



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the

**common position of the Council on 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 infrastructure**

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council
[document COM(2003) 448 final – C5–0351/2003 - 2003/0175(COD)]: 28 July 2003

Date of the opinion of the European Economic and Social Committee: 3 June 2004

Date of the opinion of the European Parliament, first reading: 20 April 2004

Date of adoption of the common position: 6 September 2005

2. OBJECTIVE OF THE COMMISSION PROPOSAL

In line with the White Paper on European transport policy for 2010¹ and following the request from the European Councils of December 2002 and March 2003, the Commission has proposed a modified version of the directive 1999/62/EC on road charges for heavy goods vehicles. This proposal is in line with the Commission's policy on transport infrastructure charging, which is to develop a harmonised Community approach to charging, across all modes of transport. The basis for transport charges should be the costs that transport currently impose on users, tax payers and society at large.

Directive 1999/62/EC provides the current framework for road charges for heavy goods vehicles. However as Member States move away from charging regimes (vignettes) and towards tolling regimes, the directive needs updating, to elaborate and clarify the basis for road tolls and to ensure that the current patchwork of charging and tolling regimes develops in a transparent and harmonised fashion. In addition, there is a need to adjust the framework for road charges to increase the scope for raising funds for investment in new transport infrastructure.

The Commission's proposal for updating Directive 1999/62/EC addresses these goals. To improve and harmonise the basis of tolling it:

¹ COM(2001) 370, 12.9.2001

- specifies the cost basis for tolling regimes, to include the costs of constructing, operating, maintaining and developing the network and the uncovered costs of accidents;
- improves the scope for the differentiation of tolls and provides a methodology to enable the transparent estimation of costs;
- extends the scope of the directive to more commercial vehicles (from 3.5 tonnes) and to more roads (the Trans European road network and alternative routes).

To help meet transport infrastructure financing needs, it:

- links tolls to the costs of maintaining and developing the infrastructure;
- requires revenues to be spent on maintaining and developing transport infrastructure;
- allows mark ups on tolls, the revenues of which must be spent on alternative infrastructure investments in the same TEN corridor.

3. COMMENTS ON THE COMMON POSITION

The Council made certain changes to the Commission's proposal that are acceptable because they ensure its aims are met:

- The definition of the costs of construction has been modified and elaborated to specify the financing costs that may be taken into consideration and to ensure that the period of costs does not exceed the lifetime of the infrastructure concerned.
- The toll differentiation permitted has been modified to improve transparency and to guard against any discrimination.
- The conditions for levying mark ups on tolls have been tightened up to improve transparency and to limit the scope of most mark ups to a maximum of 15% rather than 25%. A maximum mark up of 25% is applicable only to roads in the same corridor as trans frontier sections of priority projects of European interest in mountainous areas.
- New tolling regimes are to be subject to the Commission's control according to the core principles in Annex III. This will be done either directly for non-concession tolling regimes, with tolls calculated according to the core principles, with Member States providing key values and parameters for verification. Alternatively, for tolls under concession regimes, the control will be undertaken indirectly. Member States must provide all information necessary to verify that the toll level does not exceed that calculated on the basis of the core principles.

On the questions of the inclusion of external costs and the coverage of tolls, where the Council also made changes to the Commission's original proposal, the Commission made a declaration in which it:

- Undertook to deepen its analysis of the progressive internalisation of external costs when it undertakes the mid term review of the White Paper on transport at the end of 2005, in particular in light of the Parliament's second reading;

- that the right of Member States to exclude certain parts of the network must be exercised in a non discriminatory manner and in conformity with the Treaty. In this context, the Commission stated that it will take account of objective criteria such as the need to improve the accessibility of isolated regions or the level of congestion and pollution.

Having made these statements, the Commission welcomed the Common Position of the Council as a hard won compromise.

Of the 42 amendments adopted by the Parliament on 20 April 2004, nine were acceptable to the Commission and included in the Common Position; 23 were acceptable to the Commission but not accepted by the Council; six were not acceptable to the Commission but incorporated into the Common Position; and four were not acceptable to the Commission or the Council.

4. COMMISSION DETAILED COMMENTS ON THE FIRST READING AMENDMENTS OF THE EUROPEAN PARLIAMENT

4.1. Amendments accepted by the Commission and incorporated in full or in part in the common position

Amendment 21: The principle of only considering the portion of costs not amortised is incorporated into the definition of construction costs.

Amendment 22: A definition of weighted average tolls is included, though it differs from that of the Parliament in order to be more technically precise.

Amendment 24: A definition of a concession is included, though it differs from that of the Parliament in order to be more legally precise (drawing on the Definition in Directive 2004/18/EC).

Amendments 10 and 34: As proposed by the Parliament, all the discussion of accident costs was removed by the Council.

Amendments 18 and 38: The Council also rejected the plan to establish an independent infrastructure authority.

Amendment 39: The proposal to add insurance taxes to the list of taxes and charges unaffected by the directive was accepted.

Amendment 43: The table of Annex II was amended to include the latest EURO emissions classes. However the higher values for older vehicles were not retained.

4.2. Amendments accepted by the Commission but not incorporated in the common position

Amendments 1, 3, 4, 5, 6, 7 and 8: The order of the recitals giving the general reasoning behind the directive, including the various policy priorities behind proposal and the relevant Council conclusions and so on was not changed by the Council.

Amendments 2 and 25: The Council excluded all reference to external costs, including this recital and definition. Whilst this was acceptable to the Commission in the course of reaching a compromise text, note the Commission's declaration in the Annex.

Amendment 12: The revenue neutrality of toll variations is contained in the text though not in a recital.

Amendment 13: The Commission proposal to allow compensation through the reduction of other transport taxes below minimum EU levels was not accepted by the Council.

Amendment 20: This definition of “main road network” has become superfluous as the Council deleted the whole reference to the main road network from Article 1(3).

Amendments 14 and 26: The possibility to exempt from tolls vehicles of humanitarian and relief organisations was not accepted as only clearly identifiable and verifiable vehicles are granted exemptions under this article. In addition a recital (amendment 14) for each exempted category of user is not required.

Amendments 11 and 27: It is not appropriate for a Directive of the Council and Parliament to instruct Member States to consult regional and local authorities: this is a matter of subsidiarity, varying according to the governmental structures of each Member State.

Amendment 28: The basis for determining tolls was limited to infrastructure costs and external costs were excluded by the Council.

Amendment 29: The toll differentiation proposed by the Parliament was deemed insufficient. The differentiation in the Common Position provides certainty and clarity with a greater degree of flexibility to vary tolls to reflect environmental and congestion criteria. In addition, the criteria of PM₁₀ and NO_x were not included as they are broadly reflected in euro emissions classes and are difficult to verify separately. Moreover such environmental criteria would (if feasible) be acceptable *within* the euro emissions class criteria.

Amendments 16 and 30: Permitting toll mark ups in urban zones would be compatible with the role of mark ups, however the Council rejected this amendment.

Amendment 32: *Obliging* Member States to impose the heaviest toll on vehicles unable to verify their euro emissions category was rejected by the Council.

Amendment 36: Articles addressing the compensation regime (reducing vehicle taxes etc.) were deleted by the Council.

Amendment 42: The Council rejected the proposal for the Commission to report on the effect of the directive on road accidents and environmental impacts.

4.3. Amendments rejected by the Commission yet incorporated in the common position

Amendments 9, 19, 33, 52: Concession regimes cannot be excluded from the scope of the directive, as this would render the directive ineffective. However, the Council has introduced a separate enforcement structure for concession regimes, so the special nature of concessions is addressed and the Commission’s right of enforcement is maintained.

Amendments 46 and 48: The allocation of revenues is made voluntary, in accordance with the Parliament’s text.

4.4. Amendments rejected by the Commission and not incorporated in the common position

Amendments 17, 41 and 50: The Commission should not be constrained by a directive to undertake such a work programme (although consideration of the future internalisation of external costs is planned in the White Paper). In addition, the Council does not wish for references to the development of methodologies for estimating external costs.

Amendment 37: The compensation plans for any given national tolling regime are the responsibility of the Member State and so need not be discussed in the framework of a directive.

(13 amendments not listed here (15, 19, 35, 40, 44, 45, 47, 49, 51, 53-56) were rejected at the Parliament's plenary session. Amendments 23 and 31 are not relevant to the English version)

5. CONCLUSION

The Commission welcomes the common position adopted by the Council.

As stated in the declaration made by the Commission at the Council meeting of 25 April 2005, the Commission

- will deepen its analysis of the progressive internalisation of external costs when it undertakes the mid term review of the White Paper on transport at the end of 2005, in particular in light of the Parliament's second reading;
- recalls that the right of the Member States to exclude certain parts of the network provided in the common position would have to be exercised in a non discriminatory manner and in conformity with the Treaty. In that context, the Commission would take into account in particular criteria such as the need to improve the accessibility of isolated regions or the level of congestion and pollution.

Annex: Declaration of the Commission at the Council of 21 April 2005

INTERNALISATION DES COÛTS EXTERNES ET COUVERTURE GEOGRAPHIQUE

Déclaration de la Commission

A l'occasion de la révision à mi-parcours du Livre blanc sur les transports, prévue pour fin 2005, la Commission approfondira son analyse de l'impact d'une internalisation progressive des coûts externes du transport, notamment à la lumière de la deuxième lecture au Parlement européen sur la proposition de directive « Eurovignette ».

La Commission rappelle que la faculté des Etats membres d'exclure certaines parties du réseau doit se faire de façon non discriminatoire et en conformité avec le traité. Dans ce contexte la Commission tiendra notamment compte des critères objectifs tels que la nécessité d'améliorer l'accessibilité des régions isolées ou le niveau de congestion et de pollution.