



**COUNCIL OF
THE EUROPEAN UNION**

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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject : Position of the Council with a view to the adoption of a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures ("Eurovignette")
- Draft statement of the Council's reasons

I. INTRODUCTION

On 8 July 2008, the Commission presented to the Council its proposal for a Directive amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures.¹

On 10 March 2009, the European Parliament voted its opinion at first reading².

On 15 October 2010, the Council reached a political agreement on the draft proposal. Following legal/linguistic revision, the Council adopted its Position on [...] in accordance with the ordinary legislative procedure laid down in Article 294 of the Treaty on the Functioning of the European Union.

In carrying out its work, the Council took account of the opinions of the European Economic and Social Committee and of the Committee of Regions.

II. ANALYSIS OF THE COUNCIL'S POSITION

1. General

The proposal for a Directive of the European Parliament and the Council amending the existing Directive on the charging of Heavy Goods Vehicles for the use of certain infrastructures, the "Eurovignette" Directive (Directive 1999/62/EC as amended by Directive 2006/38/EC of 17.05.2006) is part of the so called "Greening of Transport" package which aims at steering transport towards sustainability. The main purpose of this proposal is to adapt the road-transport charging framework so as to enable Member States to calculate and vary tolls on the basis of the external costs of road freight transport in terms of air pollution, noise and congestion, by further implementing the "polluter pays" principle.

¹ Doc. 11857/08

² A6-0066/2009

The proposal presented by the Commission contains provisions that would allow Member States to integrate in tolls levied on heavy goods vehicles an amount corresponding to the cost of the air and noise pollution due to the traffic and the cost of congestion imposed upon other vehicles. This amount would vary according to the Euro emission category, the distance travelled, the location and the time of use of roads. In its proposal, the Commission invites Member States to allocate the revenue received in this way to projects relating to the sustainable development of transport. In addition, the scope of the Directive is extended beyond the trans-European transport network.

Although the Council agrees with the Commission as regards the objective of the proposal, the Council's approach involved some adaptations of the original proposal. A number of the proposed provisions were not accepted because they were considered to be difficult to implement and others were redrafted with a view to clarifying the Directive.

Resulting from this approach, the Council's Position modifies, to a certain extent, the original Commission proposal by redrafting it and deleting some provisions of the text. This implies that all amendments introduced in the European Parliament's first-reading opinion related to these deleted provisions were not accepted by the Council.

The Council aims at a balanced approach that takes into account the economic importance of the heavy goods road transport sector for the EU economy and the need to tackle its negative environmental impacts.

2. Key policy issues

i) Geographical scope

The Commission proposed to extend the scope of the Directive outside of the trans-European network (TEN) to all roads (Article 7, paragraph 1).

The Council considers that the Commission proposal needs to be modified in this respect, in order to limit the extension of the scope to the non TEN motorways. Therefore, the Council's Position states that a Member State may maintain or introduce tolls and/or user charges on the trans-European network or on certain sections of that network, and on any additional sections of their network of motorways which are not part of the trans-European network. Moreover, the Council makes clear that this is without prejudice to the right of Member States to apply tolls and/or user charges on other roads, provided that the imposition of tolls and/or user charges on such roads does not discriminate against international traffic and does not result in distortion of competition between operators. In this context, amendment 25 of the Parliament was not accepted.

ii) Vehicle scope

In its original text, the Commission proposes to maintain the provision adopted in 2006 according to which a Member State may choose to apply tolls and/or user charges only to vehicles of 12 tonnes and more, until 31 December 2011. After that period, charges shall be applied to all heavy duty vehicles, unless a Member State considers that charging vehicles of less than 12 tonnes would affect the traffic flow, the environment, noise levels, congestion or health, or represents an administrative burden of more than 30% of the additional revenue which would have been generated by the extension to those vehicles.

The Council considers that this provision should give more discretion to Member States. In order to make the text clearer, the reference to the transition period was deleted. Moreover, the list of conditions available to Member States to justify the non charge of vehicles of less than 12 tonnes was made open, with the insertion of the expression "inter alia". Member States may decide to exempt vehicles between 3.5 and 12 tonnes for other reasons other than environment, congestion and administrative costs.

The European Parliament followed the Commission approach in principle but proposed the deletion of the two justifications offered to Member States not to charge vehicles of less than 12 tonnes and wants to postpone the decision on the justifications to a later stage of the legislative procedure. In this context, the Council could not take into consideration amendments 28 and 29.

iii) Choice of external costs

The Commission included in its proposal the costs of air pollution, noise and congestion. The Council agrees with the principle, but decided to only include in the external cost charge air pollution and noise. Taking into account that congestion is always linked to time and place and that it is caused by all vehicles and not only by heavy duty vehicles, the Council estimates that it is more important to give flexibility to Member States to vary tolls according to place and time than to generate additional revenues if the objective is the reduction of congestion. Member States are allowed to charge higher infrastructure charges during peak hours – a peak period should not exceed 5 hours per day – in such a way that no infrastructure charge is more than 175% above the maximum level of the weighted average infrastructure charge.

To this, the Council has deleted any references to congestion in the context of an external cost charge and, doing so, took on board the European Parliament amendments 71 and 72. However, amendment 33 on a congestion charge was not taken into consideration by the Council. Amendment 43 on toll variation was accepted in spirit by the Council.

According to the Council's Position, air pollution and noise will be taken into account in the external cost charge and congestion will be tackled in an alternative manner, i.e., via the wider differentiation of the infrastructure charges. The Council considers that a wider differentiation of infrastructure charges can be an effective way of encouraging operators to travel during off-peak periods on congested roads.

iv) Earmarking of revenues

The Commission proposal provided for the obligation to earmark revenues generated by an external cost charge and by an infrastructure charge. The revenues generated by an external cost charge shall be used for measures related to the greening of the transport sector, namely, reducing road transport pollution at source and improving carbon dioxide emissions and energy performance of vehicles. The revenues generated by an infrastructure charge should be used to benefit the transport sector and optimise the entire transport system.

On the one hand, the Council decided to delete the reference to the earmarking of revenues generated by infrastructure charges. On the other hand, it changed the mandatory character of the provision concerning the revenues generated by the external cost charges and made it indicative. Member States should use these revenues, or its equivalent in financial value, to benefit the transport sector and to make it more sustainable. Moreover, the Council included a list of indicative measures for the use of the revenues. Ultimately, Member States can decide at their own discretion on how to spend these funds.

The European Parliament had suggested to modify the language concerning the earmarking of revenues from external costs charges (amendment 55) and from infrastructure charges (amendment 56), while respecting the mandatory nature of the provision. Moreover, the Parliament proposes to earmark 15% of the total revenues to financially support TEN-T projects (amendment 57) and include in the report to the Commission the use envisaged by Member States for the funds raised via the external cost charge (amendment 45). The Council did not take on board these amendments.

v) Derogations for less polluting EURO classes

The Commission proposal contained a detailed table with different values in euro cents per vehicle and per kilometre for each Euro class vehicle.

The Council, building on amendment 69 of the European Parliament, introduces a temporary derogation for the less polluting vehicle, i.e., Euro V and Euro VI classes. These temporary exemptions are calculated on the basis of the date of entry into force of the regulations on more stringent standard emissions. This means that EURO V is exempted until 31 December 2013 and EURO VI is exempted until 31 December 2017.

Less polluting vehicles than EURO VI, namely hybrid and electrical heavy goods vehicles, are exempted.

vi) Delegated acts and adaptation to inflation

The Commission had proposed to adapt Annexes 0, III, IIIa and IV in the light of scientific and technical progress and Annexes I and II in the light of inflation, in accordance with the regulatory procedure with scrutiny.

The Council reviewed these provisions taking into account the changes introduced by the Lisbon Treaty, and in particular Article 290 on the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act. Therefore, the Council decided to limit the delegation of powers to the Commission to Annexes 0, where the Commission can adapt it to the Union acquis, and to the formulas of Annex IIIa, where the Commission may adapt it to scientific and technical progress. Moreover, new Articles on the exercise of delegation, revocation of the delegation and objections to the delegated acts were added.

To cover the need to adapt the amounts in euros included in Annexes II and IIIb, the Council's Position added a new article on adaptation to inflation. This article introduces a review of these amounts every 2 years, starting on 1 January of the second year following the date of entry into force of the Directive.

The Council's Position also includes a new provision stating that the Council and the European Parliament will determine, through the ordinary legislative procedure, the maximum values in Annex IIIb for more stringent emission standards, one year after the adoption of the corresponding regulations.

3. Other policy issues

The Council confirms the use of the transport legal basis, i.e., Article 91(1) of the Treaty on the Functioning of the European Union.

The Council decides to clarify the provision referring to the establishment of user charges in relation to the duration of the use made of the infrastructure. The Council decided that the monthly rate shall be no more than 10% of the annual rate, the weekly rate shall be no more than 5% of the annual rate and the daily rate shall be no more than 2% of the annual rate. In doing so, the Council took on board Amendment 73 of the European Parliament.

The Council decides to make each Member State responsible for setting the amount of the external cost charge. The Commission had proposed that this amount should be set by an authority designated by the Member State. Amendment 36 of the European Parliament was taken on board.

4. Other amendments adopted by the European Parliament

Further amendments to the Articles not included in the Council's Position concern:

- the definition of "infrastructure charge" and the inclusion of projects jointly undertaken by more than one Member State (amendment 24);
- the deletion of the possibility for Member States to only apply annual rates for vehicles registered in that Member State (amendment 31);
- the possibility for users that did not have the necessary documentation in the vehicle to recover any additional cost paid as a consequence (amendment 42);
- the invitation to the European Commission to make available to the European Parliament its opinions on the compliance of Member States with the requirements concerning the calculation of the infrastructure charge (amendment 44);
- the consequent Commission decisions requiring member States to adapt the proposed external cost charge (amendment 47);
- the cooperation of Member States to ensure the development of interoperable electronic systems (amendment 51);
- the need to promote an efficient European interoperable toll system (amendment 53);
- the invitation to the Commission to monitor the gradual abolition of time-based charging systems (amendment 61);
- the recitals (amendments 1 to 8, 10, 11, 14 to 24).

III. CONCLUSION

In establishing its Position, the Council has taken full account of the proposal of the Commission and the European Parliament's opinion at first reading. With respect to the amendments proposed by the European Parliament, the Council observes that a certain number of amendments have – in spirit, partially or fully – already been included in its Position.
