- only the location data strictly needed to cross check the information recorded by the tachograph by control authorities shall be automatically and compulsorily recorded;</i>		
	<i>- a data protection impact assessment shall be carried out and made publicly available before the adoption of the delegated acts referred to in this Article;</i>		
	<i>- the use of authenticated signals shall not be compulsory as far as they cannot be obtained free of charge.</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>The specifications shall establish the type of events that may trigger an automatic record of position and the situation for which a manual record should remain possible. The specifications shall specify the different conditions and requirements for the GNSS receiver to be both outside or embedded in the tachograph, and when outside how to correlate GNSS with other vehicle motion data.</i></p>		
Amendment 49			
	<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 4 - paragraph 2a. <i>Any other use of the location data recorded by the tachograph shall be voluntary for transport undertakings and shall comply with the data protection legal framework in the Union.</i></p>		<p><u>Package I</u> <i>Not acceptable to Council in its current form as this implies that there will be other data rather than starting and ending location recorded. Further work on the drafting is necessary to clarify the objective of this EP amendment.</i></p>
Amendment 50			
Remote <i>communication for control purposes</i>	<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - title Remote <i>early detection of possible manipulation or misuse</i></p>	<p>Remote <u>early detection of possible manipulation or misuse</u></p>	<p><u>Package I</u> Agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 1</p> <p>1. In order to facilitate targeted roadside checks by the competent control authorities, the recording equipment installed in vehicles put into service for the first time [48 months after the entry into force of this Regulation] shall be able to communicate while the vehicle is in motion to those authorities.</p>	<p>Amendment 51</p> <p>1. In order to facilitate targeted roadside checks by the competent control authorities, the tachograph installed in vehicles registered for the first time 24 months after the entry into force of specifications referred to in this Article and Article 3g shall be able to communicate data to those authorities while the vehicle is in motion.</p>	<p>Package I</p> <p>Package III (on the specifications)</p> <p><i>Council wants to stick to 40 months after the entry into force of the technical specifications.</i></p> <p><i>Council considers that 40 months is the minimum time needed to manufacture this new type of tachograph (according to tachograph manufacturers).</i></p> <p><i>With regard to DSRC, Council sticks to its text while EP is opposed to any reference to a specific technology in the main body of the text ("technology neutral").</i></p>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85	<p>Amendment 52</p> <p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 1a (new)</p> <p><i>1a. Member States shall equip their control authorities with the remote early detection equipment necessary to permit the data communication referred to in this Article.</i></p>	<p>Amendment 52</p> <p>Article 5 - paragraph 1a (new)</p> <p><u>1a. Member States may decide not to equip their control authorities with the remote early detection equipment needed to request the data communication referred to in this Article as this equipment is not part of the mandatory control equipment listed in the Directive 2006/22/EC.</u></p>	<p>Package II</p> <p><i>EP keeps its text.</i></p> <p><i>Member States are fully opposed to a mandatory equipment of their control authorities with the remote early detection equipment.</i></p> <p><i>Crucial point for several delegations.</i></p>
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 2</p> <p>2. Communication shall be established with the recording equipment only when so requested by the equipment of the control authorities. It shall be secured to ensure data integrity and authentication of the recording and control equipment.</p>	<p>Amendment 53</p> <p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 2</p> <p>2. <i>The communication of data referred to in paragraph 1 shall be established with the tachograph only when so requested by the equipment of the control authorities. It shall be secured to ensure data integrity and authentication of the tachograph and control equipment. The access to the data communicated shall be restricted to enforcers authorised to control infringements of this Regulation and Regulation (EC) No 561/2006 and to workshops insofar as it is necessary to verify</i></p>	<p>Amendment 53</p> <p>Article 5 - paragraph 2</p> <p><u>2. The communication referred to in paragraph 1 [...] shall be established with the [...] tachograph only when so requested by the equipment of the control authorities. It shall be secured to ensure data integrity and authentication of the recording and control equipment. The access to the data communicated shall be restricted to enforcers authorized to control infringements against Regulation 561/2006 and Regulation 3821/85 and to</u></p>	<p>Package I</p> <p>Agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>the correct functioning of the tachograph.</i>	<u>workshops insofar as it is necessary to verify the correct functioning of the tachograph.</u>	
Amendment 54			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 3			
3. The data exchanged during communication shall be limited to the data necessary for the purpose of targeted roadside checks. Data concerning the identity of the driver, <i>driver activities and speed</i> shall not be communicated.	3. The data exchanged during communication shall be limited to the data necessary for the purpose of targeted roadside checks. <i>Such data shall relate to the following events or data recorded by the tachograph:</i>	<u>3. The data exchanged during communication shall be limited to the data necessary for the purpose of targeted roadside checks to vehicles with a potentially manipulated or misused tachograph. Such data shall relate to the following events or data recorded by the tachograph:</u>	<u>Package I</u> <i>EP can accept most of Council's text, EP will examine whether it still insists on the part of its amendment concerning the identity and nationality of the driver.</i>
	- <i>The latest security breach attempt</i>	- <u>The latest security breach attempt</u>	
	- <i>The longest power supply interruption</i>	- <u>The longest power supply interruption</u>	
	- <i>Sensor fault</i>	- <u>Sensor fault</u>	
	- <i>Motion data error</i>	- <u>Motion data error</u>	
	- <i>Vehicle motion conflict</i>	- <u>Vehicle motion conflict</u>	
	- <i>Driving without a valid card</i>	- <u>Driving without a valid card</u>	
	- <i>Card insertion while driving</i>	- <u>Card insertion while driving</u>	
	- <i>Time adjustment data</i>	- <u>Time adjustment data</u>	
	- <i>Calibration data including the dates of the two latest calibrations</i>	- <u>Calibration data including the dates of the two latest calibrations</u>	
	- <i>Vehicle Registration Number</i>	- <u>Vehicle Registration Number</u>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	Data concerning the identity <i>and nationality</i> of the driver shall not be communicated.	<u>- Speed recorded by the tachograph.</u>	
4. The data exchanged shall be used for the sole purpose of controlling compliance with this Regulation and Regulation (EC) No 561/2006. It shall not be transmitted to entities other than control authorities.	Amendment 55 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 4 4. The data exchanged shall be used for the sole purpose of controlling compliance with this Regulation and Regulation (EC) No 561/2006. It shall not be transmitted to entities other than control authorities <i>or judicial bodies, during the course of an ongoing judicial procedure.</i>	Amendment 55 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 4 4. The data exchanged shall be used for the sole purpose of controlling compliance with this Regulation [...]. It shall not be transmitted to entities other than authorities <u>controlling driving and rest periods or judicial bodies, in the framework of an ongoing judicial procedure.</u>	<u>Package I</u> <i>EP could accept Council's text provided that Council accepts to refer to "this Regulation and Regulation (EC) N°561/2006."</i>
5. The data may only be stored by the control authorities for the duration of a roadside check, and shall be deleted at the latest two hours after <i>this has concluded.</i>	Amendment 56 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 5 5. The data may only be stored by the control authorities for the duration of a roadside check, and shall be deleted at the latest two hours after <i>their communication unless the data indicate a possible manipulation or misuse of the tachograph. If in the course of the subsequent roadside check the manipulation or misuse is not confirmed, the data transmitted shall be deleted. Data related to vehicle identification or to a technical parameter not containing any</i>	Amendment 56 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 5 5. The data may only be stored by the control authorities for the duration of a roadside check, and shall be deleted at the latest <u>three</u> hours after <u>its communication unless the data indicates a possible manipulation or misuse of the tachograph. If in the course of the following roadside check the manipulation or misuse is not confirmed, the data transmitted shall be deleted.</u>	<u>Package I</u> <i>EP indicated that it could be flexible and accept the Council's text.</i>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>6. <i>The owner or holder of the vehicle shall be responsible for informing the driver of the possibility of remote communication.</i></p>	<p>Amendment 57 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - paragraph 6</p> <p>6. <i>The transport undertaking which operates the vehicle shall be responsible for informing the driver of remote communication.</i></p>	<p>6. [...] <u>The transport undertaking which operates the vehicle</u> shall be responsible for informing the driver of the possibility of remote <u>early detection of possible manipulation or misuse of the tachograph</u>.</p>	<p><u>Package I</u> <i>Possible compromise proposal (to be discussed at a later stage):</i> <i>"The transport undertaking, which operates the vehicle, shall be responsible for informing the driver of the possibility of remote communication for the purpose of early detection of possible manipulation or misuse of the tachograph".</i></p>
<p>7. The competent control authority, on the basis of the data exchanged, may decide to carry out a check on the vehicle and the recording equipment.</p>	<p>Amendment 58 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - paragraph 7</p> <p>7. <i>In no case shall a remote control communication of the type described in this Article lead to automatic fines or penalties for the driver or undertaking.</i> The competent control authority, on the basis of the data exchanged, may decide to carry out a check on the vehicle and the tachograph. <i>The result of the remote communication shall not</i></p>	<p><u>Deleted</u></p>	<p><u>Package I</u> <i>EP keeps its text but is open to redrafting.</i></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>prevent control authorities from carrying out random roadside checks based on the risk rating system introduced by Article 9 of Directive 2006/22/EC.</i></p>		
Amendment 59+122 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 5 - paragraph 8			
<p>8. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the supplementing of Annex IB with the detailed technical specifications necessary to enable remote communication between the recording equipment and the competent control authorities as set out in this Article.</p>	<p>8. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the development of the detailed specifications necessary to enable remote communication between the tachograph and the competent control authorities as set out in this Article. The Commission may also extend the time limit referred to in paragraph 1 if it can show at the end of that period that no suitable equipment meeting the required specifications is yet available.</p>	<p><u>Deleted</u></p>	<p><u>Package III</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 6 - paragraph 1			
1. The recording equipment referred to in Annex IB shall be interoperable with the intelligent transport systems applications as defined in Article 4 of Directive 2010/40/EU of the European Parliament and of the Council on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport ¹⁶ .		<u>Deleted</u>	<u>Package III</u>
Amendment 60			
	Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 6 - paragraph 1a (new) <i>1a. Only data recorded by the tachograph that are strictly necessary for processing in an intelligent transport system (ITS) application may be accessible.</i>		<u>Package I</u> <u>ITS</u> <i>EP keeps its text.</i> <i>Council sticks to the Council's position at this stage, further discussion is necessary.</i>
	<i>Data recorded by the tachograph may be transmitted to ITS applications provided that the following conditions are met:</i>	<u>Tachographs of vehicles registered for the first time 40 months after the entry into force of technical specifications as referred to in Article 6a may</u>	

¹⁶ OJ L 207, 6.8.2010, p. 1.

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
		<p><u>be equipped with interfaces allowing the data recorded or produced by tachograph to be used in operational mode, by an external device, provided that the following conditions are met:</u></p>	
	<p><i>(a) the interface does not affect the authenticity and the integrity of the data of the tachograph;</i></p>	<p><u>(a) the interface does not affect the authenticity and the integrity of the data of the tachograph;</u></p>	
	<p><i>(b) the external device connected to the interface has access to personal data, including geopositioning data, only after the verifiable consent of the driver to which the data relates.</i></p>	<p><u>(b) the interface complies with the specifications of Article 6a;</u></p>	
		<p><u>(c) the external device connected to the interface has access to personal data, including geopositioning data, only after the verifiable consent of the driver to which the data relates.</u></p>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>Article 1, paragraph 1, vehicles put into service for the first time [48 months] after the entry into force of this Regulation] shall be fitted with recording equipment equipped with a harmonised interface allowing the data recorded or produced to be used for intelligent transport systems applications.</p>	<p>Amendment 61 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 6 - paragraph 2</p> <p>2. For the purpose of paragraph 1, vehicles put into service for the first time 24 months after the entry into force of the technical specifications referred to in this Article shall be fitted with a tachograph equipped with a harmonised interface allowing the data recorded to be used for intelligent transport systems application.</p>	<p><u>Deleted</u></p>	<p><u>Package I</u> <i>EP keeps its text.</i> <i>Delegation stick to the Council's position</i></p>
<p>3. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the supplementing of the interface, access rights and the list of data which may be accessed.</p>	<p>Amendment 62+123 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 6 - paragraph 3</p> <p>3. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the development of the specifications of the harmonised interface, access rights and the list of data which may be accessed.</p> <p><i>The Commission may also extend the time limit referred to in paragraph 1 if it can show at the end of that period that no suitable equipment meeting the required specifications is yet available.</i></p>	<p><u>Deleted</u></p>	<p><u>Package III</u></p> <p><u>Package III</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>Priority shall be given to the development of a harmonised ITS application which enables drivers to interpret the data recorded in the tachograph in order to help them comply with social legislation.</i>		<u>Package I</u> <i>This part of the EP amendment could be covered by a recital.</i>
Article 6a (new)			
		<u>Specifications of smart tachograph</u> <u>In order to ensure the uniform implementation of the provisions in this Chapter, the Commission shall adopt necessary specifications, excluding any specifications which would include provisions on the recording of additional data by the tachograph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(3).</u>	<u>Package III</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 7 - paragraph 1</p> <p>1. Manufacturers or their agents shall submit an application for EU approval of a type of vehicle unit, motion sensor, model record sheet or tachograph card to the type approval authorities designated to that effect by each Member State.</p>	<p>Amendment 63+150</p> <p>1. Manufacturers or their agents shall submit an application for EU approval of a type of vehicle unit, <i>weight sensor</i>, motion sensor, model record sheet, tachograph card <i>or software used by the competent control authorities to interpret data</i>, to the type approval authorities designated to that effect by each Member State <i>and whose certification conditions are recognised by the management committee of the SOG-IS European mutual recognition agreement. The Commission shall consult the management committee of the SOG-IS agreement before any decision is made to recognise a certification body from a third country.</i></p>	<p>1. Manufacturers or their agents shall submit an application for EU approval of a type of vehicle unit, motion sensor, model record sheet or tachograph card to the type approval authorities designated to that effect by each Member State.</p>	<p><u>1st part: Package I</u> Weight sensor</p> <p><i>Not acceptable for Council while it is a key priority for EP.</i></p> <p><u>2nd part: Package II</u> Type approval of the software</p> <p><i>EP insists on its text regarding the software.</i></p> <p><u>3rd part: Package I (SOG-IS)</u> covered by the Council's position in a recital - Agreed</p>
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 7 - paragraph 2</p> <p>2. Member States shall communicate to the Commission the name and contact details of the authorities designated according to paragraph 1. The</p>	<p>Amendment 64</p> <p>2. Member States shall communicate to the Commission <i>at the latest three months after</i> ... the name and contact details of the authorities designated</p>	<p>2. Member States shall communicate to the Commission the name and contact details of the authorities designated according to paragraph 1. The</p>	<p><u>Package I</u></p> <p><i>Stick to Council's position, Council rejects a time limit. EP is flexible on the deadline</i></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Commission shall publish the list of designated type approval authorities on its website.	according to paragraph 1. The Commission shall publish the list of designated type approval authorities on its website.	Commission shall publish the list of designated type approval authorities on its website.	<i>provided that a fixed time-limit is included in the text. Presidency suggested including "as soon as possible (to be examined at a later stage).</i>
	* <i>OJ: please insert date of entry into force of this Regulation.</i>		
Amendment 65			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 7 - paragraph 2a (new)			
	<i>2a. Type approval of tachographs and of tachograph cards shall include security related tests, functional tests and interoperability tests. Positive results for each of these tests shall be stated on an appropriate certificate.</i>		<u>Package I</u> <u>Type-approval</u> <i>Not acceptable for Council.</i>
Amendment 66			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 7 - paragraph 3			
3. An application for type approval shall be accompanied by the appropriate specifications and by <i>the certificates referred to in Section VIII of Annex IB. The Commission shall appoint the independent evaluators who will deliver the security certificate.</i>	3. An application for type approval shall be accompanied by the appropriate specifications and by <i>security, functional and interoperability certificates. It shall also provide information on how the elements of the tachograph are to be sealed.</i>	3. An application for type approval shall be accompanied by the appropriate specifications, <u>including necessary information regarding the seals, and by the security, functional and interoperability certificates. The security certificate shall be issued by a recognised certification body designated by the Commission.</u>	<u>Package I</u> <i>Not acceptable for Council.</i> <i>Unnecessary, more costs.</i>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 7 - paragraph 3a (new)	Amendment 67		
	<p><i>3a. The security certificate stating compliance against security targets shall be delivered in accordance with the provisions of this Regulation. The security certificate shall be issued by a certification body recognised by the Commission.</i></p>		<u>Package III</u>
	<p><i>A functional certificate shall be delivered to the manufacturer only after all functional tests specified in accordance with this Regulation, certifying that the item tested fulfils the appropriate requirements in terms of functions performed, measurement accuracy and environmental characteristics, have been successfully passed. The type approval authority shall deliver the functional certificate.</i></p>		
	<p><i>An interoperability certificate shall be delivered by a single laboratory under the authority and responsibility of the Commission. The interoperability tests, certifying that the</i></p>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>tachographs or tachograph card are fully interoperable with the necessary tachographs or tachograph card models, are carried out in accordance with this Regulation. No interoperability tests shall be carried out by the laboratory for tachograph or tachograph cards that have not been granted a security certificate and a functionality certificate, except in the exceptional circumstances described in this Regulation.</i></p>		
Amendment 68			
	<p><i>3b. Any modification in software or hardware of the tachograph or in the nature of materials used for its manufacture shall, before being used, be notified to the authority which granted type-approval for the equipment. This authority shall confirm to the manufacturer the extension of the type approval, or may require an update or a confirmation of the relevant functional, security and/or interoperability certificates.</i></p>		<p><u>Package III</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 7 - paragraph 5 (new)			
		<p><u>5. In order to ensure the uniform application of the provisions of this Article, the Commission shall provide certification as regards the certificates as referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(3).</u></p>	<p><u>Package III</u></p>
Amendment 69			
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 8 - paragraph 1 - subparagraph 1</p> <p>A Member State shall grant EU component type approval to any type of vehicle unit, motion sensor, model record sheet <i>or</i> tachograph card which complies with the requirements <i>laid down in Annexes I or IB</i>, provided the Member State is in a position to check that production models conform to the approved type.</p>	<p>A Member State shall grant EU component type approval to any type of vehicle unit, motion sensor, model record sheet, tachograph card <i>or software for the interpretation of data stored by the tachograph by control authorities</i> which complies with the requirements <i>set out in the Regulation</i>, provided the Member State is in a position to check that production models conform to the approved type.</p>	<p>A Member State shall grant EU component type approval to any type of vehicle unit, motion sensor, model record sheet or tachograph card which complies with the requirements set out in Article 3a, provided the Member State is in a position to check that production models conform to the approved type.</p>	<p><u>Package II</u></p> <p>Type approval of software</p> <p><i>EP keeps its text</i></p> <p><i>Further work at Council level is necessary on this EP amendment.</i></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 9			
<p>Member States shall issue to the applicant an EU type approval mark conforming to the model in Annex II, for each type of vehicle unit, motion sensor, model record sheet or tachograph card which they approve pursuant to Article 8.</p>		<p>Member States shall issue to the applicant an EU type approval mark conforming to <u>[...] a pre-established model</u>, for each type of vehicle unit, motion sensor, model record sheet or tachograph card which they approve pursuant to Article 8. <u>Such models shall be adopted by the Commission in accordance with the examination procedure referred to in Article 40(3).</u></p>	<p><u>Package III</u></p>
Amendment 70			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 10 - paragraph 1			
<p>The competent authorities of the Member State to which the application for type approval has been submitted shall, in respect of each type of vehicle unit, motion sensor, model record sheet <i>or</i> tachograph card which they approve, send within one month a copy of the approval certificate accompanied by copies of the relevant specifications to the authorities of the other Member States.</p>	<p>The competent authorities of the Member State to which the application for type approval has been submitted shall, in respect of each type of vehicle unit, motion sensor, model record sheet, tachograph card <i>or software for the interpretation of data stored by the tachograph by control authorities</i>, which they approve, send within one month a copy of the approval certificate accompanied by copies of the relevant specifications, <i>including</i></p>	<p>The competent authorities of the Member State to which the application for type approval has been submitted shall, in respect of each type of vehicle unit, motion sensor, model record sheet or tachograph card which they approve, send within one month a copy of the type approval certificate accompanied by copies of the relevant specifications, <u>including with regard to the seals</u>, to the authorities of the other Member States. <u>When the</u></p>	<p><u>Package II</u></p> <p><i>EP keeps its text.</i></p> <p><i>Further work at Council level is necessary on this EP amendment</i></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>information about the seals</i>, to the authorities of the other Member States.</p>	<p><u>competent authorities do not approve the application for type approval, they shall notify the authorities of the other Member States that approval has been refused and shall communicate the reasons for their decision.</u></p>	
Article 11 - paragraph 1			
<p>1. If a Member State which has granted EU type-approval as provided for in Article 8 finds that any vehicle units, motion sensors, record sheets or tachograph cards bearing the EU type-approval mark issued by it do not conform to the prototype which it has approved, it shall take the necessary measures to ensure that production models conform to the approved prototype. The measures taken may, if necessary, extend to withdrawal of EU type approval.</p>		<p>If a Member State which has granted EU type-approval as provided for in Article 8 finds that any vehicle units, motion sensors, record sheets or tachograph cards bearing the EU type-approval mark issued by it do not conform to the [...] type which it has approved, it shall take the necessary measures to ensure that production models conform to the approved [...] type. The measures taken may, if necessary, extend to withdrawal of EU type approval.</p>	<p>Package I <i>EP could accept the Council's text.</i> <i>[This deletion is based on the definition of prototype, as being one of the first units manufactured of a product, which is tested so that the design can be changed if necessary before the product is manufactured commercially. By definition, a prototype is not approved. So it was replaced with "type".]</i></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
1. An applicant for EU type approval of a model record sheet shall state on the application the type or types of recording equipment referred to in Annex I on which the sheet in question is designed to be used and shall provide suitable equipment of such type or types for the purpose of testing the sheet.	Article 12 - paragraph 1	1. An applicant for EU type approval of a model record sheet shall state on the application the type or types of [...] analogue tachographs on which the sheet in question is designed to be used and shall provide suitable equipment of such type or types for the purpose of testing the sheet.	Package I Agreed
2. The competent authorities of each Member State shall indicate on the approval certificate for the model record sheet the type or types of recording equipment referred to in Annex I on which that model sheet may be used.	Article 12 - paragraph 2	2. The competent authorities of each Member State shall indicate on the approval certificate for the model record sheet the type or types of [...] analogue tachographs on which that model sheet may be used.	Package I Agreed
No Member State may refuse to register any vehicle fitted with recording equipment, or prohibit the entry into service or use of such vehicle for any reason connected with the fact that the vehicle is fitted with such equipment, if the equipment bears the EU type approval mark	Article 14	No Member State may refuse to register any vehicle fitted with [...] tachograph , or prohibit the entry into service or use of such vehicle for any reason connected with the fact that the vehicle is fitted with such equipment, if the equipment bears the EU type approval mark referred to in	Package I Agreed

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
referred to in Article 9 and the installation plaque referred to in Article 17(4).		Article 9 and the installation plaque referred to in Article 17(4).	
Amendment 71+151			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 15 - paragraph 1			
1. Manufacturers shall design, test and review vehicle units, motion sensors and tachograph cards put into production so as to detect vulnerabilities arising at all phases of the product life-cycle, and prevent or mitigate their possible exploitation.	1. Manufacturers shall design, test and review vehicle units, motion sensors, weight sensors and tachograph cards put into production so as to detect vulnerabilities arising at all phases of the product life-cycle, and prevent or mitigate their possible exploitation. The frequency of tests shall be established by the Member State which granted the approval certificate, within a limit which shall not exceed two years.	1. Manufacturers shall design, test and review vehicle units, motion sensors and tachograph cards put into production so as to detect vulnerabilities arising at all phases of the product life-cycle, and prevent or mitigate their possible exploitation. The frequency of tests shall be established by the Member State who granted the approval certificate, within a limit which shall not exceed two years.	<u>1st part:</u> weight sensors <i>Council is opposed to the inclusion of weight sensors.</i>
			<u>2nd part:</u> Agreed
Amendment 72			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 15 - paragraph 2			
2. For this purpose, manufacturers shall submit appropriate documentation to the independent evaluator referred to in Article 7(3) for vulnerability analysis.	2. For this purpose, manufacturers shall submit appropriate documentation to the certification body as referred to in Article 7(3a) for vulnerability analysis.	2. For this purpose, manufacturers shall submit necessary documentation to the certification body as referred to in Article 7(3) for vulnerability analysis.	<u>Package I</u> <i>Agreed, except the reference to Article 7(3)/7(3a) to be discussed at a later stage.</i>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 73			
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 15 - paragraph 3</p> <p>3. <i>Independent evaluators</i> shall conduct penetration tests on vehicle units, motion sensors and tachograph cards to confirm that known vulnerabilities cannot be exploited by individuals in possession of publicly available knowledge.</p>	<p>3. <i>For the purpose of paragraph 1, the certification body as referred in Article 7(3a)</i> shall conduct penetration tests on vehicle units, motion sensors and tachograph cards to confirm that known vulnerabilities cannot be exploited by individuals in possession of publicly available knowledge.</p>	<p>Package I</p> <p>1, the certification body as referred in Article 7(3) shall conduct [...] tests on vehicle units, motion sensors and tachograph cards to confirm that known vulnerabilities cannot be exploited by individuals in possession of publicly available knowledge.</p>	<p><i>Agreed, except the reference to Article 7(3)/7(3a) to be discussed at a later stage.</i></p>
Amendment 74			
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 15 - paragraph 3a (new)</p> <p>3a. <i>If in the course of the tests as referred to in paragraphs 1 and 3, vulnerabilities in the vehicle unit, motion sensor or tachograph cards are detected, these elements shall not be put on the market. In such cases, the Member State which has granted the type approval shall withdraw it, in accordance with Article 11(2).</i></p>	<p>4. If in the course of tests as referred to in paragraphs 1 and 3, vulnerabilities in system elements (vehicle units, motion sensors and tachograph cards) are detected, these elements may not be put on the market. In such cases, the Member State which has granted the type approval shall withdraw it, in accordance with Article 11 (2).</p> <p>In case of very serious vulnerabilities in system elements (vehicle units, motion sensors and tachograph cards) ascertained by the</p>	<p>Package I</p> <p><i>To be further examined by Council.</i></p>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
		<p><u>manufacturer or by the certification body, if the elements have already been put on the market, the manufacturer or the certification body shall inform the competent authorities of that Member State which shall take all the necessary measures to ensure that the problem is addressed, in particular by the manufacturer, and shall inform the Commission without delay of the vulnerabilities detected and of the measures envisaged or taken.</u></p>	
Amendment 75			
	<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 15 - paragraph 3b (new)</p> <p><i>3b. When a manufacturer or the certification body referred to in Article 7(3a) identifies a very serious vulnerability in the vehicle unit, motion sensor or tachograph cards and these elements have already been put on the market, the manufacturer or the certification body as referred in Article 7(3a) shall inform the competent authorities of that Member State without</i></p>		<p><u>Package I</u></p> <p><i>If agreement on amendment 74, EP would be flexible on amendment 75 and 76.</i></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 76			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 15 - paragraph 3c (new)	<p>3c. <i>Member States shall take all the necessary measures to ensure that the problem referred to in paragraph 3b is addressed, in particular by the manufacturer, and shall inform the Commission without delay of the vulnerabilities detected and of the measures envisaged or taken.</i></p>		<p>Package I <i>If agreement on amendment 74, EP would be flexible on amendment 75 and 76.</i></p>
Article 16 - paragraph 1			
1. Member States may authorise field tests of recording equipment which has not yet been type approved. Member States shall mutually recognise authorisations for field tests granted by one Member State.		1. Member States may authorise field tests of [...] tachographs which <u>have</u> not yet been type approved. Member States shall mutually recognise authorisations for field tests granted by one Member State.	<p>Package I Agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
3. The Commission may adopt implementing acts to lay down the procedures to be followed for carrying out field tests and the forms to be used in order to monitor these field tests. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 40(2).	Article 16 - paragraph 3	3. The Commission may adopt implementing acts to lay down the procedures to be followed for carrying out field tests and the forms to be used in order to monitor these field tests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(3).	<u>Package III</u>
1. Recording equipment may be installed or repaired only by fitters or workshops approved by the competent authorities of the Member States for that purpose in conformity with Article 19.	Article 17 - paragraph 1	1. [...] <u>Tachographs</u> may be installed or repaired only by fitters, [...] workshops <u>or vehicle manufacturers</u> approved by the competent authorities of the Member States for that purpose in conformity with Article 19.	<u>Package I</u> Agreed
2. Fitters or workshops shall seal the <i>recording equipment</i> after having verified that it is functioning properly, and in particular that no manipulation device can tamper with or alter the data recorded.	Amendment 77 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 17 - paragraph 2 2. <i>Approved</i> fitters or workshops shall seal the <i>tachograph according to the specifications included in the type approval certificate referred to in Article 10</i> , after having verified that it is functioning properly and in particular that no manipulation	2. <u>Approved</u> fitters, [...] workshops <u>or vehicle manufacturers</u> shall seal, <u>according to the specifications included in the type approval certificate referred to in Article 10, the tachograph</u> after having verified that it is functioning	<u>Package I</u> Agreed

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>3. The approved fitter or workshop shall place a special mark on the seals which it affixes and, in addition, for the recording equipment referred to in Annex IB, shall enter the electronic security data for carrying out the authentication checks. The competent authorities of each Member State shall maintain a register of the marks and electronic security data used and of approved workshop and fitter cards issued.</p>	<p>device can tamper with or alter the data recorded.</p>	<p>properly, and in particular that no manipulation device can tamper with or alter the data recorded.</p> <p>3. The approved fitter, [...] workshop <u>or vehicle manufacturer</u> shall place a special mark on the seals which it affixes and, in addition, for the [...] <u>digital tachographs</u>, shall enter the electronic security data for carrying out the authentication checks. The competent authorities of each Member State shall <u>send to the Commission the register</u> of the marks and electronic security data used [...] <u>as set out in the requirements of Article 3a and necessary information related to the electronic security data used. The Commission shall give access to this information to Member States upon request.</u></p>	<p><u>Package I</u> <i>EP could accept the Council's text, except the reference to Article 3a (to be discussed at a later stage).</i></p>
Article 17 - paragraph 3			

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
4. For the purpose of certifying that the installation of the recording equipment took place in accordance with the requirements of this Regulation, an installation plaque affixed as provided in Annexes I and IB shall be used.	Article 17 - paragraph 4	4. For the purpose of certifying that the installation of the [...] tachograph took place in accordance with the requirements of this Regulation, an installation plaque affixed as provided in the requirements of Article 3a shall be used.	Package I Agreed by EP
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 17 - paragraph 5 <i>deleted</i> 5. A seal shall be removed only by the fitters or workshops approved by the competent authorities under paragraph 1 or by control officers in the circumstances described in Annex I, Section V, point 4 or in Annex IB, Section V, point 3.	Amendment 78 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 17 - paragraph 5 <i>deleted</i>	5. A seal shall be removed only by the fitters, [...] workshops or vehicle manufacturers approved by the competent authorities under paragraph 1 or by control officers properly trained , or in other comparable circumstances as referred to in the requirements of Article 3a.	Package III Seals
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 17a (new) <i>Article 17a</i> Sealing 1. The following part of the tachograph shall be sealed: - any connection which, if disconnected, would cause undetectable alterations to be made or undetectable data loss;	Amendment 79 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 17a (new) <i>Article 17a</i> Sealing		Package III Seals

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p>- <i>the installation plaque, unless it is attached in such a way that it cannot be removed without the markings thereon being destroyed.</i></p>		
	<p>2. <i>A seal may be removed only by the fitters or workshops approved by the competent authorities under Article 17(1) or by certified control officers, or in the circumstances described in this Regulation.</i></p>		
	<p>3. <i>On each occasion that these seals are broken a written statement giving the reasons for such action shall be prepared and made available to the competent authority.</i></p>		
Recording equipment shall be subject to regular inspection by approved workshops. Regular inspection shall be carried out at least every two years.		<p>Article 18 - paragraph 1</p> <p>[...] Tachographs shall be subject to regular inspection by approved workshops. Regular inspection shall be carried out at least every two years.</p>	<p>Package II</p> <p>Agreed by EP</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 18 - paragraph 1a (new)	Amendment 80		
	<i>These inspections shall include the following minimum checks:</i>		Package II Workshops <i>Stick to Council's position.</i>
	<i>(1) that the tachograph is working properly;</i>		<i>EP and Presidency agreed to discuss this issue again under package III.</i>
	<i>(2) that the tachograph carries the type approval mark;</i>		
	<i>(3) that the installation mark is affixed;</i>		
	<i>(4) that the seals on the tachograph and on other parts of the installation are intact;</i>		
	<i>(5) that there are no manipulation devices attached to the tachograph.</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Workshops shall draw up an inspection report in cases where irregularities in the functioning of the recording equipment had to be remedied, whether as a result of a periodic inspection, or an inspection carried out at the specific request of the national competent authority. Workshops shall keep a list of all inspection reports drawn up.	Article 18 - paragraph 2	Workshops shall draw up an inspection report in cases where irregularities in the functioning of the [...] tachograph had to be remedied, whether as a result of a periodic inspection, or an inspection carried out at the specific request of the national competent authority. Workshops shall keep a list of all inspection reports drawn up.	Package II Agreed
Inspection reports shall be retained by the workshop for a minimum period of two years from the time the report was made. Upon request from the competent authority, workshops shall make available the reports of inspections and calibrations carried out during that period.	Article 18 - paragraph 3	Inspection reports shall be retained by the workshop for a minimum period of two years from the time the report was made or shall be sent by the workshop to the competent authority. In cases where the inspection reports are kept by the workshop, upon request from the competent authority, the workshop shall make available the reports of inspections and calibrations carried out during that period.	Package II EP: Could be accepted

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 19 - paragraph 1			
1. The Member States shall approve, regularly control and certify the fitters and workshops which may carry out installations, checks, inspections and repairs of the recording equipment.		The Member States shall approve, regularly control and certify the fitters, workshops and vehicle manufacturers which may carry out installations, checks, inspections and repairs of the [...] tachograph.	Package II EP: Agreed
Article 19 - paragraph 2			
2. Member States shall ensure that fitters and workshops are competent and reliable. For that purpose, they shall establish and publish a set of clear national procedures and shall ensure that the following minimum criteria are met:		Member States shall ensure that fitters, [...] workshops and vehicle manufacturers are competent and reliable. For that purpose, they shall establish and publish a set of clear national procedures and shall ensure that the following minimum criteria are met:	Package II EP: Agreed
(a) the staff are properly trained;		(a) the staff are properly trained;	
(b) the equipment necessary to carry out the relevant tests and tasks is available;		(b) the equipment necessary to carry out the relevant tests and tasks is available;	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
(c) the fitters and workshops are of good repute.		(c) the fitters and workshops are of good repute.	
Article 19 - paragraph 3 - point (a)			
3. Audits of approved fitters or workshops shall be carried out as follows:		3. Audits of approved fitters or workshops shall be carried out as follows:	Package II EP: linked to Amendment 81
(a) Approved fitters or workshops shall be subject to a yearly audit of the procedures applied by the workshop when handling the recording equipment. The audit shall focus in particular on the security measures taken and the handling of workshop cards.		(a) Approved fitters or workshops shall be subject to an audit at least every two years of the procedures applied by the workshop when handling the tachograph. The audit shall focus in particular on the security measures taken and the handling of workshop cards. Member States may carry out these audits without physical presence in the workshop.	
Amendment 81			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 19 - paragraph 3 - point (b)			
(b) Unannounced technical audits of approved fitters or workshops shall also take place in order to control the calibrations and installations carried out. These controls shall cover at least 10 % of the approved workshops per year.	(b) Unannounced technical audits of approved fitters or workshops shall also take place in order to control the calibrations and installations carried out. These controls shall cover at least 20 % of the approved workshops per year.	(b) Unannounced technical audits of approved fitters or workshops shall also take place in order to control the calibrations, inspections and installations carried out. These controls shall cover at least 10% of the approved workshops per year.	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 82 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 19 - paragraph 4			
<p>4. Member States shall take appropriate measures to prevent conflicts of interests between fitters or workshops and road transport undertakings. In particular, <i>if a transport undertaking is also operating as an approved fitter or workshop, it shall not be allowed to install and calibrate recording equipment in its own vehicles.</i></p>	<p>4. Member States <i>and their competent authorities</i> shall take appropriate measures to prevent conflicts of interests between fitters or workshops and road transport undertakings. In particular, <i>in the event of a serious risk of conflict of interest, additional specific measures shall be taken to ensure that the fitter or the workshop complies with this Regulation.</i></p>	<p>4. Member States <u>and their competent authorities</u> shall take appropriate measures to prevent conflicts of interests between fitters or workshops and road transport undertakings. In particular, <u>[...] in case of serious risk of conflict of interest, additional specific measures shall be taken to ensure that the fitter or the workshop complies with this Regulation.</u></p>	<p><u>Package II</u> EP: Agreed</p>
Article 19 - paragraph 5			
<p>5. The competent authorities of the Member States shall forward to the Commission the lists of approved fitters and workshops and the cards issued to them, as well as copies of the marks and of the necessary information relating to the electronic security data used. The Commission shall publish the lists of approved fitters and workshops on its website.</p>		<p>5. The competent authorities of the Member States shall forward, <u>if possible electronically</u>, to the Commission, <u>on an annual basis</u>, the lists of approved fitters and workshops and the cards issued to them <u>[...]</u>. The Commission shall publish the lists of approved fitters and workshops on its website.</p>	<p><u>Package II</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
6. Member States shall withdraw approval, either temporarily or permanently, from fitters and workshops failing to meet their obligations under this Regulation.	Article 19 - paragraph 6	6. The competent authorities in Member States shall withdraw approval, either temporarily or permanently, from fitters and workshops failing to meet their obligations under this Regulation.	Package II EP: Agreed
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 19 - paragraph 6a (new)	Amendment 152 <i>6a. Member States shall monitor and prosecute the increasing offer of fraudulent installation and the installation of manipulation devices for recording equipment on the internet. Member States shall inform the Commission of their activities in this regard; the Commission shall then make the information available to all other EU control authorities in order to make the newest practises in fraudulent installation and manipulation known to all of them.</i>		Package II EP could agree.

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 83			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 20 - paragraph 1 1. The period of administrative validity of workshop cards shall not exceed one year.	1. The period of administrative validity of workshop cards shall not exceed one year. <i>When renewing the workshop card, the competent authority shall ensure that the criteria listed in Article 19(2), are met by the fitter or workshop.</i>	1. The period of validity of workshop cards shall not exceed one year. <u>When renewing the workshop card, the competent authority shall ensure that the criteria listed in Article 19, paragraph 2, are met by the fitter, workshop or vehicle manufacturer.</u>	<u>Package II</u> EP: Agreed
Article 20 - paragraph 2			
2. If a workshop card is to be extended, is damaged, malfunctions, is lost or stolen, the authority shall supply a replacement card within five working days of receiving a detailed request to that effect. The authority issuing the card shall maintain a register of lost, stolen or defective cards.		2. <u>The competent authority shall renew a workshop card within fifteen working days after receiving a renewal request.</u> If a workshop card [...] is damaged, malfunctions, is lost or stolen, the authority shall supply a replacement card within five working days of receiving a detailed request to that effect. The authority issuing the card shall maintain a register of lost, stolen or defective cards.	<u>Package II</u> EP: Agreed

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 21 - paragraph 1</p> <p>1. The driver card shall be issued, at the request of the driver by the competent authority of the Member State where the driver has his normal residence. It shall be issued within one month of the request being received by the competent authority.</p>	<p>Amendment 84</p> <p>1. The driver card shall be issued, at the request of the driver by the competent authority of the Member State where the driver has his normal residence. It shall be issued within 15 days of the request being received by the competent authority.</p>	<p>Amendment 132</p> <p>1. The driver card shall be issued, at the request of the driver by the competent authority of the Member State where the driver has his normal residence. It shall be issued within one month of the request and all the necessary documentation being received by the competent authority.</p>	<p>Package I</p> <p>Not acceptable, stick to Council's position.</p>
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 21 - paragraph 3a</p> <p><i>3a. Without prejudice to their place of habitual residence and in order to ensure fair competition in international road transport, the individual employment contract of international drivers shall be governed by the law of the country in which, or alternately, from which, in the light of all the factors which characterise his activities, the driver carries out, on a regular basis, the greater part of his obligation towards his employer, in performance of his contract.</i></p>	<p>Amendment 132</p> <p><i>3a. Without prejudice to their place of habitual residence and in order to ensure fair competition in international road transport, the individual employment contract of international drivers shall be governed by the law of the country in which, or alternately, from which, in the light of all the factors which characterise his activities, the driver carries out, on a regular basis, the greater part of his obligation towards his employer, in performance of his contract.</i></p>	<p>Amendment 132</p> <p>3a. In duly justified cases, Member States may issue a temporary and non renewable driver card valid for a maximum period of 185 days to a driver who does not have his normal residence in a Member State or in a State which is Contracting Party to the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport, provided that such driver presents a labour law relationship with an undertaking established in the issuing Member State and</p>	<p>Package IV</p> <p>EP amendment goes beyond this Regulation. Court case ruling (C-2910) on application of the Roma Convention on regulating contracts.</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
		<u>insofar as Regulation 1072/2009 applies a driver attestation as referred to in that Regulation.</u>	
4. The competent authorities of the issuing Member State shall take appropriate measures to ensure that an applicant does not already hold a valid driver card and shall personalise the driver card in accordance with the provisions of Annex IB.	Article 21 - paragraph 4	4. The competent authorities of the issuing Member State shall take appropriate measures to ensure that an applicant does not already hold a valid driver card and shall personalise the driver card in accordance with <u>[...] the requirements of Article 3a.</u>	<u>Package I</u> (except reference to Article 3a).
5. For administrative purposes, the driver card shall not be valid for more than five years.	Article 21 - paragraph 5	5. <u>[...]</u> The driver card shall not be valid for more than five years.	<u>Package I</u> EP can accept the text?

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 21 - paragraph 6</p> <p>6. A valid driver card shall not be withdrawn or suspended unless the competent authorities of a Member State find that the card has been falsified, or the driver is using a card of which he is not the holder, or the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Member State other than the issuing Member State, the former shall return the card to the authorities of the Member State which issued it, <i>returning it</i>.</p>	<p>Amendment 85</p> <p>6. A valid driver card shall not be withdrawn or suspended unless the competent authorities of a Member State find that the card has been falsified, or the driver is using a card of which he is not the holder, or the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Member State other than the issuing Member State, the former shall return the card to the authorities of the Member State which issued it, <i>as soon as possible</i>, indicating the reasons for <i>withdrawal or suspension</i>.</p>	<p>6. A valid driver card shall not be withdrawn or suspended unless the competent authorities of a Member State find that the card has been falsified, or the driver is using a card of which he is not the holder, or the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Member State other than the issuing Member State, the former shall return the card to the authorities of the Member State which issued it, <u>as soon as possible</u>, indicating the reasons for <u>[...] withdrawal or suspension</u>. <u>If the return of the card is expected to take longer than two weeks, the suspending or withdrawing Member State shall inform the issuing Member State within those two weeks of the reasons for suspension or withdrawal.</u></p>	<p><u>Package I</u> EP: could be agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 21 - paragraph 7			
7. Driver cards shall be issued only to applicants who are subject to the provisions of Regulation (EC) No 561/2006.		<u>Deleted</u>	<u>Package I</u> EP requests clarification
Article 21 - paragraph 8			
8. Member States shall take all necessary measures to prevent driver cards from being falsified.		<u>7.</u> Member States shall take all necessary measures to prevent driver cards from being falsified.	<u>Package I</u>
Article 21 - paragraph 7a (new)			
		<u>7a. This Article shall not prevent a Member State from issuing a driver card to a driver who has his normal residence in a part of that Member State's territory, to which the TEU and TFEU do not apply.</u>	<u>Package I</u> EP requests clarification
Article 24 - paragraph 1			
1. The issuing authority shall keep records of issued, stolen, lost or defective driver cards for a period at least equivalent to their period of administrative validity.		1. The issuing authority shall keep records of issued, stolen, lost or defective driver cards for a period at least equivalent to their period of [...] validity.	<u>Package I</u> Agreed

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 24 - paragraph 2			
2. If a driver card is damaged or if it malfunctions, the driver shall return it to the competent authority of the Member of normal residence. Theft of the driver card must be formally declared to the competent authorities of the State where the theft occurred.		2. If a driver card is damaged or if it malfunctions, the driver shall return it to the competent authority of the Member <u>State</u> of normal residence. Theft of the driver card must be formally declared to the competent authorities of the State where the theft occurred.	<u>Package I</u> Agreed
Article 24 - paragraph 4			
4. If the driver card is damaged, malfunctions or is lost or stolen, the driver shall within seven calendar days apply for its replacement to the competent authorities of the Member of normal residence. These authorities shall supply a replacement card within five working days after receiving a detailed request to that effect.		4. If the driver card is damaged, malfunctions or is lost or stolen, the driver shall within seven calendar days apply for its replacement to the competent authorities of the Member of normal residence. These authorities shall supply a replacement card within <u>eight</u> working days after receiving a detailed request to that effect.	<u>Package I</u>
Article 26 - paragraph 1			
1. In order to ensure that an applicant does not already hold a valid driver card as referred to in Article 21(4), Member States		1. In order to ensure that an applicant does not already hold a valid driver card as referred to in Article 21(4), Member States shall maintain national electronic	<u>Package I</u> EP: could be agreed.

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
shall maintain national electronic registers containing the following information on driver cards for a period at least equivalent to their period of administrative validity:		registers containing the following information on driver cards including on those referred to in Article 21, paragraph 3a , for a period at least equivalent to their period of [...] validity:	
- Surname and first name of the driver		- Surname and first name of the driver	
- Birth date and place of birth of the driver		- Birth date and, if available , place of birth of the driver	
Amendment 86			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 26 - paragraph 1 - third indent			
- Driving licence number and country of issue of the driving licence (if applicable)	- Valid driving licence number and country of issue of the driving licence (if applicable)	- Valid driving licence number and country of issue of the driving licence (if applicable)	Package I Agreed
Article 26 - paragraph 1 - fourth and fifth (new) indents			
- Status of the driver card		- Status of the driver card	
		- Driver card number	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 87			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 26 - paragraph 2			
<p>2. The Commission and the Member States shall take all necessary measures to ensure that the electronic registers are interconnected and accessible throughout the Union.</p>	<p>2. The Commission and the Member States shall take all necessary measures to ensure that the electronic registers are interconnected and accessible throughout the Union, <i>using the TACHOnet Messaging System or a compatible system.</i></p>	<p>2. The Commission and the Member States shall take all necessary measures to ensure that the electronic registers are interconnected and accessible throughout the Union, <u>using the TACHOnet Messaging System or a compatible system, as long as the exchange of electronic data is possible with all other Member States through the TACHOnet Messaging System.</u></p>	<p>Package I EP: could be agreed if last part is deleted: "...as long as....".</p>
Article 26 - paragraph 3			
<p>3. Whenever issuing, renewing or replacing a driver card, Member States shall verify through electronic data exchange that the driver does not already hold another valid driver card. The data exchanged shall be limited to the purpose of this verification.</p>		<p>3. <u>[...]</u> When issuing, replacing and, when necessary, renewing a driver card, Member States shall verify through electronic data exchange that the driver does not already hold another valid driver card. The data exchanged shall be limited to the data necessary for the purpose of this verification.</p>	<p>Package I Agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 88 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 26 - paragraph 4			
4. Control officers <i>may</i> have access to the electronic register in order to control the status of a driver card.	4. Control officers <i>shall</i> have access to the electronic register in order to control the status of a driver card.	4. Control officers may have access to the electronic register in order to control the status of a driver card.	Package II EP keeps its text. Not acceptable for Council.
Amendment 89 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 27			
Driver cards shall be issued in accordance with the provisions of this Chapter <i>until 18 January 2018. With effect from 19 January 2018, driver cards shall be incorporated into driving licences and issued, renewed, exchanged and replaced in accordance with the provisions of Directive 2006/126/EC.</i>	Driver cards shall be issued in accordance with the provisions of this Chapter. <i>Within 24 months of ... , the Commission is to carry out an Impact Assessment on the feasibility and merits of merging all of the cards used by professional drivers, in particular the driver card with the driver licence, in order to reduce the amount of card fraud currently taking place. The Commission shall examine in particular all the technical solutions available, card compatibility problems and data protection related issues. The Commission shall communicate its findings to the European Parliament within 30 months of</i>	Deleted	Package I Merging driver card and driving licence EP keeps its text Delegations prefer to stick to the Council's position

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	* ...		
	* <i>OJ: please insert date of entry into force of this Regulation.</i>		
Amendment 90			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 28 - paragraph 1			
1. The transport undertaking, the vehicle owner and the drivers shall ensure the correct functioning and proper use of the recording equipment and the driver card where a driver is required to drive a vehicle fitted with the recording equipment referred to in Annex IB.	1. The transport undertaking, the vehicle owner and the drivers shall ensure the correct functioning and proper use of the tachograph and the driver card where the driver is required to drive a vehicle fitted with a digital tachograph. Whenever an analogue tachograph is used the driver shall ensure its correct functioning and the proper use of the record sheet.	1. The transport undertaking [...] and the drivers shall ensure the correct functioning and proper use of the [...] digital tachograph and the driver card. [...] Whenever an analogue tachograph is used the transport undertaking and the driver shall ensure its correct functioning and the proper use of the record sheet.	Package I Agreed
Amendment 91			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 28 - paragraph 1a (new)			
	1a. The digital tachograph shall not be set in a way that it automatically switches to a specific indication when the vehicle's engine or ignition is switched off. The driver shall be able to choose manually a category, depending on his activity or rest after the switch		Package I EP keeps its text but open to redrafting.

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<i>off.</i>			
Article 28 - paragraph 2			
<p>2. It shall be forbidden to falsify, conceal, suppress or destroy data recorded on the record sheet, stored in the recording equipment or on the driver card, or print-outs from the recording equipment referred to in Annex IB. Any manipulation of the recording equipment, record sheet or driver card which could result in data and/or printed information being falsified, suppressed or destroyed shall also be prohibited. No device which could be used to this effect shall be present on the vehicle.</p>		<p>2. It shall be forbidden to falsify, conceal, suppress or destroy data recorded on the record sheet, stored in the [...] tachograph or on the driver card, or print-outs from the [...] tachograph. Any manipulation of the [...] tachograph, record sheet or driver card which could result in data and/or printed information being falsified, suppressed or destroyed shall also be prohibited. No device which could be used to this effect shall be present on the vehicle.</p>	<p>Package I Agreed</p>
Article 28 - paragraph 3			
<p>3. Vehicles shall not be fitted with more than one set of recording equipment except for the purposes of the field tests referred to in Article 16.</p>		<p>3. Vehicles shall not be fitted with more than one [...] tachograph except for the purposes of the field tests referred to in Article 16.</p>	<p>Package I Agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 28 - paragraph 4			
4. Member States shall forbid the production, distribution, advertising and/or selling of devices constructed and/or intended for the manipulation of recording equipment.		4. Member States shall forbid the production, distribution, advertising and/or selling of devices constructed and/or intended for the manipulation of <u>[...] tachographs</u> .	Package I Agreed
Amendment 153			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 28 - paragraph 4a (new)			
	4a. Member States shall monitor and prosecute the increasing offer of fraudulent installation and the installation of manipulation devices for recording equipment on the internet.		Package I Covered by Council's position, Article 28, paragraph 4.
Amendment 92			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 29 - paragraph -1 (new)			
	-1. The transport undertaking shall:		
	(1) give to drivers it employs or who are at its disposal the necessary training and instructions as regards the correct functioning of tachographs;		<i>[covered by Council's position, Article 29, paragraph 2a].</i>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>(2) make regular checks to ensure that the drivers it employs or who are at its disposal make correct use of tachographs and;</i>		
	<i>(3) not give to drivers it employs or who are at its disposal any direct or indirect incentives that could encourage the misuse of the recording equipment.</i>		
Article 29 - paragraph 1			
<p>The transport undertaking shall issue a sufficient number of record sheets to drivers of vehicles fitted with the recording equipment referred to in Annex I taking into account the fact that these sheets are personal in character, the length of the period of service and the possible need to replace sheets which are damaged, or have been taken by an authorised inspecting officer.</p> <p>The transport undertaking shall issue to drivers only record sheets of an approved model suitable for use in the equipment installed in the vehicle.</p>		<p>The transport undertaking shall issue a sufficient number of record sheets to drivers of vehicles fitted with [...] an analogue tachograph taking into account the fact that these sheets are personal in character, the length of the period of service and the possible need to replace sheets which are damaged, or have been taken by an authorised inspecting officer. The transport undertaking shall issue to drivers only record sheets of an approved model suitable for use in the equipment installed in the vehicle.</p>	<p>Package I EP: could be agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>Where the vehicle is fitted with the recording equipment referred to in Annex IB the transport undertaking and the driver shall ensure that, taking into account the length of the period of service, the printing on request referred to in Annex IB can be carried out correctly in the event of an inspection.</p>		<p>Where the vehicle is fitted with a <u>[...]</u> digital tachograph the driver shall ensure that, taking into account the length of the period of service, the printing on request referred to in <u>[...]</u> the requirements of Article 3a can be carried out correctly in the event of an inspection.</p>	
Article 29 - paragraph 2a (new)			
		<p><u>2a. The transport undertaking shall give the necessary instructions to its drivers as regards the correct functioning of the recording equipment, shall make regular checks to ensure that its drivers make a correct use of the recording equipment and shall not give to its drivers any direct or indirect incentives that could encourage the misuse of the recording equipment.</u></p>	<p><u>Package I</u> EP: could be agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 29 - paragraph 3</p> <p>3. A transport undertaking shall be liable for infringements against this Regulation committed by drivers of the undertaking. <i>Without prejudice to the right of</i> Member States <i>to</i> hold transport undertakings fully liable, Member States may consider any evidence that the transport undertaking cannot reasonably be held responsible for the infringement committed.</p>	<p>Amendments 92+124+133</p> <p>3. A transport undertaking shall be liable for infringements against this Regulation committed by drivers of the undertaking <i>or by those at its disposal. Whilst</i> Member States <i>can</i> hold transport undertakings fully liable, <i>in doing so</i> Member States may <i>nonetheless</i> consider any evidence that <i>demonstrates that</i> the transport undertaking cannot reasonably be held responsible for the infringement committed.</p> <p><i>Controlling authorities shall make regular checks in accordance with Article 10(4) of Regulation (EC) No 561/2006.</i></p>	<p>3. A transport undertaking shall be liable for infringements against this Regulation committed by drivers of the undertaking. <u>[...]</u> <u>However,</u> Member States may <u>[...]</u> <u>make this liability conditional on the undertaking's infringement of paragraph 2a of this Article and Article 10(1) and (2) of Regulation 561/2006.</u></p>	<p><u>Package I</u> <u>Transport company liability</u> EP keeps its text but open to redrafting</p>
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 30 - paragraph 3 - subparagraph 2</p> <p>For control purposes, periods of time for which no activity has been recorded shall be regarded as rest or break. <i>Drivers are not obliged to record daily and weekly rest periods when having been away from the vehicle.</i></p>	<p>Amendments 95</p> <p>For control purposes, periods of time for which no activity has been recorded shall be regarded as rest or break. <i>Member States shall not impose on drivers the presentation of forms attesting their activities while being away from the vehicle.</i></p>	<p><u>Package I</u> Stick to Council's position</p>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendments 96			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 30 - paragraph 7 - subparagraph 1			
<p>7. The driver shall enter in the <i>recording equipment referred to in Annex IB</i> the symbols of the countries in which the daily <i>work</i> period was started and finished. However, a Member State may require drivers engaged in transport operations inside its territory to add more detailed geographic specifications to the country symbol provided that the Member State notified them to the Commission before 1 April 1998.</p>	<p>7. The driver shall enter in the <i>digital tachograph</i> the symbols of the countries in which the daily <i>working</i> period was started and finished. However, a Member State may require drivers of vehicles engaged in transport operations inside its territory to add more detailed geographic specifications to the country symbol provided that the Member State notified them to the Commission before 1 April 1998.</p>	<p>7. The driver shall enter in the <u>[...]</u> digital tachograph the symbols of the countries in which the daily working period was started and finished. However, a Member State may require drivers of vehicles engaged in transport operations inside its territory to add more detailed geographic specifications to the country symbol provided that the Member State notified them to the Commission before 1 April 1998.</p>	<p>Package I Agreed</p>
Article 30 - paragraph 7 - subparagraph 2			
<p>It shall not be necessary for drivers to enter this information if the recording equipment is automatically recording location data in accordance with Article 4.</p>		<p>It shall not be necessary for drivers to enter this information if the <u>[...]</u> tachograph is automatically recording location data in accordance with Article 4.</p>	<p>Package I Agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 31 - paragraph 2 - point (b)			
<p>(b) at the end of the journey, print out the information relating to periods of time recorded by the recording equipment, record any periods of other work, availability and rest undertaken since the printout that was made at the start of the journey, where not recorded by the recording equipment, and mark on that document details that enable the driver to be identified (name, driver card or driver's licence number), including the driver's signature.</p>		<p>(b) at the end of the journey, print out the information relating to periods of time recorded by the <u>[...]</u> tachograph, record any periods of other work, availability and rest undertaken since the printout that was made at the start of the journey, where not recorded by the tachograph, and mark on that document details that enable the driver to be identified (name, driver card or driver's licence number), including the driver's signature.</p>	<p>Package I Agreed</p>
Article 32 - paragraph 1			
<p>1. Where the driver drives a vehicle fitted with the recording equipment referred to in Annex I, the driver shall be able to produce, whenever an inspecting officer so requests:</p>		<p>1. Where the driver drives a vehicle fitted with <u>[...]</u> an analogue tachograph, the driver shall be able to produce, whenever an inspecting officer so requests:</p>	<p>Package I Agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 32 - paragraph 2			
2. Where the driver drives a vehicle fitted with the recording equipment referred to in Annex IB, he shall be able to produce, whenever an inspecting officer so requests:		2. Where the driver drives a vehicle fitted with <u>[...] a digital tachograph</u> , he shall be able to produce, whenever an inspecting officer so requests:	<u>Package I</u> Agreed
Article 32 - paragraph 2 - point (iii)			
(iii) the record sheets corresponding to the same period as the one referred to in point (ii) during which he drove a vehicle fitted with the recording equipment referred to in Annex I.		(iii) the record sheets corresponding to the same period as the one referred to in point (ii) during which he drove a vehicle fitted with <u>[...] an analogue tachograph</u> .	<u>Package I</u> Agreed
Amendment 97			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 32 - paragraph 3			
3. <i>An authorised</i> inspecting officer may check compliance with Regulation (EC) No 561/2006 by analysis of the displayed <i>or</i> printed data which have been recorded by the <i>recording equipment</i> or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid down	3. <i>A certified</i> inspecting officer may check compliance with Regulation (EC) No 561/2006 by analysis of the record sheets, of the displayed, printed <i>or downloaded</i> data which have been recorded by the <i>tachograph</i> or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid down in Articles	3. An authorised inspecting officer may check compliance with Regulation (EC) No 561/2006 by analysis of the record sheets, of the displayed, printed <u>or downloaded</u> data which have been recorded by the <u>[...] tachograph</u> or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid	<u>Package II</u> Certification of control officers (AMDS 97, 98, 103, 104, 106, 107 and 108) Difficult to implement by MS

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
in Articles 24(2) and 33(2) of this Regulation.	24(2) and 33(2) of this Regulation.	down in Articles 24(2) and 33(2) of this Regulation.	
Amendment 98 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 32 - paragraph 3a (new)			
	<p>3a. The Commission is to carry out a study of enforcement regimes in all the Member States, within 18 months of the first Enforcement Officer Certificates being awarded, to establish how many certified officers there are in each Member State.</p> <p>Thereafter, Member States must report to the Commission on an annual basis, detailing the training received by officers, and the numbers of active Enforcement Officers who have obtained the European Certificate.</p>		<p>Package II Stick to Council's position (annual requirement is too much).</p>
Article 33 - paragraph 1 - subparagraph 1			
1. In the event of breakdown or faulty operation of the recording equipment, the transport undertaking shall have it repaired by an approved fitter or workshop, as soon as circumstances permit.		1. In the event of breakdown or faulty operation of the [...] tachograph , the transport undertaking shall have it repaired by an approved fitter or workshop, as soon as circumstances permit.	<p>Package II EP: Agreed</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 33 - paragraph 1 - subparagraph 2			
If the vehicle is unable to return to the premises within a period of one week calculated from the day of the breakdown or of the discovery of defective operation, the repair shall be carried out <i>en route</i> .		If the vehicle is unable to return to the premises within a period of one week calculated from the day of the breakdown or of the discovery of defective operation, the repair shall be carried out <i>en route</i> .	<u>Package II</u>
Amendment 99			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 33 - paragraph 1 - subparagraph 3			
Measures taken by Member States pursuant to Article 37 may give the competent authorities power to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been remedied as provided in the first and the second subparagraphs.	Measures taken by Member States pursuant to Article 37 shall include the power of the competent authorities to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been remedied as provided in the first and the second subparagraphs.	Measures taken by Member States pursuant to Article 37 may give the competent authorities power to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been remedied as provided in the first and the second subparagraphs.	<u>Package II</u> EP keeps its text.
Amendment 100			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 33 - paragraph 1 - subparagraph 3a (new)			
	<i>In this respect the Commission will check that national and foreign vehicles are treated in the same way in order to prevent discrimination.</i>		<u>Package II</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 33 - paragraph 2			
<p>2. While the recording equipment is unserviceable or malfunctioning, drivers shall mark data enabling identification of the driver (name, driver card or driving licence number), including a signature, as well as the information for the various periods of time which are no longer recorded or printed out correctly by the recording equipment:</p>		<p>2. While the [...] tachograph is unserviceable or malfunctioning, drivers shall mark data enabling identification of the driver (name, driver card or driving licence number), including a signature, as well as the information for the various periods of time which are no longer recorded or printed out correctly by the [...] tachograph:</p>	<p>Package II EP: Agreed</p>
Amendment 101			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Chapter VII - title			
Data protection, enforcement and sanctions	Enforcement and sanctions		<p>Package I Data protection (linked to AMD 44)</p>
Amendment 102			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 34			
Article 34 Protection of personal data	deleted	<p>Article 34 Protection of personal data</p>	<p>Package I Data protection (linked to AMD 44)</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p><i>1. Member States shall ensure that the processing of personal data in the context of this Regulation is carried out in accordance with Directives 95/46/EC and 2002/58/EC and under the supervision of the public independent authority of the Member State referred to in Article 28 of Directive 95/46/EC.</i></p>		<p>1. Member States shall ensure that the processing of personal data in the context of this Regulation is carried out <u>solely for the purpose of verifying compliance with this Regulation and Regulation 561/2006</u>, in accordance with Directives 95/46/EC and 2002/58/EC and under the supervision of the public independent authority of the Member State referred to in Article 28 of Directive 95/46/EC.</p>	
<p><i>2. Member States shall in particular ensure that personal data is protected in relation to:</i></p> <ul style="list-style-type: none"> <i>- the use of a global navigation satellite system (GNSS) for the recording of location data as referred to in Article 4,</i> <i>- the use of remote communication for control purposes as referred to in Article 5,</i> <i>- the use of recording equipment with a harmonised interface as referred to in Article 6,</i> 		<p>2. Member States shall in particular ensure that personal data is protected in relation to:</p> <ul style="list-style-type: none"> - the use of a global navigation satellite system (GNSS) for the recording of location data as referred to in Article 4, - the use of remote communication for control purposes as referred to in Article 5, - the use of <u>[...] tachograph</u> with a harmonised interface as referred to in Article 6, 	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>- the electronic exchange of information on driver cards as referred to in Article 26,</p> <p>- the keeping of records by transport undertakings as referred to Article 29.</p>		<p>- the electronic exchange of information on driver cards as referred to in Article 26,</p> <p>- the keeping of records by transport undertakings as referred to Article 29.</p>	
<p>3. The recording equipment referred to in Annex IB shall be designed in such a way as to ensure privacy. Only data strictly necessary for the purpose of the processing shall be processed.</p>		<p>3. The [...] digital tachograph shall be designed in such a way as to ensure privacy. Only data [...] necessary for the purpose of the processing shall be processed.</p>	
<p>4. The owners of vehicles and/or transport undertakings shall comply, where applicable, with the relevant provisions on the protection of personal data.</p>		<p>4. The owners of vehicles, transport undertakings and/or any other entity concerned shall comply, where applicable, with the relevant provisions on the protection of personal data.</p>	
Amendment 103			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 34a (new)			
	<i>Article 34a</i> Control officers		Package II Control officers

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>1. In order to effectively monitor compliance with this Regulation sufficient standard equipment and appropriate legal powers shall be available to all certified control officers to enable them to carry out their duties according to this Regulation. In particular:</i></p>		<p>Implementing acts and harmonisation of certificates (AMDS 103 to 109)</p>
	<p><i>(a) Certified control officers shall be in possession of control cards allowing access to data recorded in the tachograph and in the tachograph cards, including the workshop card.</i></p>		
	<p><i>(b) Certified control officers shall have the relevant harmonised and standardised tools and type-approved software to download data files of the vehicle unit and the tachograph cards and to be able to analyse speedily such data files and print-outs from the digital tachograph in combination with sheets or charts from the analogue tachograph.</i></p>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>2. If after having carried out a check certified control officers find enough evidence leading to reasonable suspicion of fraud, they shall be empowered to direct the vehicle to an authorised workshop to perform further tests in order to control, in particular, that the tachograph:</i></p>		
	<p><i>(a) works properly;</i></p>		
	<p><i>(b) records and stores data correctly and;</i></p>		
	<p><i>that the calibration parameters are correct.</i></p>		
	<p><i>3. Certified control officers shall be empowered to instruct authorised workshops to perform the test mentioned in paragraph 2 and specific tests designed to test for the presence of manipulation devices. If manipulation devices are detected, the equipment, including the device itself, the vehicle unit or its components, and the driver card, may be removed from the vehicle and be used as evidence in compliance with national rules of procedure</i></p>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>relating to the handling of such evidence.</i>		
	<i>4. Certified control officers shall make use of the possibility to check tachographs and driver cards which are on site during a check of the premises of the undertaking.</i>		
	<i>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 to develop the technical and functional specifications in relation to the equipment referred to in paragraph 1.</i>		
Article 35 - paragraph 1			
1. Member States shall ensure that control officers are appropriately trained for the analysis of the data recorded and the control of the recording equipment.		1. Member States shall ensure that control officers are appropriately trained for the analysis of the data recorded and the control of the <u>[...] chograph</u> <u>in order to achieve an efficient and harmonised control and enforcement.</u>	<u>Package II</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
2. Member States shall inform the Commission about the training requirements for their control officers by [6 months after the date of application of this Regulation].	Article 35 - paragraph 2 2. Member States shall inform the Commission about the training requirements for their control officers by 6 months after the date of application of this Regulation.	Package II	
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 35 - paragraph 2a (new)	Amendment 104 2a. <i>The Commission shall adopt decisions to establish a common system of training of control officers within 12 months of ...</i> * <i>OJ: please insert date of entry into force of this Regulation.</i>		
3. The Commission shall adopt <i>decisions on the methodology for the initial and continuing training of control officers, including on techniques to target controls and to detect manipulation devices and fraud. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 40(2).</i>	Amendment 105 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 35 - paragraph 3 3. The Commission shall adopt <i>a methodology for the initial and continuing training of control officers, including on techniques to target controls and to detect manipulation devices and fraud. This methodology shall be based on guidelines providing a common interpretation of this Regulation and Regulation 561/2006/EC in order to guarantee a uniform analysis of</i>	3. The Commission shall adopt <u>...</u> measures, specifying the content of the initial and continuing training of control officers, including on techniques to target controls and to detect manipulation devices and fraud. Those implementing acts shall be adopted in accordance with the <u>...</u> examination procedure referred to in Article 40(3).	Package III

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>data recorded by the tachograph in all Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(3).</i>		
Amendment 106			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 35 - paragraph 3a (new)	3a. 24 months after ... * control officers shall pass an examination in order to obtain a European Enforcement Certificate. This harmonised certification shall prove that they have the appropriate skills to efficiently execute their control tasks as defined in this Regulation, in particular in relation to Article 34a.		Package II Examination of control officers EP wants to keep its text
	* OJ: please insert date of application of this Regulation.		
Amendment 107			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 35 - paragraph 3b (new)	3b. The Commission shall adopt decisions on the requirements and contents of the examination referred to in paragraph 3a. Those implementing acts shall be adopted in accordance with the examination procedure referred		Package II Examination of control officers EP wants to keep its text

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>to in Article 40(3).</i>		
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 35 - paragraph 3c (new)	Amendment 108 <i>3c. The Commission shall present to the European Parliament and the Council a report every two years regarding the number of control officers following the training in each Member State and obtaining the European Enforcement Certificate.</i>		<u>Package II</u>
	Amendment 109		
	Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 35a <i>Article 35a</i>		<u>Package II</u>
	<i>Very serious infringements</i> <i>The following infringements of the obligations set out in this Regulation, due to their special gravity and possible consequences for road safety, shall be considered as very serious infringements in the legislation of Member States:</i>		
	<i>(1) In relation to the obligations concerning the installation of recording equipment: the installation and use of non type-</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>approved tachograph;</i>		
	<i>(2) In relation to the obligations concerning the use of tachographs, driver card or record sheet:</i>		
	<i>(a) the use of a tachograph not complying with the obligations related to inspection referred to in Article 18</i>		
	<i>(b) the use of a tachograph not properly inspected, calibrated or sealed;</i>		
	<i>(c) the use of a driver card which is not valid;</i>		
	<i>(d) an undertaking not keeping record sheets, printouts and downloaded;</i>		
	<i>(e) a driver holding more than one valid driver card;</i>		
	<i>(f) the use of a driver card which is not the driver's own valid card;</i>		
	<i>(g) the use of a defective or expired driver card;</i>		
	<i>(h) recorded and stored data not available for at least 365 days;</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>(i) the use of dirty or damaged sheets or driver cards and data which are not legible;</i>		
	<i>(j) incorrect use of record sheets/driver cards;</i>		
	<i>(k) record sheet or driver card used to cover a period longer than that for which it is intended and data is lost;</i>		
	<i>(l) not using manual input when required to do so;</i>		
	<i>(m) not using correct sheets or driver cards in the correct slot (multimanning).</i>		
	<i>(3) In relation to the obligation to fill in information: first name and surname missing on record sheet.</i>		
	<i>(4) In relation to the obligation to produce information:</i>		
	<i>(a) a refusal to be checked;</i>		
	<i>(b) an unjustified lack of records for the current day:</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>(c) an unjustified lack of records for the previous 28 days;</i>		
	<i>(d) an unjustified lack of records of the driver card if the driver holds one;</i>		
	<i>(e) an unjustified lack of manual records and printouts made during the current week and the previous 28 days;</i>		
	<i>(f) unable to produce a driver card;</i>		
	<i>(g) unable to produce print outs made during the current week and the previous 28 days.</i>		
	(5) Breakdown:		
	<i>Tachograph not repaired by an approved fitter or workshop.</i>		
	(6) Manual input on printouts:		
	<i>(a) driver not marking all information for the periods of time which are no longer recorded while recording equipment is unserviceable or malfunctioning;</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>(b) driver card number and/or name and/or driving licence number missing on temporary sheet;</i>		
	<i>(c) loss or theft of driver card not formally declared to the competent authorities of the Member State where the loss or theft occurred.</i>		
	<i>(7). In relation to fraud:</i>		
	<i>(a) to falsify, suppress, or destroy data recorded on record sheets, stored in the tachograph or on the driver card or print-outs from the recording tachograph;</i>		
	<i>(b) manipulation of recording equipment, record sheet, driver card or company card which results in data and/or printout information being falsified;</i>		
	<i>(c) manipulation device that could be used to falsify data and/or printout information present on the vehicle.</i>		

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 36 - paragraph 2</p> <p>Within the framework of this mutual assistance, the competent authorities of the Member States shall in particular regularly send to each other all available information concerning infringements to this Regulation related to fitters and workshops, and any penalties imposed for such infringements.</p>	<p>Amendment 110</p> <p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 36 - paragraph 2</p> <p>Within the framework of this mutual assistance, the competent authorities of the Member States shall in particular regularly send to each other all available information concerning infringements to this Regulation related to fitters and workshops, types of manipulation practices, and any penalties imposed for such infringements.</p>	<p>Amendment 110</p> <p>Within the framework of this mutual assistance, the competent authorities of the Member States shall in particular regularly send to each other all available information concerning infringements to this Regulation related to fitters and workshops, types of manipulation practices, and any penalties imposed for such infringements.</p>	<p>Package II</p> <p>EP: agreed</p>
<p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 36a (new)</p> <p><i>Article 36a</i></p> <p><i>Telephone Hotline</i></p> <p><i>The Commission shall install a website and an EU-wide hotline called free of charge and anonymously by drivers or any other concerned stakeholder wishing to report fraud that falls under the scope of this Regulation.</i></p>	<p>Amendment 111</p> <p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 36a (new)</p> <p><i>Article 36a</i></p> <p><i>Telephone Hotline</i></p>	<p>Amendment 111</p> <p>Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 36a (new)</p>	<p>Package II</p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 37 - paragraph 1			
<p>1. Member States shall lay down rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory. In the case of workshops which have infringed the provisions of this Regulation, this may include the cancellation of approval and withdrawal of the workshop card.</p>		<p>1. Member States shall, <u>[...] in accordance with national constitutional arrangements,</u> lay down rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory <u>[...] and in compliance with the categories of infringements as defined in Directive 2006/22/EC.</u></p>	<p><u>Package II</u></p>
Article 37 - paragraph 2			
<p>1. No infringement of this Regulation shall be subjected to more than one penalty or procedure.</p>		<p><u>Deleted</u></p>	<p><u>Package II</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>3. The sanctions laid down by Member States for very serious infringements as defined in Directive 2009/5/EC shall be of the highest categories applicable in the Member State for infringements of road transport legislation.</p>	<p>Amendment 112 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 37 - paragraph 3</p> <p>3. The sanctions laid down by Member States for very serious infringements as defined in Article 35a of this Regulation shall be of the highest categories applicable in the Member State for infringements of road transport legislation.</p>	<p>Deleted</p>	<p>AMDS 112, 113, 114 and 115: implementing acts</p>
<p><i>Article 38</i> <i>Adaptation to technical progress</i></p> <p>The Commission shall be empowered to adopt delegated acts in accordance with Article 39 for the purpose of adapting Annexes I, IB and II to technical progress.</p>	<p>Article 38</p> <p>Deleted</p>	<p>Package III</p>	
	<p>Amendment 125 Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 38 - paragraph 1a (new)</p> <p>The Commission shall adopt the detailed specifications referred to in Articles 4, 5 and 6 by ...*. It may adopt delegated acts pursuant to Article 39 to extend that time limit if it can show at that date that no suitable equipment meeting the required</p>	<p>Package III</p>	

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>specifications is yet available.</i>		
	<i>* OJ please insert date: two years after entry into force of this Regulation.</i>		
Article 39 - title and paragraph 1			
<p><i>Article 39</i></p> <p><i>Exercise of the delegation</i></p> <p>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</p>		<u>Deleted</u>	<u>Package III</u>
Amendment 113			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 39 - paragraph 2			
<p><i>2. The delegation of power referred to in Articles 4, 5, 6 and 38 shall be conferred for an indeterminate period of time from the [date of entry into force of this Regulation].</i></p>	<p>2. The delegation of power referred to in <i>Articles 3g, 4, 5, 6 and 34a</i> shall be conferred on the <i>Commission</i> for a period of <i>five years</i> from <i>The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension</i></p>	<u>Deleted</u>	<u>Package III</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<i>not later than three months before the end of each period.</i>		
	* <i>OJ: please insert date of entry into force of this Regulation.</i>		
Amendment 114			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 39 - paragraph 3			
<p>3. <i>The delegation of powers referred to in Articles 4, 5, 6 and 38 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</i></p>	<p>3. The delegation of powers referred to in Articles 3g, 4, 5, 6 and 34a may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p>	<u>Deleted</u>	<u>Package III</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 39 - paragraph 4			
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		<u>Deleted</u>	<u>Package III</u>
Amendment 115			
Article 1 - Point 1 - Council Regulation (EEC) No 3821/85 - Article 39 - paragraph 5			
5. A delegated act adopted pursuant to <i>Articles 4, 5, 6 and 38</i> shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [2 months] at the initiative of the European Parliament or the Council.	5. A delegated act adopted pursuant to <i>Articles 3g, 4, 5, 6 and 34a</i> shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [2 months] at the initiative of the European Parliament or the Council.	<u>Deleted</u>	<u>Package III</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
<p>2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.</p> <p>Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.</p>	<p>Article 40 - paragraph 2</p>	<p>2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.</p> <p>[...]</p>	<p><u>Package III</u></p>
<p>3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</p> <p>Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.</p>	<p>Article 40 - paragraph 3</p>	<p>3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</p> <p><u>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.</u></p> <p>Where the opinion of the committee is to be obtained by written procedure, that procedure</p>	<p><u>Package III</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
		shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.	
Article 41 - paragraph 1			
1. A Tachograph Forum shall be set up in order to support dialogue on technical matters concerning the recording equipment among Member States' experts, and experts from third countries which are using the recording equipment under the European agreement concerning the work of crews of vehicles engaged in international road transport (AETR).		1. A Tachograph Forum shall be set up in order to support dialogue on technical matters concerning the <u>[...] tachograph</u> among Member States' experts, <u>members of the Committee of Article 40</u> , and experts from third countries which are using the <u>[...] tachograph</u> under the European agreement concerning the work of crews of vehicles engaged in international road transport (AETR).	<u>Package III</u>
Article 41 - paragraph 2			
2. Member States shall delegate an expert to the Tachograph Forum.		2. Member States <u>[...] should</u> delegate <u>as experts</u> to the Tachograph Forum <u>the experts participating in the Committee referred to in Article 40.</u>	<u>Package III</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - point 2			
2) Annex I to Regulation (EEC) No 3821/85 is amended as follows:		<u>Deleted</u>	<u>Package III</u>
(b) (a) In Chapter I Definitions, point (b) is deleted.			
(c) (b) in Chapter III (c) , in point 4.1, the reference to "Article 15(3) , second indent (b), (c) and (d) of the Regulation" is replaced by "Article 30(5), second indent (b), (c) and (d) of the Regulation "			
(d) (c) in Chapter III (c) , in point 4.2, the reference to "Article 15 of the Regulation" is replaced by "Article 30 of the Regulation"			
(e) (d) in Chapter IV (a) point 1, third subparagraph, the reference to "Article 15(5) of the Regulation" is replaced by "Article 30(6) of the Regulation " .			

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 1 - point 3			
3) Annex IB to Regulation (EEC) No 3821/85 is amended as follows:		<u>Deleted</u>	<u>Package III</u>
(f) (a) In Chapter I Definitions, points (l), (o), (t), (y), (ee), (kk), (oo) and (qq) are deleted:			
(g) (b) Chapter VI is amended as follows:			
(1) (1) in the first paragraph, the reference to "Article 12(5) of Regulation (EEC) No 3821/85 as last amended by Regulation (EC) No 2135/98" is replaced by "Article 24(5) of Regulation (EEC) No 3821/85".			
(2) (2) Section 1 "Approval of fitters or workshops" is deleted.			
(h) (c) In Chapter VIII, point 271, the reference to "Article 5 of this Regulation" is replaced by a reference to "Article 8 of this Regulation".			

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Amendment 134			
	Article 2 - point -1 (new) - Article 2 - paragraph 1 - point a - Regulation (EC) 561/2006		
(i)	<i>(-1) In Article 2(1)(a), "3,5 tonnes" is replaced by "2,8 tonnes";</i>		<p><u>Package IV</u> AMDS 134 to the end: Regulation 561/2006.</p> <p>Council is against opening this Regulation, except for the distance (Art 2)</p>
Amendment 126+135			
	Article 2 - point -1a (new) - Article 3 - point aa (new) - Regulation (EC) 561/2006		
(j)	<p><i>(-1a) In Article 3, the following point is inserted:</i></p> <p><i>"(aa) vehicles or combinations of vehicles used for carrying materials, equipment or machinery for the driver's use in the course of his work, and which are used only within a 100 kilometre radius from the base of the undertaking and only on the condition that driving the vehicle does not constitute the driver's main activity;"</i></p>		<p><u>Package IV</u></p>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p>Amendment 127</p> <p>Article 2 - point -1b (new) - Article 8 - paragraph 2a (new) - Regulation (EC) 561/2006</p> <p><i>(-1b) In Article 7, the following paragraph is added:</i></p> <p><i>"2a. By way of derogation from the first and second paragraphs, a driver engaged in the carriage of passengers shall, after a driving period of four-and-a-half hours, take a break of not less than 45 minutes. This break may be replaced by a number of breaks of at least 15 minutes."</i></p>		<u>Package IV</u>
(1)	<p>Amendment 128</p> <p>Article 2 - point -1c (new) - Article 8 - paragraph 6a (new) - Regulation (EC) 561/2006</p> <p><i>(-1c) In Article 8, paragraph 6a is replaced by the following:</i></p> <p><i>"6a. By way of derogation from paragraph 6, a driver engaged in the carriage of passengers, as defined in Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, may postpone the weekly rest period for up to 12 consecutive 24-hour periods following a previous regular</i></p>		<u>Package IV</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p><i>weekly rest period, provided that:</i></p> <p><i>(a) the driver takes one regular weekly rest period after the use of the derogation;</i></p> <p><i>(b) a total weekly rest period of 140 hours is observed within a four-week period."</i></p>		
Article 2			
<p><i>Article 2</i></p> <p>Regulation (EC) No 561/2006 is amended as follows:</p> <p>The distance of '50 km' referred to in points (d), (f) and (p) of Article 13(1) is replaced by '100 km'.</p>		<p><i>Article 43</i></p> <p>Regulation (EC) No 561/2006 is amended as follows:</p> <p>The distance of '50 km' referred to in points (d), (f) and (p) of Article 13(1) is replaced by '100 km'.</p>	<u>Package IV</u>
Amendment 117			
	<p>Article 2 - point 1a (new) - Article 13 - paragraph 1, the two indents are replaced by the following:</p> <p><i>'- for the purpose of delivering postal items.'</i></p>	<p>Article 2 - point 1a (new) - Article 13 - paragraph 1 - point d - Regulation (EC) 561/2006</p>	<u>Package IV</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
	<p>Amendment 118</p> <p>Article 2 - point 1b (new) - Article 13 - paragraph 1 - point h - Regulation (EC) 561/2006</p> <p><i>(1b) In Article 13, paragraph 1, point (h) 'road maintenance and control' is replaced by 'road construction, maintenance and control'.</i></p>		<u>Package IV</u>
	<p>Amendment 119</p> <p>Article 2 - point 1c (new) - Article 13 - paragraph 1 - point l - Regulation (EC) 561/2006</p> <p><i>(1c) Article 13, paragraph 1, point (l) is replaced by the following:</i></p> <p><i>'(l) vehicles used for milk collection from farms and/or the return to farms of milk containers or the delivery of milk products intended for animal feed'.</i></p>		<u>Package IV</u>
	<p>Amendment 120</p> <p>Article 2 - point 1d (new) - Article 13 - paragraph 1 - point q (new) - Regulation (EC) 561/2006</p> <p><i>(1d) In Article 13, paragraph 1 the following point is added:</i></p> <p><i>'(q) vehicles used in construction traffic for the supply and delivery of building materials'.</i></p>		<u>Package IV</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
(m)	Article 44 (new)	<p><u>Article 44</u> <u>Transitional measures</u></p> <p><u>Insofar as the implementing acts referred to in this Regulation have not been adopted, so that they may be applied at the time of application of this Regulation, the provisions in Regulation 3821/85, including in the Annexes, shall continue to apply, on a transitional basis, until the date of application of the implementing acts referred to in this Regulation.</u></p>	<u>Package III</u>
(n)	Article 45 (new)	<p><u>Article 45</u> <u>Repeal</u></p> <p><u>Regulation 3821/85 is hereby repealed. References to the repealed Regulation shall be construed as references to this Regulation. Any measure adopted on the basis of Regulation 3821/85 shall remain valid.</u></p>	<u>Package III</u>

Commission proposal st13195/11	EP amendments (1st reading)	Council's position	Comments
Article 3			
<p><i>Article 3</i></p> <p>This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply with effect from [one year after entry into force].</p> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p>		<p><i>Article 46</i> <u>Entry into force</u></p> <p>This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>.</p> <p>It shall, subject to the transitional measures in Article 44, apply with effect from <u>two years</u> after entry into force <u>except for the provisions in Articles 19, 30 and 43 of this Regulation, which shall apply with effect from one year after entry into force.</u></p> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p>	<p><u>Package III</u></p>