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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other transport modes

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I. INTRODUCTION

1. On 16 December 2008 the Commission adopted a proposal for a Directive of the European Parliament and of the Council on establishing a framework for the accelerated deployment of ITS¹ across the EU and a related Action Plan.
2. The European Economic and Social Committee delivered its opinion on the proposal on 13 April 2009. The European Committee of the Regions was consulted, however, did not issue an opinion.
3. The European Parliament adopted its opinion² at first reading on 23 April 2009, approving 57 amendments. The Commission did not present a modified proposal.
4. The European Data Protection Supervisor gave its opinion on the Commission proposal on 22 July 2009³.
5. On [17 May 2010], the Council adopted its position at first reading, in accordance with the ordinary legislative procedure laid down in Article 294 of the Treaty on the Functioning of the European Union.

II. OBJECTIVE OF THE PROPOSAL

6. The general objective of this proposal is to create the conditions and, in particular, to put in place the necessary mechanisms to foster the uptake of Intelligent Transport Systems (ITS) services and applications for road transport and their interfaces with other modes of transport in order to have ITS contributing at its full potential towards the various EU policies.

¹ Intelligent Transport Systems

² OJ C....

³ doc. 12479/09

III. ANALYSIS OF THE COMMON POSITION

7. General

The mid-term review of the European Commission's 2001 White Paper on Transport Policy, "Keep Europe Moving"⁴, highlighted the importance of intelligent transport, and stressed the need to face growing challenges regarding a sustainable road transport system. Intelligent Transport Systems, as a result of applying emerging information and communication technologies to transport, have the potential to contribute to a safe, efficient, sustainable, inclusive and seamless transport of goods and people on the European road network and its interfaces with the other transport modes and to improve the competitiveness of European industry. The Commission proposal aimed at unlocking the full potential of ITS in serving EU policies in the field of enhanced road safety, improved transport efficiency and reduced environmental impact and to create the momentum necessary to speed up market penetration of rather mature ITS applications and services. To this end, the proposal foresaw to apply the comitology procedure (regulatory procedure with scrutiny) for establishing common and legally binding specifications defining detailed provisions and procedures for the deployment of ITS across the EU.

Although the Council agreed with the Commission as regards the objective of the proposal, the Council's approach involves major adaptations of the original proposal on the following issues:

- Specification and definition of the areas in which specifications may be adopted
- Prioritisation of certain actions within the aforementioned areas for the adoption of specifications
- Clarification of Member States' obligations for the deployment and use of ITS applications and services
- New articles on "non-binding measures" and "standards".

⁴ doc. 10954/06

Resulting from this approach, the Council first reading position modifies the original Commission proposal by redrafting it and deleting and/or adding several provisions to the text.

By proposing a step-wise approach for the deployment and use of ITS applications and services, the Council strikes a delicate balance of boosting the development, deployment and use of certain ITS services and applications while not adding further administrative and financial burdens to Member States.

2. **Main issues**

- **Subject matter and scope**

The Commission proposed to establish a framework for the coordinated deployment and use of intelligent transport systems within the Community and the development of specifications necessary for that purpose.

The European Parliament followed largely the Commission proposal to establish such framework for the coordinated and coherent deployment and use of intelligent transport systems, including interoperable ITS, within the Union. The EP proposed that this directive should apply to all intelligent transport systems for travellers, vehicles and infrastructure and their interaction in the field of road transport, including urban transport. Moreover, the EP proposed to include also vulnerable transport users under the scope of the directive, but to exclude matters related to public order and public security from it.

The Council position at first reading specifies that the proposed framework shall be in support of the coordinated and coherent use of ITS, in particular across the borders between Member States. The Council, in line with the EP, foresees that this directive shall not prejudice matters of national security or of interest of defence.

- **Priority areas**

In the Commission proposal four priority areas (optimal use of road, traffic and travel data, continuity of traffic and freight management ITS services on European Transport corridors and conurbations, road safety and security, and integration of the vehicle into the transport infrastructure) were listed in which the Commission should, in particular, define specifications for the deployment and use of ITS applications and services.

The European Parliament confirmed the above priority areas, but deleted the possibility to adopt specifications in other areas than the four listed above.

The Council position at first reading conforms largely with the position of the European Parliament and foresees an article on its own for the following four priority areas:

- I. Optimal use of road, traffic and travel data
- II. Continuity of traffic and freight management ITS services
- III. ITS road safety and security applications
- IV. Linking the vehicle with the transport infrastructure.

The scope of these priority areas is specified in Annex II of the directive.

- **Priority actions**

The Commission proposal did not foresee priority actions.

The European Parliament did not establish priority actions either. However, the European Parliament defined four areas (the provision of EU-wide real-time traffic and travel information services, data and procedures for the provision of free minimum universal traffic information services, the harmonised introduction of e-Call throughout Europe and appropriate measures on secure parking places for trucks and commercial vehicles and on telematics-controlled parking and reservation systems) in which the Commission should define specifications for the obligatory deployment and use of the minimum level of ITS applications and services.

The Council position at first reading picks up the idea of the European Parliament to give priority to certain ITS applications and services. To this end, the Council sets up the following six priority actions:

- (a) the provision of EU-wide multimodal travel information services
- (b) the provision of EU-wide real-time traffic information services
- (c) data and procedures for the provision, where possible, of road safety related minimum universal traffic information free of charge to users
- (d) the harmonised provision for an interoperable EU-wide e-Call
- (e) the provision of information services for safe and secure parking places for trucks and commercial vehicles
- (f) the provision of reservation services for safe and secure parking places for trucks and commercial vehicles.

- **Deployment of ITS applications and services**

The Commission proposal foresaw that the Member States take the necessary measures for a coordinated deployment and use of interoperable ITS applications and services within the Union. To this end, the Commission proposed to adopt specifications through the comitology procedure (regulatory procedure with scrutiny) which might also entail obligations for Member States to deploy ITS applications and services.

The European Parliament followed largely the Commission proposal by strengthening the respective wording to avoid geographical fragmentation and discontinuity of ITS applications and services. The EP specified that Member States should ensure the backward compatibility of ITS applications and services within the Union. The EP proposed also that Member States should apply ITS to all modes of transport and to the interfaces between them, ensuring a high level of integration between all transport modes. Moreover, the EP foresaw that Member States should take the necessary measures for requiring the compliance with the basic principles set (effectiveness, cost-efficiency, geographical continuity, interoperability and degree of maturity) for the evaluation of needs. To this end, Member States should also take account of the morphological particularities of geographically isolated regions and the distances that have to be covered to reach them, making an exception if need be to the aforementioned cost-efficiency principle

The Council clarifies that Member States decide whether or not to deploy ITS applications and services on their territory. However, if ITS applications and services are deployed, the specifications adopted under this directive shall be respected. The Council also foresees that Member States shall make efforts to co-operate in respect of the aforementioned priority areas insofar no specifications have been adopted.

- **Specifications**

The Commission proposal foresaw to apply the comitology procedure (regulatory procedure with scrutiny) for the adoption of specifications defining detailed provisions and procedures for the deployment of ITS across the Union. Further, these specifications should be based on certain principles laid down in Annex I and should contain at least the core elements set out in Annex II.

The European Parliament further specified that the Commission should define specifications for the obligatory deployment and use of the minimum level of ITS applications and services in four areas (see section on priority actions). The Commission should further define specifications for the necessary deployment and use of ITS beyond the minimum level of ITS applications and services in the case of Community co-financed Trans European Road Network (TERN) construction or maintenance. The specifications should also determine the conditions under which Member States might, in conjunction with the Commission, impose additional rules for the provision of such services throughout or in part of their territory. Before adopting specifications, the Commission should conduct an impact assessment comprising a comprehensive cost-benefit analysis for the implementing measures provided in the directive. The impact assessment should address issues of additional economic costs to be borne by the economic actors and parameters related to the economic cycle of the ITS.

The Council position at first reading develops the idea of the European Parliament to prioritize certain ITS applications and services reflected in the priority actions. For this purpose, the Commission shall aim to adopt specifications for the above priority actions. Further, at the latest 12 months after the adoption of the necessary specifications for a priority action, the Commission shall, where appropriate, and after having conducted an impact assessment accompanied by a cost-benefit-analysis, present a proposal to the EP and the Council on the deployment of that priority action. Further, the Council specifies that specifications may include functional, technical, organisational and service provisions. The Council conforms with the EP position that Member States, after notification to the Commission, may establish additional rules for the provision of ITS services on their territory. The Council foresees that specifications shall, where appropriate, be based on standards and that the Commission shall always conduct an impact assessment prior to the adoption of specifications. Lastly, the Council foresees that the Commission may adopt specifications through the delegated acts procedure in accordance with Article 290 of the Treaty of the Functioning of the European Union. The power of adopting specifications according to this procedure will end after a period of seven years following the entry into force of this directive. The EP or the Council may revoke the delegations of powers to adopt specifications at any time. The European Parliament or the Council may object to specifications within a period of two months from the date of notification. At the initiative of the EP or the Council this period may be extended by two months.

- **Standards and non-binding measures**

The Commission proposal and the European Parliament did not make a reference to standards and non-binding measures.

The Council position at first reading makes reference to standards which may be developed in the priority areas and priority actions following the procedure laid down in Directive 98/34/EC. These standards should provide for interoperability, compatibility and continuity for the deployment and operational use of ITS applications and services. Further, the Council introduces an article on the adoption of guidelines and other non-binding measures by the Commission in order to facilitate Member States' co-operation relating to the priority areas.

- **Data protection**

The Commission proposal made a general reference to existing Union legislation in the field of data protection and privacy.

The European Parliament specified the provisions on data protection and privacy by encouraging the use of anonymous data for the performance of the ITS application and/or service. Personal data should only be processed insofar as processing were necessary for the performance of the ITS application and/or service.

The Council position at first reading takes account of the EP position as well as the opinion of the European Data Protection Supervisor by strengthening the provisions on data protection and privacy.

- **Rules on liability**

The Commission proposal did not foresee rules on liability.

The European Parliament considered liability issues as a necessary pre-condition for the swift development and deployment of ITS applications and services.

The Council position at first reading takes account of the EP position and makes a reference to relevant existing Union law and national legislation.

- **Principles for specifications and deployment of ITS**

The Commission proposal established certain principles to be respected when selecting and deploying ITS applications and services.

The European Parliament strengthened and expanded the above mentioned principles by making a reference to the protection of vulnerable road users, seamless services across the Community and its external borders as well as to intermodality.

The Council position at first reading inspired by the EP position develops further the respective provisions by making reference to proportionality, interoperability, backward compatibility and respect existing national infrastructure and network characteristics, equality of access, quality of timing and positioning, and coherence.

3. Other amendments adopted by the European Parliament

Further amendments not included in the Council first reading position concern:

- a reference to advanced applications and Community mechanisms for different transport modes such as for railway transport (ERTMS and TAF-TSI), open sea and inland waterways (LRITS, SafeSeaNet, VTMIS, RIS), air transport (SESAR) and land transport, for example, livestock transport (amendment 2);
- a reference to Dedicated Short Range Communication (DSRC) (amendments 5, 16 and 53);
- a reference to travellers, vehicles and infrastructure and their interaction in the field of road transport, including urban transport, in the article "subject matter and scope" (amendment 7);
- the establishment and definition of a minimum level of ITS applications and services (amendments 12, 20 and 21);
- additional provisions concerning "Type-approval of road-infrastructure related ITS equipment and software" (amendments 27, 28, 29, 30 and 31);
- a transposition period of 12 months following the entry into force of this directive (amendment 49);
- the obligation to Member States to draw up a correlation table between adopted national provisions and this directive (amendment 49).

III. CONCLUSION

In establishing its position at first reading, 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 considerable number of amendments have – in spirit, partially or fully – already been included in its first reading position.
