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## I

(Legislative acts)

## DIRECTIVES

## DIRECTIVE 2011/76/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 September 2011

amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

Having regard to the Opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the Opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) The promotion of sustainable transport is a key element of the common transport policy. To this end, the contribution of the transport sector to climate change and its negative impacts should be reduced, in particular congestion, which impedes mobility, and air and noise pollution, which create health and environmental damage. Moreover environmental protection requirements must be integrated into the definition and implementation of other Union policies, including the common transport policy.
- (2) The objective of reducing the negative impacts of transport should be achieved in such a way as to avoid disproportionate obstacles to the freedom of movement in the interest of sound economic growth, the proper functioning of the internal market and territorial cohesion.
- (3) To optimise the transport system accordingly, the common transport policy should use a variety of

instruments to improve transport infrastructure and the use of technologies and to enable the more efficient management of transport demand through, in particular, the promotion of the renewal of the fleet, a more efficient use of infrastructures and co-modality. This calls for further recourse to the 'user pays' principle and the development and the implementation of the 'polluter pays' principle in the transport sector in all modes of transport.

- (4) Directive 1999/62/EC of the European Parliament and of the Council <sup>(4)</sup> called on the Commission to present a model for the assessment of all external costs arising from use of the transport infrastructure to serve as the basis for future calculations of infrastructure charges. That model was to be accompanied by an impact analysis of the internalisation of external costs for all modes of transport and a strategy for a stepwise implementation of the model and, if appropriate, by proposals for further revision of that Directive.
- (5) In order to move towards a sustainable transport policy, transport prices should better reflect the costs related to traffic-based air and noise pollution, climate change, and congestion caused by the actual use of all modes of transport, as a means of optimising the use of infrastructure, reducing local pollution, managing congestion and combating climate change at the least cost for the economy. This calls for a stepwise approach in all transport modes, taking into account their particular characteristics.
- (6) Transport modes have already started to internalise external costs and the relevant Union legislation either phases in such internalisation or at least does not prevent it. However, this process needs to be monitored and encouraged further for all modes of transport applying common principles while taking into account the specificity of each mode.

<sup>(1)</sup> OJ C 255, 22.9.2010, p. 92.

<sup>(2)</sup> OJ C 120, 28.5.2009, p. 47.

<sup>(3)</sup> Position of the European Parliament of 11 March 2009 (OJ C 87 E, 1.4.2010, p. 345) and position of the Council at first reading of 14 February 2011 (OJ C 77 E, 11.3.2011, p. 1). Position of the European Parliament of 7 June 2011 (not yet published in the Official Journal) and Council decision of 12 September 2011.

<sup>(4)</sup> OJ L 187, 20.7.1999, p. 42.

- (7) In the road transport sector, tolls calculated as distance-based charges for the use of infrastructure constitute a fair and efficient economic instrument to achieve a sustainable transport policy, since they relate directly to the use of infrastructure, the environmental performance of vehicles and the place and time of use of vehicles and can therefore be set at a level which reflects the cost of pollution and congestion caused by the actual use of vehicles. Moreover, tolls do not create any distortion of competition within the internal market since they are payable by all operators irrespective of their Member State of origin or establishment and in proportion to the intensity of use of the road network.
- (8) The impact analysis shows that applying tolls calculated on the basis of the cost of pollution, and, on congested roads, on the basis of the higher variation of toll rates during peak periods could have a positive effect on the transport system and contribute to the Union strategy on climate change. It could reduce congestion and local pollution by encouraging the use of cleaner vehicle technologies, optimising logistic behaviour and reducing empty returns. It could indirectly play an important role in reducing fuel consumption and contributing to combating climate change.
- (9) This Directive does not prevent Member States from applying national rules for charging other road users outside the scope of this Directive.
- (10) The costs of traffic-based air and noise pollution, such as health costs, including medical care, crop losses and other loss of production, and welfare costs, are borne within the territory of the Member State in which the transport takes place. The polluter pays principle will be implemented through the external-cost charging which will contribute to the reduction of external costs.
- (11) For the purpose of this Directive, the model devised by the Commission for calculating traffic-based air and noise pollution external costs provides reliable methods and a range of unit values which may already serve as a basis for the calculation of external-cost charges.
- (12) There are still uncertainties about the costs and benefits of the systems required to enforce differentiated charges on roads with low traffic. Until such uncertainties are dealt with, a flexible approach at Union level appears most appropriate. This flexible approach should leave Member States the option to decide whether and on which roads to introduce external-cost charges on the basis of the local and national characteristics of the network.
- (13) Time-based user charges constitute a useful system for already applying the 'user pays' principle when a charging system based on distance travelled, which better reflects the actual use of infrastructure, is currently not implemented. Time-based user charges levied on a daily, weekly, monthly or annual basis should not discriminate against occasional users, since a high proportion of such users are likely to be non-national hauliers. A more detailed ratio between daily, weekly, monthly and annual rates should therefore be fixed for heavy goods vehicles.
- (14) In order to ensure that European hauliers receive clear price signals, which act as an incentive to optimise behaviour, efforts should be made in the medium term to bring about convergence in the methods which the Member States use to calculate external costs.
- (15) A clear and transparent implementation of the charging schemes could lead to a better functioning of the internal market. Therefore, inconsistent charging schemes should be avoided in order not to distort competition in international goods transport on the trans-European road network or on certain sections of that network, and on any additional sections of those interlinked networks or motorways which are not part of the trans-European road network. The same charging principles should, in particular, be applied to any section of the motorway network of a Member State.
- (16) Member States should have the option of charging the maximum level of the infrastructure costs and external costs permitted by this Directive through tolls, but should be able to choose to charge one or both of those costs at a lower level or not to charge them at all.
- (17) When determining the network on which to apply an external-cost charge, Member States should be able to choose not to levy external-cost charges on certain roads in order to improve access to, and the competitiveness of, peripheral, landlocked and island regions.
- (18) It should be possible to add to an infrastructure charge an external-cost element based on the cost of traffic-based air and noise pollution. The external-cost element included in tolls should be permitted to be added to the cost of use of infrastructure, provided that certain conditions are respected in the calculation of costs so as to avoid undue charging.
- (19) To better reflect the cost of traffic-based air and noise pollution, the external-cost charge should vary according to the type of roads, type of vehicles and, for noise, the time periods involved.

- (20) Congestion has a negative impact, in that for the road users in general, it means a loss of time and a waste of fuel. Differentiation of infrastructure charges offers a tool to manage congestion, provided that the differentiated tolls give a clear and meaningful price signal to road users to modify their behaviour and to avoid congested road sections during peak periods.
- (21) When a variation for the purpose of reducing congestion is applied on a certain road section, the variation should be devised and applied in a revenue-neutral way which grants significant financial advantages to hauliers who use the road section concerned during off-peak periods over those who use it during peak hours.
- (22) Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise <sup>(1)</sup> already provides a basis for developing and completing the set of Union measures concerning noise emitted by road vehicles and infrastructure by requiring competent authorities to draw up strategic noise maps for major roads and to draw up action plans to reduce noise where exposure levels can induce harmful effects on human health.
- (23) The smooth functioning of the internal market requires a Union framework in order to ensure that road charges set on the basis of the local cost of traffic-based air and noise pollution and on the basis of congestion are transparent, proportionate and non-discriminatory. That framework should include common charging principles, calculation methods, maximum levels and unit values of external costs based on acknowledged scientific methods, as well as procedures for notifying and reporting tolling schemes to the Commission.
- (24) If an authority is designated by a Member State to set the external-cost charge, it should have no vested interest in setting the amount at an undue level and should therefore be independent from the body which collects and manages toll revenue.
- (25) The corridor on which a mark-up is allowed can include parallel and directly competing mountainous road sections within a reasonable distance to which the traffic may be diverted as a result of the introduction of the mark-up. In cross-border projects, the application of this provision should be agreed upon by the Member States concerned and by the Commission.
- (26) In order to give precedence to the construction of the priority projects of European interest identified in Annex III to Decision No 661/2010/EU of the European Parliament and of the Council of 7 July 2010 on Union guidelines for the development of the trans-European transport network <sup>(2)</sup>, Member States which have the possibility of applying a mark-up should use that option before levying an external-cost charge. To avoid an undue charging of users, an external-cost charge should not be combined with a mark-up unless the external costs exceed the amount of the mark-up already levied. In such a case, it is thus appropriate that the amount of the mark-up should be deducted from the external-cost charge.
- (27) Discounts or reductions of the external-cost charge should not be permitted, as there would be a significant risk that they would unduly discriminate against certain categories of users.
- (28) Subject to the relevant provisions of the Treaty on the Functioning of the European Union on State Aid, incentive measures should be permitted for trips involving expensive modal transfers, such as road-sea-road, in the interest of territorial cohesion and the accessibility and competitiveness of peripheral, land-locked and island regions.
- (29) It should be possible to permit discounts or reductions of the infrastructure charge under certain circumstances for any category of users, such as frequent users or users of electronic toll systems.
- (30) Charging external costs through tolls will be more effective in influencing user decisions if they are aware of such costs. Therefore, those costs should be identified separately on a statement, on a bill or on an equivalent document provided by the toll operator. Furthermore, such a document would facilitate hauliers in passing on the cost of the external-cost charge to the shipper or to any other clients.
- (31) The use of electronic toll systems is desirable to avoid disruption of the free flow of traffic and to prevent adverse effects on the local environment caused by queues at toll barriers. It is therefore desirable to levy an external-cost charge by means of such systems, in compliance with Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community <sup>(3)</sup>. With a view to facilitating the proper functioning of the internal market, the Commission should monitor progress made in the framework of Directive 2004/52/EC to implement within the agreed dates a genuine European Electronic Toll Service which limits the number of electronic toll devices in a given vehicle to one unit which is fully compatible with the electronic fee collection systems of all the Member States.

<sup>(1)</sup> OJ L 189, 18.7.2002, p. 12.

<sup>(2)</sup> OJ L 204, 5.8.2010, p. 1.

<sup>(3)</sup> OJ L 166, 30.4.2004, p. 124.

- (32) While decisions on national public expenditure, including the use of revenues generated under this Directive, are, in line with the principle of subsidiarity, a matter for Member States, the additional revenue generated from external-cost charges, or the equivalent in financial value of these revenues, in accordance with the transport policy objectives of this Directive, should be used to benefit the transport sector and to promote sustainable mobility in general. Such projects should therefore relate to, *inter alia*, facilitating efficient pricing, reducing road transport pollution at source, mitigating its effects, improving the CO<sub>2</sub> and energy performance of vehicles, developing alternative infrastructure for transport users, optimising logistics or improving road safety.
- (33) In order to promote the interoperability of tolling arrangements, and subject to compliance with certain conditions, two or more Member States should be permitted to cooperate in introducing common systems of tolls.
- (34) The Commission should send in due time to the European Parliament and to the Council a comprehensive assessment of the experience acquired in the Member States which apply an external-cost charge and/or an infrastructure charge in accordance with this Directive.
- (35) Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund<sup>(1)</sup> provides that the revenue generated by charges borne directly by users must be considered in the determination of the funding-gap in the case of a revenue-generating project. However, revenue generated by external-cost charges should not be considered in calculation of the funding-gap, since this revenue should be spent on projects aimed at reducing road transport pollution at the source, mitigating its effects, improving the CO<sub>2</sub> and energy performance of vehicles, and developing alternative infrastructure for transport users.
- (36) When implementing alternative scientific methods for calculating external-cost charges, Member States should be able to take into account the methods for calculating the values of monetary costs of externalities that are provided by the study 'Handbook on estimation of external costs in the transport sector'<sup>(2)</sup>, which gives an overview of the state of the art in the theory and practice of estimating external costs.
- (37) In mountain areas as described in the study 'Mountain areas in Europe: analysis of mountain areas in EU Member States, acceding and other European countries' commissioned by the European Commission in 2004, higher external-cost charges should be permitted to the extent that objective scientific data prove that air and noise pollution cause greater damage in those mountain areas due to geographic circumstances and physical phenomena such as the gradient of roads, temperature inversions and the amphitheatre effect of valleys.
- (38) In order to ensure uniform conditions for the implementation of this Directive, 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 powers<sup>(3)</sup>.
- (39) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in respect of certain adaptations of the Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (40) In accordance with point 34 of the Interinstitutional Agreement on better law-making<sup>(4)</sup>, Member States are encouraged to draw up, for themselves and in the interests of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (41) Since the objective of this Directive, namely to encourage differentiated charging based on external costs as a means towards sustainable transport, cannot be sufficiently achieved by the Member States alone, and can therefore, by reason of the importance of the cross-border dimension of transport, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

Directive 1999/62/EC is hereby amended as follows:

(1) Article 2 is amended as follows:

(a) the following point is inserted:

<sup>(1)</sup> OJ L 210, 31.7.2006, p. 25.

<sup>(2)</sup> [http://ec.europa.eu/transport/costs/handbook/index\\_en.htm](http://ec.europa.eu/transport/costs/handbook/index_en.htm)

<sup>(3)</sup> OJ L 55, 28.2.2011, p. 13.

<sup>(4)</sup> OJ C 321, 31.12.2003, p. 1.

(ad) “motorway” means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

(i) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;

(ii) does not cross at grade with any road, railway or tramway track, bicycle path or footpath; and

(iii) is specifically designated as a motorway;;

(b) points (b) and (ba) are replaced by the following:

(b) “toll” means a specified amount payable for a vehicle based on the distance travelled on a given infrastructure and on the type of the vehicle comprising an infrastructure charge and/or an external-cost charge;

(ba) “infrastructure charge” means a charge levied for the purpose of recovering the construction, the maintenance, the operation and the development costs related to infrastructure incurred in a Member State;;

(c) the following points are inserted:

(bb) “external-cost charge” means a charge levied for the purpose of recovering the costs incurred in a Member State related to traffic-based air pollution and/or traffic-based noise pollution;

(bc) “cost of traffic-based air pollution” means the cost of the damage caused by the release of particulate matter and of ozone precursors, such as nitrogen oxide and volatile organic compounds, in the course of the operation of a vehicle;

(bd) “cost of traffic-based noise pollution” means the cost of the damage caused by the noise emitted by the vehicles or created by their interaction with the road surface;

(be) “weighted average infrastructure charge” means the total revenue of an infrastructure charge over a given period divided by the number of vehicle kilometres travelled on the road sections subject to the charge during that period;

(bf) “weighted average external-cost charge” means the total revenue of an external-cost charge over a given period divided by the number of vehicle kilometres travelled on the road sections subject to the charge during that period;;

(d) point (d) is replaced by the following:

(d) “vehicle” means a motor vehicle or articulated vehicle combination intended or used for the carriage by road of goods and having a maximum permissible laden weight of over 3,5 tonnes;;

(2) Articles 7, 7a and 7b are replaced by the following:

#### Article 7

1. Without prejudice to Article 9 paragraph 1a, Member States may maintain or introduce tolls and/or user charges on the trans-European road network or on certain sections of that network, and on any other additional sections of their network of motorways which are not part of the trans-European road network under the conditions laid down in paragraphs 2, 3, 4 and 5 of this Article and in Articles 7a to 7k. This shall be without prejudice to the right of Member States, in compliance with the Treaty on the Functioning of the European Union, to apply tolls and/or user charges on other roads, provided that the imposition of tolls and/or user charges on such other roads does not discriminate against international traffic and does not result in the distortion of competition between operators.

2. Member States shall not impose both tolls and user charges on any given category of vehicle for the use of a single road section. However, a Member State which imposes a user charge on its network may also impose tolls for the use of bridges, tunnels and mountain passes.

3. Tolls and user charges shall not discriminate, directly or indirectly, on the grounds of the nationality of the haulier, the Member State or the third country of establishment of the haulier or of registration of the vehicle, or the origin or destination of the transport operation.

4. Member States may provide for reduced toll rates or user charges, or exemptions from the obligation to pay tolls or user charges for vehicles exempted from the requirement to install and use recording equipment under Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording in road transport (\*), and in cases covered by, and subject to the conditions set out in, Article 6(2)(a) and (b) of this Directive.

5. A Member State may choose to apply tolls and/or user charges only to vehicles having a maximum permissible laden weight of not less than 12 tonnes if it considers that an extension to vehicles of less than 12 tonnes would, amongst others:

(a) create significant adverse effects on the free flow of traffic, the environment, noise levels, congestion, health, or road safety due to traffic diversion;

- (b) involve administrative costs of more than 30 % of the additional revenue which would have been generated by that extension.

Member States choosing to apply tolls and/or user charges only to vehicles having a maximum permissible laden weight of not less than 12 tonnes shall inform the Commission of their decision and on the reasons therefor.

#### Article 7a

1. User charges shall be proportionate to the duration of the use made of the infrastructure, not exceeding the values stipulated in Annex II, and shall be valid for a day, a week, a month or a year. 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.

A Member State may apply only annual rates for vehicles registered in that Member State.

2. Member States shall set user charges, including administrative costs, for all vehicle categories, at a level which is no higher than the maximum rates laid down in Annex II.

#### Article 7b

1. The infrastructure charge shall be based on the principle of the recovery of infrastructure costs. The weighted average infrastructure charge shall be related to the construction costs and the costs of operating, maintaining and developing the infrastructure network concerned. The weighted average infrastructure charge may also include a return on capital and/or a profit margin based on market conditions.

2. The costs taken into account shall relate to the network or the part of the network on which infrastructure charges are levied and to the vehicles that are subject thereto. Member States may choose to recover only a percentage of those costs.

#### Article 7c

1. The external-cost charge may be related to the cost of traffic-based air pollution. On road sections crossing areas with a population exposed to road traffic-based noise pollution, the external-cost charge may include the cost of traffic-based noise pollution.

The external-cost charge shall vary and be set in accordance with the minimum requirements and the methods as specified in Annex IIIa and shall respect the maximum values set out in Annex IIIb.

2. The costs taken into account shall relate to the network or the part of the network on which external-cost charges are levied and to the vehicles that are subject thereto. Member States may choose to recover only a percentage of those costs.

3. The external-cost charge related to traffic-based air pollution shall not apply to vehicles which comply with

the most stringent EURO emission standards until four years after the dates of application laid down in the rules which introduced those standards.

4. The amount of the external-cost charge shall be set by the Member State concerned. If a Member State designates an authority for this purpose, the authority shall be legally and financially independent from the organisation in charge of managing or collecting part or all of the charge.

#### Article 7d

By one year after the adoption of future and more stringent EURO emission standards, the European Parliament and the Council shall, in accordance with the ordinary legislative procedure, determine the corresponding maximum values in Annex IIIb.

#### Article 7e

1. Member States shall calculate the maximum level of infrastructure charge using a methodology based on the core calculation principles set out in Annex III.

2. For concession tolls, the maximum level of the infrastructure charge shall be equivalent to, or less than, the level that would have resulted from the use of a methodology based on the core calculation principles set out in Annex III. The assessment of such equivalence shall be made on the basis of a reasonably long reference period appropriate to the nature of the concession contract.

3. Tolling arrangements which were already in place on 10 June 2008 or for which tenders or responses to invitations to negotiate under the negotiated procedure were received pursuant to a public procurement process before 10 June 2008 shall not be subject to the obligations set out in paragraphs 1 and 2 for as long as those arrangements remain in force and provided that they are not substantially amended.

#### Article 7f

1. In exceptional cases concerning infrastructure in mountainous regions, and after informing the Commission, a mark-up may be added to the infrastructure charge levied on specific road sections which are subject to acute congestion, or the use of which by vehicles is the cause of significant environmental damage, on condition that:

- (a) the revenue generated from the mark-up is invested in financing the construction of priority projects of European interest, identified in Annex III to Decision No 661/2010/EU of the European Parliament and of the Council of 7 July 2010 on Union guidelines for the development of the trans-European transport network (\*\*), which contribute directly to the alleviation of the congestion or environmental damage and which are located in the same corridor as the road section on which the mark-up is applied;

- (b) the mark-up does not exceed 15 % of the weighted average infrastructure charge calculated in accordance with Article 7b(1) and Article 7e, except where the revenue generated is invested in cross-border sections of priority projects of European interest involving infrastructure in mountainous regions, in which case the mark-up may not exceed 25 %;
- (c) the application of the mark-up does not result in unfair treatment of commercial traffic compared to other road users;
- (d) a description of the exact location of the mark-up and proof of a decision to finance the construction of priority projects referred to in point (a) are submitted to the Commission in advance of the application of the mark-up; and
- (e) the period for which the mark-up is to apply is defined and limited in advance and is consistent, in terms of the expected revenue to be raised, with the financial plans and cost-benefit analysis for the projects co-financed with the revenue from the mark-up.

The first subparagraph shall apply to new cross-border projects subject to the agreement of all Member States involved in that project.

2. A mark-up may be applied to an infrastructure charge which has been varied in accordance with Article 7g.

3. After receiving the required information from a Member State intending to apply a mark-up, the Commission shall make this information available to the members of the Committee referred to in Article 9c. If the Commission considers that the planned mark-up does not meet the conditions set out in paragraph 1, or if it considers that the planned mark-up will have significant adverse effects on the economic development of peripheral regions, it may reject or request amendment of the plans for charges submitted by the Member State concerned. These implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 9c(2).

4. On road sections where the criteria for applying a mark-up pursuant to paragraph 1 are met, the Member States may not levy an external-cost charge unless a mark-up is applied.

5. The amount of the mark-up shall be deducted from the amount of the external-cost charge calculated in accordance with Article 7c, except for vehicles of EURO emission classes 0, I and II from 15 October 2011, and III from 2015 onwards. All these revenues generated by the simultaneous application of the mark-up and the external cost charges shall be invested in financing the construction of priority projects of European interest identified in Annex III to Decision No 661/2010/EU.

#### Article 7g

1. Member States shall vary the infrastructure charge according to the EURO emission class of the vehicle in

such a way that no infrastructure charge is more than 100 % above the same charge for equivalent vehicles meeting the strictest emission standards. Existing concession contracts are exempted from this requirement until the contract is renewed.

A Member State may nevertheless derogate from the requirement of varying the infrastructure charge if:

- (i) this would seriously undermine the coherence of the tolling systems in its territory;
- (ii) it would not be technically practicable to introduce such differentiation in the tolling system concerned;
- (iii) this would lead to diversion of the most polluting vehicles with negative impacts on road safety and public health; or
- (iv) the toll includes an external-cost charge.

Any such derogations or exemptions shall be notified to the Commission.

2. Where, in the event of a check, a driver or, if appropriate, the haulier, is unable to produce the vehicle documents necessary to ascertain the EURO emission class of the vehicle, Member States may apply tolls up to the highest level chargeable.

3. The infrastructure charge may also be varied for the purpose of reducing congestion, minimising infrastructure damage and optimising the use of the infrastructure concerned or promoting road safety, on condition that:

- (a) the variation is transparent, made public and available to all users on equal terms;
- (b) the variation is applied according to the time of day, type of day or season;
- (c) no infrastructure charge is more than 175 % above the maximum level of the weighted average infrastructure charge as referred to in Article 7b;
- (d) the peak periods during which the higher infrastructure charges are levied for the purpose of reducing congestion do not exceed five hours per day;
- (e) the variation is devised and applied in a transparent and revenue neutral way on a road section affected by congestion by offering reduced toll rates for hauliers who travel during off-peak periods and increased toll rates for hauliers who travel during peak hours on the same road section; and
- (f) a Member State wishing to introduce such variation or changing an existing one informs the Commission thereof and provides it with the information necessary to ensure that the conditions are fulfilled. Based on the information provided, the Commission shall make public and regularly update a list containing the periods and corresponding rates during which the variation is applied.

4. The variations referred to in paragraphs 1 and 3 are not designed to generate additional toll revenue. Any unintended increase in revenue shall be counterbalanced by changes to the structure of the variation which must be implemented within two years from the end of the accounting year in which the additional revenue is generated.

#### Article 7h

1. At least six months before the implementation of a new infrastructure charge tolling arrangement, Member States shall send to the Commission:

(a) for tolling arrangements other than those involving concession tolls:

- the unit values and other parameters used in calculating the various infrastructure cost elements, and
- clear information on the vehicles covered by the tolling arrangements, the geographic extent of the network, or part of the network, used for each cost calculation, and the percentage of costs that are intended to be recovered;

(b) for tolling arrangements involving concession tolls:

- the concession contracts or significant changes to such contracts,
- the base case on which the grantor has founded the notice of concession, as referred to in Annex VII B to Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (\*\*); this base case shall include the estimated costs as defined in Article 7b(1) envisaged under the concession, the forecast traffic, broken down by type of vehicle, the levels of toll envisaged and the geographic extent of the network covered by the concession contract.

2. Within six months of receiving all the necessary information in accordance with paragraph 1, the Commission shall give an opinion as to whether the obligations of Article 7e are complied with. The opinions of the Commission shall be made available to the Committee referred to in Article 9c.

3. Before the implementation of a new external-cost charge tolling arrangement, Member States shall send the Commission:

(a) precise information locating the road sections where the external-cost charge is to be levied and describing the class of vehicles, type of roads and the exact time periods according to which the external-cost charge will vary;

(b) the envisaged weighted average external-cost charge and the envisaged total revenue;

(c) if appropriate, the name of the authority designated in accordance with Article 7c(4) to set the amount of the charge, and of its representative;

(d) the parameters, data and information necessary to demonstrate how the calculation method set out in Annex IIIa will be applied.

4. The Commission shall take a decision as to whether the obligations of Articles 7b, 7c, 7j or 9(2) are complied with by:

(a) six months after the submission of the file referred to in paragraph 3; or

(b) where applicable, an additional three months after receipt of additional information pursuant to paragraph 3 requested by the Commission.

The Member State concerned shall adapt the proposed external-cost charge in order to be in conformity with the decision. The decision of the Commission shall be made available to the Committee referred to in Article 9c, to the European Parliament and to the Council.

#### Article 7i

1. Member States shall not provide for discounts or reductions for any users in relation to the external-cost charge element of a toll.

2. Member States may provide for discounts or reductions to the infrastructure charge on condition that:

(a) the resulting charging structure is proportionate, made public and available to users on equal terms and does not lead to additional costs being passed on to other users in the form of higher tolls;

(b) such discounts or reductions lead to actual savings in administrative costs; and

(c) do not exceed 13 % of the infrastructure charge paid by equivalent vehicles not eligible for the discount or reduction.

3. Subject to the conditions provided for in Article 7g(3)(b) and in Article 7g(4), toll rates may, in exceptional cases, namely for specific projects of high European interest identified in Annex III to Decision No 661/2010/EU, be subject to other forms of variation in order to secure the commercial viability of such projects where they are exposed to direct competition with other modes of vehicle transport. The resulting charging structure shall be linear, proportionate, made public, and available to all users on equal terms and shall not lead to additional costs being passed on to other users in the form of higher tolls. The Commission shall verify compliance with those conditions prior to the implementation of the charging structure in question.

*Article 7j*

1. Tolls and user charges shall be applied and collected and their payment monitored in such a way as to cause as little hindrance as possible to the free flow of traffic and to avoid any mandatory controls or checks at the Union's internal borders. To this end, Member States shall cooperate in establishing methods for enabling hauliers to pay tolls and user charges 24 hours a day, at least at major sales outlets, using common means of payment, inside and outside the Member States in which they are applied. Member States shall provide adequate facilities at the points of payment for tolls and user charges so as to maintain normal road safety standards.

2. The arrangements for collecting tolls and user charges shall not, financially or otherwise, place non-regular users of the road network at an unjustified disadvantage. In particular, where a Member State collects tolls or user charges exclusively by means of a system that requires the use of a vehicle on-board unit, it shall ensure that appropriate on-board units compliant with the requirements of Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community (\*\*\*\*) can be obtained by all users under reasonable administrative and economic arrangements.

3. If a Member State levies a toll on a vehicle, the total amount of the toll, the amount of the infrastructure charge and/or the amount of the external-cost charge shall be indicated in a receipt provided to the haulier, as far as possible by electronic means.

4. Where economically feasible, Member States shall levy and collect external-cost charges by means of an electronic system which complies with the requirements of Article 2(1) of Directive 2004/52/EC. The Commission shall promote cooperation between Member States that may prove necessary to ensure the interoperability of electronic toll collection systems at European level.

*Article 7k*

Without prejudice to Articles 107 and 108 of the Treaty on the Functioning of the European Union, this Directive does not affect the freedom of Member States which introduce a system of tolls and/or user charges for infrastructure to provide appropriate compensation for those charges.

(\*) OJ L 370, 31.12.1985, p. 8.

(\*\*) OJ L 204, 5.8.2010, p. 1.

(\*\*\*) OJ L 134, 30.4.2004, p. 114.

(\*\*\*\*) OJ L 166, 30.4.2004, p. 124.;

(3) After Article 8a, the following Article is added:

*'Article 8b*

1. Two or more Member States may cooperate in introducing a common system for tolls applicable to their

combined territories as a whole. In such a case, those Member States shall ensure that the Commission is informed about such cooperation and the system's subsequent operation and possible amendment.

2. The common toll system shall be subject to the conditions set out in Articles 7 to 7k. Other Member States may join the common system.;

(4) in Article 9, paragraphs 1a and 2 are replaced by the following:

'1a. This Directive shall not prevent the non-discriminatory application by Member States of regulatory charges specifically designed to reduce traffic congestion or combat environmental impacts, including poor air quality, on any roads located in an urban area, including trans-European network roads crossing urban areas.

2. Member States shall determine the use of revenues generated by this Directive. To enable the transport network to be developed as a whole, revenues generated from infrastructure and external costs charges, or the equivalent in financial value of these revenues, should be used to benefit the transport sector, and optimise the entire transport system. In particular, revenues generated from external cost charges, or the equivalent in financial value of these revenues, should be used to make transport more sustainable, including one or more of the following:

- (a) facilitating efficient pricing;
- (b) reducing road transport pollution at source;
- (c) mitigating the effects of road transport pollution at source;
- (d) improving the CO<sub>2</sub> and energy performance of vehicles;
- (e) developing alternative infrastructure for transport users and/or expanding current capacity;
- (f) supporting the trans-European transport network;
- (g) optimising logistics;
- (h) improving road safety; and
- (i) providing secure parking places.

This paragraph shall be deemed to be applied by Member States, if they have in place and implement fiscal and financial support policies which leverage financial support to the trans-European network and which have an equivalent value of at least 15 % of the revenues generated from infrastructure and external cost charges in each Member State.;

(5) Articles 9b and 9c are replaced by the following:

*Article 9b*

The Commission shall facilitate dialogue and the exchange of technical know-how between Member States in relation to the implementation of this Directive and in particular the Annexes.

*Article 9c*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of 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 powers (\*).

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

*Article 9d*

The Commission shall adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union as regards:

- the adaptation of Annex 0 to the Union *acquis*,
- the adaptation of the formulas of sections 4.1 and 4.2 of Annex IIIa to scientific and technical progress.

The procedures set out in Articles 9e, 9f and 9g shall apply to the delegated acts referred to in this Article.

*Article 9e*

1. The power to adopt the delegated acts referred to in Article 9d shall be conferred on the Commission for an indeterminate period of time.

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and the Council.

3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 9f and 9g.

*Article 9f*

1. The delegation of power referred to in Article 9d may be revoked by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation and possible reasons for a revocation.

3. The decision of revocation shall put an end to the delegation of the power specified in that decision and shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

*Article 9g*

1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification.

At the initiative of the European Parliament or the Council this period shall be extended by two months.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

(\*) OJ L 55, 28.2.2011, p. 13.;

(6) in Article 10(1), the words 'European Communities' are replaced by the words 'European Union';

(7) after Article 10, the following Article is inserted:

*Article 10a*

1. The amounts in euro as laid down in Annex II and the amounts in cent as laid down in Tables 1 and 2 in Annex IIIb shall be reviewed every two years starting on 1 January 2013, in order to take account of changes in the EU-wide Harmonised Index of Consumer Prices excluding energy and unprocessed food (as published by the Commission (Eurostat)).

The amounts shall be adapted automatically, by increasing the base amount in euro or cent by the percentage change in that index. The resulting amounts shall be rounded up to the nearest euro with regard to Annex II, rounded up to the nearest tenth of a cent with regard to Table 1 in Annex IIIb and rounded up to the nearest hundredth of a cent with regard to Table 2 in Annex IIIb.

2. The Commission shall publish in the *Official Journal of the European Union* the adapted amounts referred to in paragraph 1. Those adapted amounts shall enter into force on the first day of the month following publication.;

(8) Article 11 is replaced by the following:

*Article 11*

1. By 16 October 2014, and every four years thereafter, Member States which levy an external-cost charge and/or an infrastructure charge shall draw up a report on tolls, including concession tolls, levied on their territory and shall forward it to the Commission which shall make

it available to the other Member States. That report may exclude tolling arrangements that were already in place on 10 June 2008 and which do not include external-cost charges, as long as those arrangements remain in force and provided that they are not substantially amended. That report shall comprise information on:

- (a) the weighted average external-cost charge and the specific amounts levied for each combination of class of vehicle, type of road and period of time;
- (b) the variation of infrastructure charges according to the type of vehicles and time;
- (c) the weighted average infrastructure cost charge and total revenue raised through the infrastructure charge;
- (d) the total revenue raised through external cost charges; and
- (e) the actions taken pursuant to Article 9(2).

2. By 16 October 2015, the Commission, assisted by the Committee referred to in Article 9c, shall present a report to the European Parliament and the Council on the implementation and effects of this Directive, in particular as regards the effectiveness of the provisions on the recovery of the costs related to traffic-based pollution, and on the inclusion of vehicles of more than 3,5 and less than 12 tonnes. The report shall also analyse, based on continuous monitoring, and assess, amongst others:

- (a) the effectiveness of the measures foreseen in this Directive in order to tackle negative impacts caused by road transport taking also into account, in particular, the impact on geographically isolated and peripheral Member States;
- (b) the effect of the implementation of this Directive to direct users toward the most environmentally friendly and efficient transport solutions and shall include information on the introduction of distance-based charges;
- (c) the implementation and effect of the variation of infrastructure charges as referred to in Article 7g on the reduction of local air pollution and congestion. The report shall also evaluate whether the maximum variation and peak period as referred to in Article 7g are sufficient to enable a proper functioning of the variation mechanism;
- (d) scientific progress in estimating external costs of transport for the purpose of internalising them; and
- (e) progress towards applying charges to road users and ways of gradually harmonising the charging systems that are applied to commercial vehicles.

The report shall also evaluate the use of electronic systems to levy and collect infrastructure and external-cost charges and their degree of interoperability pursuant to Directive 2004/52/EC.

3. The report shall be accompanied, if appropriate, by a proposal to the European Parliament and the Council for further revision of this Directive.

4. By 16 October 2012, the Commission shall present a report that summarises the other measures, such as regulatory policies, taken to internalise or reduce the external costs related to environment, noise and health from all transport modes, including the legal basis and maximum values used.

In order to ensure fair intermodal competition while gradually charging the external costs of all transport modes, it shall include a timetable of the measures which remain to be taken to address other modes or vehicles and/or the external-cost elements not taken into account yet, taking into account progress in revising Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (\*).

(\*) OJ L 283, 31.10.2003, p. 51.;

(9) Annex III is amended as follows:

(a) the first paragraph is replaced by the following:

‘This Annex stipulates the core principles for the calculation of weighted average infrastructure charge to reflect Article 7b(1). The obligation to relate infrastructure charges to costs shall be without prejudice to the freedom of Member States to choose, in accordance with Article 7b(2), not to recover the costs in full through infrastructure charges revenue, or to the freedom, in accordance with Article 7f, to vary the amounts of specific infrastructure charges away from the average.’;

(b) in the second paragraph, the word ‘Community’ is replaced by the word ‘Union’;

(c) in point (1), second indent, the words ‘Article 7a(1)’ are replaced by the words ‘Article 7b(2)’;

(10) after Annex III, the text set out in the Annex to this Directive is inserted.

#### Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 16 October 2013. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

The obligations for transposition and implementation of this Directive shall not apply to Member States as long as neither tolls nor user charges are implemented within their territory.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 3*

This Directive shall enter into force on the day following its publication in the *Official Journal of the European Union*.

*Article 4*

This Directive is addressed to the Member States.

Done at Strasbourg, 27 September 2011.

*For the European Parliament*

*The President*

J. BUZEK

*For the Council*

*The President*

M. DOWGIELEWICZ

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## ANNEX

## ‘ANNEX IIIa

**MINIMUM REQUIREMENTS FOR LEVYING AN EXTERNAL-COST CHARGE**

This Annex sets out the minimum requirements for levying an external-cost charge and for calculating the maximum weighted average external-cost charge.

**1. The parts of the road network concerned**

The Member State shall specify precisely the part or parts of their road network which are to be subject to an external-cost charge.

Where a Member State chooses to levy an external-cost charge on only a part or parts of the road network falling within the scope of this Directive, the part or parts shall be chosen after an assessment establishing that:

- vehicles’ use of the roads where the external-cost charge is applied generates environmental damage higher than that generated on average on other parts of the road network falling within the scope of this Directive that are not subject to an external-cost charge, or
- the imposition of an external-cost charge on other parts of the road network falling within the scope of this Directive might have adverse effects on the environment or road safety, or levying and collecting an external-cost charge on them would entail disproportionate cost.

**2. The vehicles, roads and time period covered**

The Member State shall notify the Commission of the classification of vehicles according to which the toll shall vary. It shall also notify the Commission of the location of roads subject to higher external-cost charges (called hereafter “suburban roads (including motorways)”), and of roads subject to lower external-cost charges (called hereafter “interurban roads (including motorways)”).

Where applicable, it shall also notify the Commission of the exact time periods corresponding to the night period during which a higher external noise-cost charge may be imposed to reflect greater noise nuisances.

The classification of roads as suburban roads (including motorways) and interurban roads (including motorways), and the definition of time periods shall be based on objective criteria related to the level of exposure of the roads and their vicinities to pollution such as population density, and the yearly number of pollution peaks measured in accordance with this Directive. The criteria used shall be included in the notification.

**3. Amount of the charge**

For each vehicle class, type of road and time period, the Member State or, if appropriate, an independent authority shall determine a single specific amount. The resulting charging structure, including the start time and the end time of each night period where the external-cost charge includes the cost of noise pollution, shall be transparent, made public and available to all users on equal terms. The publication should occur in a timely manner before implementation. All parameters, data and other information necessary to understand how the various external-cost elements are calculated shall be made public.

When setting the charges, the Member State or, if appropriate, an independent authority shall be guided by the principle of efficient pricing that is a price close to the social marginal cost of the usage of the vehicle charged.

The charge shall also be set after having considered the risk of traffic diversion together with any adverse effects on road safety, the environment and congestion, and any solutions to mitigate these risks.

The Member State or, if appropriate, an independent authority, shall monitor the effectiveness of the charging scheme in reducing environmental damage arising from road transport. It shall every two years adjust, if appropriate, the charging structure and the specific amount of the charge set for a given class of vehicle, type of road and period of time to the changes in transport supply and demand.

**4. External-cost elements****4.1. Cost of traffic-based air pollution**

When a Member State chooses to include all or part of the cost of traffic-based air pollution in the external-cost charge, the Member State or, if appropriate, an independent authority shall calculate the chargeable cost of traffic-based air pollution by applying the following formula or by taking the unit values in Table 1 of Annex IIIb if the latter are lower:

$$PCV_{ij} = \sum_k EF_{ik} \times PC_{jk}$$

where:

- $PCV_{ij}$  = air pollution cost of vehicle class  $i$  on road type  $j$  (euro/vehicle.kilometre)
- $EF_{ik}$  = emission factor of pollutant  $k$  and vehicle class  $i$  (gram/vehicle.kilometre)
- $PC_{jk}$  = monetary cost of pollutant  $k$  for type of road  $j$  (euro/gram)

The emission factors shall be the same as those used by the Member State to draft the national emissions inventories provided for in Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants <sup>(1)</sup> (which requires use of the EMEP/CORINAIR Emission Inventory Guidebook <sup>(2)</sup>). The monetary cost of pollutants shall be estimated by the Member State or, if appropriate, an independent authority, respecting the state of the article

The Member State or, if appropriate, an independent authority may apply scientifically proven alternative methods to calculate the value of air pollution costs using data from air pollutant measurement and the local value of the monetary cost of air pollutants, provided that the results do not exceed the unit values referred to in Table 1 of Annex IIIb for any class of vehicles.

#### 4.2. Cost of traffic-based noise pollution

When a Member State chooses to include all or part of the cost of traffic-based noise pollution in the external-cost charge, the Member State or, if appropriate, an independent authority shall calculate the chargeable cost of traffic-based noise pollution by applying the following formulae or by taking the unit values in Table 2 of Annex IIIb if the latter are lower:

$$NCV_j \text{ (daily)} = e \times \sum_k NC_{jk} \times POP_k / WADT$$

$$NCV_j \text{ (day)} = a \times NCV_j$$

$$NCV_j \text{ (night)} = b \times NCV_j$$

where:

- $NCV_j$  = noise cost of one heavy goods vehicle on road type  $j$  (euro/vehicle.kilometre)
- $NC_{jk}$  = noise cost per person exposed on road type  $j$  to noise level  $k$  (euro/person)
- $POP_k$  = population exposed to daily noise level  $k$  per kilometre (person/kilometre)
- $WADT$  = weighted average daily traffic (passenger car equivalent)
- $a$  and  $b$  are weighting factors determined by the Member State in such a way that the resulting weighted average noise charge per vehicle kilometre does not exceed  $NCV_j$  (daily).

The traffic-based noise pollution relates to the impact on noise levels measured close to the point of exposure and behind anti-noise barriers, if any.

The population exposed to noise level  $k$  shall be taken from the strategic noise maps drafted under Article 7 of Directive 2002/49/EC of the European Parliament and the Council of 25 June 2002 relating to the assessment and management of environmental noise <sup>(3)</sup>.

The cost per person exposed to noise level  $k$  shall be estimated by the Member State or, if appropriate, an independent authority, respecting the state of the article

The weighted average daily traffic shall assume an equivalence factor “ $e$ ” of no more than 4 between heavy goods vehicles and passenger cars.

<sup>(1)</sup> OJ L 309, 27.11.2001, p. 22.

<sup>(2)</sup> Methodology of the European Environmental Agency: <http://reports.eea.europa.eu/EMEP/CORINAIR5/>

<sup>(3)</sup> OJ L 189, 18.7.2002, p. 12.

The Member State or, if appropriate, an independent authority may apply scientifically proven alternative methods to calculate the value of noise costs provided that the results do not exceed the unit values referred to in Table 2 of Annex IIIb.

The Member State or, if appropriate, an independent authority, may establish differentiated noise charges to reward the use of quieter vehicles provided it does not result in discrimination against foreign vehicles. If differentiated noise charges are introduced, the charges for the noisiest category of vehicles may not exceed the unit values referred to in Table 2 of Annex IIIb and four times the noise charge for the quietest vehicle.

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ANNEX IIIb

**MAXIMUM WEIGHTED AVERAGE EXTERNAL-COST CHARGE**

This Annex sets out the parameters to be used to calculate the maximum weighted average external-cost charge.

**1. Maximum cost of traffic-based air pollution:**

Table 1: Maximum chargeable air pollution cost

cent/vehicle.kilometre	Suburban roads (including motorways)	Interurban roads (including motorways)
EURO 0	16	12
EURO I	11	8
EURO II	9	7
EURO III	7	6
EURO IV	4	3
EURO V	0	0
after 31 December 2013	3	2
EURO VI	0	0
after 31 December 2017	2	1
Less polluting than EURO VI	0	0

The values of Table 1 may be multiplied by a factor of up to 2 in mountain areas to the extent that it is justified by the gradient of roads, altitude and/or temperature inversions.

**2. Maximum cost of traffic-based noise pollution**

Table 2: Maximum chargeable noise cost

cent/vehicle.kilometre	Day	Night
Suburban roads (including motorways)	1,1	2
Interurban roads (including motorways)	0,2	0,3

The values in Table 2 may be multiplied by a factor of up to 2 in mountain areas to the extent that it is justified by the gradient of roads, temperature inversions and/or amphitheatre effect of valleys'.

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### STATEMENT BY THE COMMISSION ON CORRELATION TABLES

The Commission recalls its commitment towards ensuring that Member States establish correlation tables linking the transposition measures they adopt with the EU directive and communicate them to the Commission in the framework of transposing EU legislation, in the interest of citizens, better law-making and increasing legal transparency and to assist the examination of the conformity of national rules with EU provisions.

The Commission regrets the lack of support for the provision included in the proposal for 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), which aimed at rendering the establishment of correlation tables obligatory.

The Commission, in a spirit of compromise and in order to ensure the immediate adoption of that proposal, can accept the substitution of the obligatory provision on correlation tables included in the text with a relevant recital encouraging Member States to follow this practice. It will inform within 12 months after adoption of this agreement in plenary and make a report at the end of the transposition period on the practice of Member States to draw up, for themselves and in the interests of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.

However, the position followed by the Commission in this file shall not be considered as a precedent. The Commission will continue its efforts with a view to finding together with the European Parliament and the Council an appropriate solution to this horizontal institutional issue.'

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### STATEMENT BY THE HUNGARIAN, POLISH, DANISH AND CYPRIOT PRESIDENCIES OF THE COUNCIL

'It is hereby declared that the agreement reached between the Council and the European Parliament in the trilogue of 23 May 2011 concerning the 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) does not prejudice the outcome of interinstitutional negotiations on correlation tables.'

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### STATEMENT BY THE EUROPEAN PARLIAMENT

The European Parliament regrets that the Council was not prepared to accept the mandatory publication of correlation tables in the context of the proposal amending Directive 1999/62/EC. It is hereby declared that the agreement reached between the European Parliament and the Council in the trilogue of 23 May 2011 concerning the 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) does not prejudice the outcome of interinstitutional negotiations on correlation tables.

The European Parliament calls on the European Commission to inform it within 12 months after adoption of this agreement in plenary and to make a report at the end of the transposition period on the practice of Member States in drawing up their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.'

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## II

(Non-legislative acts)

## INTERNATIONAL AGREEMENTS

## COUNCIL DECISION

of 10 October 2011

**on the conclusion of the Protocol agreed between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the two parties currently in force**

(2011/679/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) in conjunction with point (a) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) On 19 December 2006, the Council adopted Regulation (EC) No 2027/2006 on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde <sup>(1)</sup>.
- (2) The Union negotiated with the Republic of Cape Verde a new protocol providing EU vessels with fishing opportunities in the waters in which Cape Verde has sovereignty or jurisdiction as regards fishing.
- (3) On the conclusion of those negotiations, the new Protocol was initialled on 22 December 2010.
- (4) That new Protocol was signed in accordance with Council Decision 2011/405/EU <sup>(2)</sup> and will be provisionally applied as from 1 September 2011.
- (5) The Protocol should be concluded,

HAS ADOPTED THIS DECISION:

*Article 1*

The Protocol agreed between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the two parties currently in force is hereby approved on behalf of the Union.

*Article 2*

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 16 of the Protocol, in order to express the consent of the Union to be bound by the Protocol <sup>(3)</sup>.

*Article 3*

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 10 October 2011.

*For the Council*  
*The President*  
A. KRASZEWSKI

<sup>(1)</sup> OJ L 414, 30.12.2006, p. 1.  
<sup>(2)</sup> OJ L 181, 9.7.2011, p. 1.

<sup>(3)</sup> The date of entry into force of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

## REGULATIONS

## COUNCIL REGULATION (EU) No 1011/2011

of 13 October 2011

## amending Regulation (EU) No 442/2011 concerning restrictive measures in view of the situation in Syria

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to Council Decision 2011/273/CFSP concerning restrictive measures against Syria <sup>(1)</sup>,

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission,

Whereas:

- (1) On 9 May 2011, the Council adopted Regulation (EU) No 442/2011 <sup>(2)</sup> concerning restrictive measures in view of the situation in Syria.
- (2) On 2 September 2011 <sup>(3)</sup>, the Council amended Regulation (EU) No 442/2011 to extend the measures against Syria, including an expansion of the listing criteria, and a prohibition on the purchase, import or transportation of crude oil from Syria. On 23 September 2011 <sup>(4)</sup>, the Council again amended Regulation (EU) No 442/2011 extending further the measures against Syria, to include a prohibition on investment in the crude oil sector, the addition of further listings, and a prohibition of the delivery of Syrian banknotes and coins to the Central Bank of Syria.
- (3) Council Decision 2011/684/CFSP <sup>(5)</sup> amending Decision 2011/273/CFSP provides for an additional measure, namely the listing of an additional entity, together with a derogation permitting, for a limited period, the use of frozen funds subsequently received by that entity in connection with the financing of trade with non-designated persons and entities.
- (4) That measure falls within the scope of the Treaty on the Functioning of the European Union and regulatory action at the level of the Union is therefore necessary in order to implement it, in particular with a view to ensuring its uniform application by economic operators in all Member States.

- (5) In order to ensure that the measure provided for in this Regulation is effective, this Regulation must enter into force immediately upon its publication,

HAS ADOPTED THIS REGULATION:

## Article 1

Regulation (EU) No 442/2011 is hereby amended as follows:

- (1) in Articles 4(1), 4(2), 5(2), and 5(3), and in point (a) of Article 6, the words 'Annex II' shall be replaced by the words 'Annexes II and IIa';
- (2) in points (a) and (c) of Article 7, and in Articles 9 and 14(1), the words 'Annex II' shall be replaced by the words 'Annex II or Annex IIa';
- (3) in Article 5, paragraph 1 is replaced by the following:
  - '1. Annexes II and IIa shall consist of the following:
    - (a) Annex II shall consist of a list of natural or legal persons, entities and bodies who, in accordance with Article 4(1) of Decision 2011/273/CFSP, have been identified by the Council as being persons or entities responsible for the violent repression against the civilian population in Syria, persons and entities benefiting from or supporting the regime, and natural or legal persons and entities associated with them, and to whom Article 9a shall not apply;
    - (b) Annex IIa shall consist of a list of entities which, in accordance with Article 4(1) of Decision 2011/273/CFSP, have been identified by the Council as being entities associated with the persons or entities responsible for the violent repression against the civilian population in Syria, or with persons and entities benefiting from or supporting the regime, and to which Article 9a shall apply.;
- (4) in Article 14, paragraph 4 is replaced by the following:

'4. The lists in Annexes II and IIa shall be reviewed at regular intervals and at least every 12 months.;

<sup>(1)</sup> OJ L 121, 10.5.2011, p. 11.

<sup>(2)</sup> OJ L 121, 10.5.2011, p. 1.

<sup>(3)</sup> Council Regulation (EU) No 878/2011 (OJ L 228, 3.9.2011, p. 1).

<sup>(4)</sup> Council Regulation (EU) No 950/2011 (OJ L 247, 24.9.2011, p. 3).

<sup>(5)</sup> See page 33 of this Official Journal.

(5) the following Article is inserted:

*'Article 9a*

By way of derogation from Article 4(1), an entity listed in Annex IIa may, for a period of two months from the date on which it was designated, make a payment from frozen funds or economic resources which were received by that entity after the date on which it was designated, provided that:

- (a) such payment is due under a trade contract; and
- (b) the competent authority of the relevant Member State has determined that the payment will not directly or indirectly be received by a person or entity listed in Annex II or Annex IIa.'

*Article 2*

Annex II to Regulation (EU) No 442/2011 is hereby amended as set out in Annex II to this Regulation.

*Article 3*

The text of Annex I to this Regulation shall be inserted as Annex IIa to Regulation (EU) No 442/2011.

*Article 4*

The text of Annex IV to Regulation (EU) No 442/2011 is hereby replaced by Annex III to this Regulation.

*Article 5*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 October 2011.

For the Council  
The President  
M. DOWGIELEWICZ

ANNEX I

'ANNEX IIa

**List of entities referred to in Articles 4 and 5**

**Entities**

	Name	Identifying information	Reasons	Date of listing
1.	Commercial Bank of Syria	<p>— Damascus Branch, P.O. Box 2231, Moawiya St., Damascus, Syria;- P.O. Box 933, Yousef Azmeh Square, Damascus, Syria;</p> <p>— Aleppo Branch, P.O. Box 2, Kastel Hajjarin St., Aleppo, Syria;</p> <p>SWIFT/BIC CMSY SY DA; all offices worldwide [NPWMD]</p> <p>Website: <a href="http://cbs-bank.sy/En-index.php">http://cbs-bank.sy/En-index.php</a> Tel: +963 11 2218890 Fax: +963 11 2216975 general managment: dir.cbs@mail.sy</p>	State-owned bank providing financial support to the regime.	13.10.2011'

## ANNEX II

In Annex II to Regulation (EU) No 442/2011, the entries for Emad GHRAIWATI, Tarif AKHRAS and Issam ANBOUBA are replaced by the following entries:

Name	Identifying information (date of birth, place of birth ...)	Reasons	Date of listing
Emad GHRAIWATI	DoB: March 1959; PoB: Damascus, Syria	President of the Damascus Chamber of Industry (Zuhair Ghraiwati Sons). Supports economically the Syrian regime.	2.9.2011
Tarif AKHRAS	DoB: 1949; PoB: Homs, Syria	Founder of the Akhras Group (commodities, trading, processing and logistics), Homs. Supports economically the Syrian regime.	2.9.2011
Issam ANBOUBA	DoB: 1949; PoB: Lattakia, Syria	President of Issam Anbouba Est. for agro-industry. Supports economically the Syrian regime.	2.9.2011'

## ANNEX III

## 'ANNEX IV

**List of petroleum products**

<b>HS Code</b>	<b>Description</b>
2709 00	Petroleum oils and oils obtained from bituminous minerals, crude.
2710	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 % or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils (save that the purchase, in Syria, of kerosene jet fuel of CN code 2710 19 21 is not prohibited provided that it is intended and used solely for the purpose of the continuation of the flight operation of the aircraft into which it is loaded).
2712	Petroleum jelly; paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes, and similar products obtained by synthesis or by other processes, whether or not coloured.
2713	Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous minerals.
2714	Bitumen and asphalt, natural; bituminous or oil-shale and tar sands; asphaltites and asphaltic rocks.
2715 00 00	Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example, bituminous mastics, cut-backs).'

**COMMISSION REGULATION (EU) No 1012/2011****of 11 October 2011****establishing a prohibition of fishing for common sole in VIIIa and VIIIb by vessels flying the flag of Belgium**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty on the Functioning of the European Union,

*Article 1***Quota exhaustion**

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy <sup>(1)</sup>, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**

(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters <sup>(2)</sup>, lays down quotas for 2011.

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 October 2011.

*For the Commission,  
On behalf of the President,*

Lowri EVANS

*Director-General for Maritime Affairs and Fisheries*

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 1.

<sup>(2)</sup> OJ L 24, 27.1.2011, p. 1.

## ANNEX

No	39/T&Q
Member State	Belgium
Stock	SOL/8AB.
Species	Common sole ( <i>Solea solea</i> )
Zone	VIIIa and VIIIb
Date	13.8.2011

**COMMISSION REGULATION (EU) No 1013/2011****of 11 October 2011****establishing a prohibition of fishing for bigeye tuna in the Atlantic Ocean by vessels flying the flag of Portugal**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty on the Functioning of the European Union,

*Article 1***Quota exhaustion**

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy <sup>(1)</sup>, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**

(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters <sup>(2)</sup>, lays down quotas for 2011.

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 October 2011.

*For the Commission,  
On behalf of the President,*

Lowri EVANS

*Director-General for Maritime Affairs and Fisheries*

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 1.

<sup>(2)</sup> OJ L 24, 27.1.2011, p. 1.

## ANNEX

No	42/T&Q
Member State	Portugal
Stock	BET/ATLANT
Species	Bigeye tuna ( <i>Thunnus obesus</i> )
Zone	Atlantic Ocean
Date	16.9.2011

**COMMISSION REGULATION (EU) No 1014/2011****of 11 October 2011****establishing a prohibition of fishing for Norway lobster in VIIIa, VIIIb, VIIIc and VIIIe by vessels flying the flag of Belgium**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty on the Functioning of the European Union,

*Article 1***Quota exhaustion**Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy <sup>(1)</sup>, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters <sup>(2)</sup>, lays down quotas for 2011.

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 October 2011.

*For the Commission,  
On behalf of the President,*

Lowri EVANS

*Director-General for Maritime Affairs and Fisheries*<sup>(1)</sup> OJ L 343, 22.12.2009, p. 1.<sup>(2)</sup> OJ L 24, 27.1.2011, p. 1.

## ANNEX

No	47/T&Q
Member State	Belgium
Stock	NEP/8ABDE.
Species	Norway lobster ( <i>Nephrops norvegicus</i> )
Zone	VIIIa, VIIIb, VIIIc and VIIf
Date	13.8.2011

**COMMISSION IMPLEMENTING REGULATION (EU) No 1015/2011****of 13 October 2011****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors <sup>(2)</sup>, and in particular Article 136(1) thereof,

Whereas:

Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 14 October 2011.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 October 2011.

*For the Commission,  
On behalf of the President,  
José Manuel SILVA RODRÍGUEZ  
Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 157, 15.6.2011, p. 1.

## ANNEX

**Standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	AL	58,3
	EC	36,3
	MA	42,5
	MK	42,0
	ZZ	44,8
0707 00 05	AL	65,0
	MK	64,2
	TR	132,0
	ZZ	87,1
0709 90 70	TR	132,0
	ZZ	132,0
0805 50 10	AR	67,4
	BR	38,2
	CL	60,5
	TR	62,1
	UY	56,8
	ZA	67,6
	ZZ	58,8
0806 10 10	BR	225,1
	CL	79,6
	MK	85,4
	PE	228,3
	TR	119,2
	ZA	65,0
	ZZ	133,8
0808 10 80	CL	127,7
	CN	86,4
	NZ	122,0
	ZA	126,9
	ZZ	115,8
0808 20 50	CL	85,4
	CN	98,9
	TR	57,5
	ZZ	80,6

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

# DECISIONS

## COUNCIL DECISION

of 10 October 2011

**appointing a Portuguese member of the European Economic and Social Committee**

(2011/680/EU)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 302 thereof,

### *Article 1*

Mr Gonçalo da GAMA LOBO XAVIER, *Confederação da Indústria Portuguesa (CIP)* is hereby appointed as a member of the European Economic and Social Committee for the remainder of the current term of office, which runs until 20 September 2015.

Having regard to the proposal of the Portuguese Government,

Having regard to the opinion of the European Commission,

### *Article 2*

This Decision shall enter into force on the day of its adoption.

Whereas:

Done at Luxembourg, 10 October 2011.

(1) On 13 September 2010 the Council adopted Decision 2010/570/EU, Euratom appointing the members of the European Economic and Social Committee for the period from 21 September 2010 to 20 September 2015 <sup>(1)</sup>.

(2) A member's seat on the European Economic and Social Committee has become vacant following the end of the term of office of Mr Manuel CAVALEIRO BRANDÃO,

*For the Council*  
*The President*  
A. KRASZEWSKI

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<sup>(1)</sup> OJ L 251, 25.9.2010, p. 8.

**COUNCIL DECISION**  
**of 10 October 2011**  
**appointing an Irish member of the European Economic and Social Committee**  
(2011/681/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 302 thereof,

Having regard to the proposal of the Irish Government,

Having regard to the opinion of the European Commission,

Whereas:

- (1) On 13 September 2010 the Council adopted Decision 2010/570/EU, Euratom appointing the members of the European Economic and Social Committee for the period from 21 September 2010 to 20 September 2015 <sup>(1)</sup>.
- (2) A member's seat on the European Economic and Social Committee has become vacant following the end of the term of office of Ms Jillian VAN TURNHOUT,

HAS ADOPTED THIS DECISION:

*Article 1*

Mr Seamus BOLAND, *Chief Executive Officer, Irish Rural Link* is hereby appointed as a member of the European Economic and Social Committee for the remainder of the current term of office, which runs until 20 September 2015.

*Article 2*

This Decision shall enter into force on the day of its adoption.

Done at Luxembourg, 10 October 2011.

*For the Council*  
*The President*  
A. KRASZEWSKI

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<sup>(1)</sup> OJ L 251, 25.9.2010, p. 8.

**COUNCIL IMPLEMENTING DECISION****of 11 October 2011****amending Implementing Decision 2011/77/EU on granting Union financial assistance to Ireland**

(2011/682/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism <sup>(1)</sup>, and in particular Article 3(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Upon a request by Ireland, the Council granted financial assistance to it (Implementing Decision 2011/77/EU <sup>(2)</sup>) in support of a strong economic and financial reform programme aiming at restoring confidence, enabling the return of the economy to sustainable growth, and safeguarding financial stability in Ireland, the euro area and the Union.
- (2) An extension of maturities and a reduction in the interest rate margin would be beneficial to secure the objectives of the programme, in line with the conclusions of the Heads of State or Government of the euro area and Union institutions of 21 July 2011 regarding European Financial Stability Facility lending.
- (3) In order to enhance liquidity and sustainability objectives, the extension of maturities and the reduction in the interest rate margin should also apply to the tranches that have already been disbursed.
- (4) In light of these developments, Implementing Decision 2011/77/EU should be amended,

HAS ADOPTED THIS DECISION:

*Article 1*

Article 1 of Implementing Decision 2011/77/EU is amended as follows:

(1) paragraph 1 is replaced by the following:

'1. The Union shall make available to Ireland a loan amounting to a maximum of EUR 22,5 billion, with a maximum average maturity of 12,5 years. The maturity of individual tranches of the loan facility may be of up to 30 years.;

(2) paragraph 5 is replaced by the following:

'5. Ireland shall pay the cost of funding of the Union for each tranche.'

*Article 2*

Article 1(1), first sentence and Article 1(5) of Implementing Decision 2011/77/EU, as amended by this Decision, shall also apply to the tranches of the loan that have been disbursed before the entry into force of this Decision.

*Article 3*

This Decision is addressed to Ireland.

Done at Luxembourg, 11 October 2011.

*For the Council**The President*

M. DOWGIELEWICZ

<sup>(1)</sup> OJ L 118, 12.5.2010, p. 1.<sup>(2)</sup> OJ L 30, 4.2.2011, p. 34.

**COUNCIL IMPLEMENTING DECISION****of 11 October 2011****amending Implementing Decision 2011/344/EU on granting Union financial assistance to Portugal**

(2011/683/EU)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on the Functioning of the European Union,

*Article 1*

Article 1 of Implementing Decision 2011/344/EU is amended as follows:

Having regard to Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism <sup>(1)</sup>, and in particular Article 3(2) thereof,

(1) paragraph 1 is replaced by the following:

Having regard to the proposal from the European Commission,

‘1. The Union shall make available to Portugal a loan amounting to a maximum of EUR 26 billion, with a maximum average maturity of 12,5 years. The maturity of individual tranches of the loan may be of up to 30 years.’

Whereas:

(2) paragraph 5 is replaced by the following:

(1) Upon a request by Portugal, the Council granted financial assistance to it (Implementing Decision 2011/344/EU <sup>(2)</sup>) in support of a strong economic and financial reform programme aiming at restoring confidence, enabling the return of the economy to sustainable growth, and safeguarding financial stability in Portugal, the euro area and the Union.

‘5. Portugal shall pay the cost of funding of the Union for each tranche.’

(2) An extension of maturities and a reduction in the interest rate margin would be beneficial to secure the programme's objectives, in line with the conclusions of the Heads of State or Government of the euro area and Union institutions of 21 July 2011 regarding European Financial Stability Facility lending.

*Article 2*

Article 1(1), first sentence and Article 1(5) of Implementing Decision 2011/344/EU as amended by this Decision, shall also apply to the tranches of the loan that have been disbursed before the entry into force of this Decision.

(3) In order to enhance liquidity and sustainability objectives, the extension of maturities and the reduction in the interest rate margin should also apply to the tranches that have already been disbursed.

*Article 3*

This Decision is addressed to the Portuguese Republic.

(4) In light of these developments, Implementing Decision 2011/344/EU should be amended,

Done at Luxembourg, 11 October 2011.

*For the Council**The President*

M. DOWGIELEWICZ

<sup>(1)</sup> OJ L 118, 12.5.2010, p. 1.<sup>(2)</sup> OJ L 159, 17.6.2011, p. 88.

**COUNCIL DECISION 2011/684/CFSP****of 13 October 2011****amending Decision 2011/273/CFSP concerning restrictive measures against Syria**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 9 May 2011, the Council adopted Decision 2011/273/CFSP concerning restrictive measures against Syria. <sup>(1)</sup>
- (2) In view of the gravity of the situation in Syria, an additional entity should be subject to the restrictive measures set out in Decision 2011/273/CFSP with a view to preventing that entity from using funds or economic resources presently owned, held or controlled by it in order to provide financial support to the Syrian regime, whilst allowing on a temporary basis for frozen funds or economic resources subsequently received by that entity to be used in connection with the financing of trade with non-designated persons and entities.
- (3) Decision 2011/273/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Council Decision 2011/273/CFSP is hereby amended as follows:

(1) Article 3 is amended as follows:

(i) paragraph 1 is replaced by the following:

'1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of the persons responsible for the violent repression against the civilian population in Syria, persons benefiting from or supporting the regime, and persons associated with them, as listed in Annex I.;

(ii) paragraph 8 is replaced by the following:

'8. In cases where pursuant to paragraphs 3, 4, 5, 6 and 7 a Member State authorises the entry into, or transit through, its territory of persons listed in Annex I, the authorisation shall be limited to the purpose for which it is given and to the person concerned therewith.;

(2) Article 4 is amended as follows:

(i) paragraphs 1 and 2 are replaced by the following:

'1. All funds and economic resources belonging to, or owned, held or controlled by persons responsible for the violent repression against the civilian population in Syria, persons and entities benefiting from or supporting the regime, and persons and entities associated with them, as listed in Annexes I and II, shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of, natural or legal persons or entities listed in Annexes I and II.;

(ii) point (a) of paragraph 3 is replaced by the following:

'(a) necessary to satisfy the basic needs of the persons listed in Annexes I and II and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges.;

(iii) point (a) of paragraph 4 is replaced by the following:

'(a) the funds or economic resources are the subject of a judicial, administrative or arbitral lien established prior to the date on which the natural or legal person or entity referred to in Article 4(1) was included in Annexes I and II, or of a judicial, administrative or arbitral judgment rendered prior to that date.;

(iv) point (c) of paragraph 4 is replaced by the following:

'(c) the lien or judgment is not for the benefit of a natural or legal person or entity listed in Annexes I and II; and';

(v) the following paragraph is added:

'5a. Paragraph 1 shall not prevent a designated entity listed in Annex II, for a period of two months after the date of its designation, from making a payment from frozen funds or economic resources received by such entity after the date of its designation, where such payment is due under a contract in connection with the financing of trade, provided that the relevant Member State has determined that the payment is not directly or indirectly received by a person or entity referred to in paragraph 1.;

<sup>(1)</sup> OJ L 121, 10.5.2011, p. 11.

(3) Article 4a is replaced by the following:

*Article 4a*

No claims, including for compensation or indemnification or any other claim of this kind, such as a claim of set-off, fines or a claim under a guarantee, claims for extension or payment of a bond, financial guarantee, including claims arising from letters of credit and similar instruments in connection with any contract or transaction the performance of which was affected, directly or indirectly, wholly or in part, by reason of measures covered by this Decision, shall be granted to the designated persons or entities listed in Annexes I and II, or any other person or entity in Syria, including the Government of Syria, its public bodies, corporations and agencies, or any person or entity claiming through or for the benefit of any such person or entity.;

(4) Article 5(1) is replaced by the following:

1. The Council, acting upon a proposal by a Member State or the High Representative of the Union for Foreign Affairs and Security Policy, shall establish and amend the lists in Annexes I and II.;

(5) Article 6 is replaced by the following:

*Article 6*

1. Annexes I and II shall include the grounds for listing the persons and entities concerned.

2. Annexes I and II shall also contain, where available, the information necessary to identify the persons or entities concerned. With regard to persons, such information may include names, including aliases, date and place of birth, nationality, passport and identity card numbers, gender, address if known, and function or profession. With regard to entities, such information may include names, place and date of registration, registration number and place of business.;

*Article 2*

The Annex to Decision 2011/273/CFSP shall become Annex I.

*Article 3*

The Annex to this Decision shall be added to Decision 2011/273/CFSP as Annex II.

*Article 4*

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 13 October 2011.

*For the Council*

*The President*

M. DOWGIELEWICZ

## ANNEX

## ‘ANNEX II

**List of entities referred to in Article 4(1)****Entities**

	Name	Identifying information	Reasons	Date of listing
1.	Commercial Bank of Syria	<p>— Damascus Branch, P.O. Box 2231, Moawiya St., Damascus, Syria;- P.O. Box 933, Yousef Azmeh Square, Damascus, Syria;</p> <p>— Aleppo Branch, P.O. Box 2, Kastel Hajjarin St., Aleppo, Syria;</p> <p>SWIFT/BIC CMSY SY DA; all offices worldwide [NPWMD]</p> <p>Website: <a href="http://cbs-bank.sy/En-index.php">http://cbs-bank.sy/En-index.php</a>            Tel: +963 11 2218890            Fax: +963 11 2216975            general managment: dir.cbs@mail.sy</p>	State-owned bank providing financial support to the regime.	13.10.2011'

## COMMISSION IMPLEMENTING DECISION

of 13 October 2011

recognising the fully operational character of the Lithuanian database for bovine animals

(notified under document C(2011) 7164)

(Only the Lithuanian text is authentic)

(2011/685/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 <sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) Article 6(1) and (2) of Regulation (EC) No 1760/2000 (the Regulation) provides that a bovine animal shall be identified and issued with a passport to accompany them when they are moved.
- (2) Article 6(3) of the Regulation provides that Member States, which have a computerised database which the Commission deems to be fully operational, may determine that a passport is to be issued only for animals intended for intra-Union trade and that those animals shall be accompanied by their passports only when they are moved from the territory of the Member State concerned to the territory of another Member State.
- (3) Lithuania has presented the Commission a request for the recognition of the operational character of its bovine database. This database forms the basis of the Lithuanian system for the identification and registration of bovine animals.
- (4) Lithuania submitted the necessary information which in particular confirms that its bovine database is compatible with Article 5 of the Regulation: (i) the delays in notification of events are highlighted in the database and thus

the deadlines for notifications of animal movements set in the Regulation are respected; (ii) that passports of animals moved outside of Lithuania are subsequently surrendered to the competent authority on arrival; (iii) there is an interface between the national bovine database and the national Agriculture Payment Scheme database as well as with the national Veterinary Information Management System to facilitate reconciliation controls and the exchange of useful data; and (iv) guidelines are reinforced so that ear tags are issued and distributed in a correct manner and this information is available to the database.

(5) The Commission examined this information and considers it adequate to recognise the operational character of the database.

(6) In view of the above, it is appropriate to recognise the Lithuanian database for bovine animals as fully operational from 1 July 2011,

HAS ADOPTED THIS DECISION:

*Article 1*

The Lithuanian database for bovine animals is recognised as fully operational from 1 July 2011.

*Article 2*

This Decision is addressed to the Republic of Lithuania.

Done at Brussels, 13 October 2011.

*For the Commission*

John DALLI

*Member of the Commission*

<sup>(1)</sup> OJ L 204, 11.8.2000, p. 1.

## COMMISSION IMPLEMENTING DECISION

of 13 October 2011

**amending Annex I to Decision 2004/211/EC as regards the entry for Mexico in the list of third countries and parts thereof from which the introduction into the Union of live equidae and semen, ova and embryos of the equine species are authorised**

(notified under document C(2011) 7168)

(Text with EEA relevance)

(2011/686/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC <sup>(1)</sup>, and in particular Article 17(3)(a) thereof,

Having regard to Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae <sup>(2)</sup>, and in particular the first and second subparagraphs of Article 12(1), Article 12(4) and the introductory phrase and points (a) and (b) of Article 19 thereof,

Whereas:

- (1) Directive 92/65/EEC lays down conditions applicable to imports into the Union of, amongst others, semen, ova and embryos of the equine species. Those conditions are to be at least equivalent to those applicable to trade between Member States.
- (2) Directive 2009/156/EC lays down animal health conditions for the importation into the Union of live equidae. It provides that imports of equidae into the Union must come from third countries or parts of the territory thereof in which Venezuelan equine encephalomyelitis (VEE) is a compulsory notifiable disease and which have been free from VEE for 2 years.
- (3) Commission Decision 2004/211/EC of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise

imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC <sup>(3)</sup> establishes a list of third countries, or parts thereof where regionalisation applies, from which Member States authorise the importation of equidae and semen, ova and embryos thereof, and indicates the other conditions applicable to such imports. That list is set out in Annex I to that Decision. Mexico, with the exception of the States of Chiapas and Oaxaca, is currently listed in that Annex.

- (4) On 19 August 2011, Mexico notified the World Organisation for Animal Health (OIE) of the confirmation of two cases of VEE in horses in the States of Tabasco and Veracruz, which are caused by a virus of the same subtype IE that was observed in the neighbouring States of Chiapas and Oaxaca.
- (5) The introduction into the Union of any equidae and of semen, ova and embryos of animals of the equine species should therefore no longer be authorised from the States of Tabasco and Veracruz in Mexico. Therefore, those States should be deleted from Annex I to Decision 2004/211/EC.
- (6) Decision 2004/211/EC should therefore be amended accordingly.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

## Article 1

The entry for Mexico in Annex I to Decision 2004/211/EC is replaced by the following:

MX	Mexico	MX-0	Whole country		—	—	—	—	—	—	—	—	—	—
		MX-1	The whole country except the States of Chiapas, Oaxaca, Tabasco and Veracruz	D	X	X	X	—	X	X	X	X	X	X

<sup>(1)</sup> OJ L 268, 14.9.1992, p. 54.

<sup>(2)</sup> OJ L 192, 23.7.2010, p. 1.

<sup>(3)</sup> OJ L 73, 11.3.2004, p. 1.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 13 October 2011.

*For the Commission*  
John DALLI  
*Member of the Commission*

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## CORRIGENDA

**Corrigendum to Council Regulation (EU) No 1225/2010 of 13 December 2010 fixing for 2011 and 2012 the fishing opportunities for EU vessels for fish stocks of certain deep-sea fish species**

(Official Journal of the European Union L 336 of 21 December 2010)

1. On page 4, Annex, Part 1, point 1, last entry:

*for:* 'Forkbeards *Phycis* spp.',

*read:* 'Greater Forkbeard *Phycis blennoides*;

2. on page 6, Annex, Part 2, table showing the annual fishing opportunities for deep-sea sharks and *Deania hystricosa* and *Deania profundorum*, heading:

*for:* '**Zone:** International waters of XII (DWS/12-);

*read:* '**Zone:** International waters of XII (DWS/12INT-);

3. on page 8, Annex, Part 2, the second table showing the annual fishing opportunities for Roundnose grenadier *Coryphaenoides rupestris*, heading:

*for:* '**Zone:** EU and international waters of Vb, VI, VII (RNG/5B67);

*read:* '**Zone:** EU and international waters of Vb, VI, VII (RNG/5B67-);

4. on page 8, Annex, Part 2, the second table showing the annual fishing opportunities for Roundnose grenadier *Coryphaenoides rupestris*, footnote 1:

*for:* '(<sup>1</sup>) A maximum of 8 % of each quota may be fished in EU and international waters VIII, IX, X, XII and XIV',

*read:* '(<sup>1</sup>) A maximum of 8 % of each quota may be fished in EU and international waters of VIII, IX, X, XII and XIV (RNG/\*8X14-);

5. on page 8, Annex, Part 2, the third table showing the annual fishing opportunities for Roundnose grenadier *Coryphaenoides rupestris*, footnote 1:

*for:* '(<sup>1</sup>) A maximum of 8 % of each quota may be fished in EU and international waters of Vb, VI, VII,

*read:* '(<sup>1</sup>) A maximum of 8 % of each quota may be fished in EU and international waters of Vb, VI, VII (RNG/\*5B67-);

6. on page 9, Annex, Part 2, the third table showing the annual fishing opportunities for Orange roughy *Hoplostethus atlanticus*, heading:

*for:* '**Zone:** EU and international waters of I, II, III, IV, V, VIII, IX, X, XII and XIV (ORY/1CX14C);

*read:* '**Zone:** EU and international waters of I, II, III, IV, V, VIII, IX, X, XII and XIV (ORY/1CX14);

7. on page 10, Annex, Part 2, the second table showing the annual fishing opportunities for Red seabream *Pagellus bogaraveo*, footnote 2:

*for:* '(<sup>2</sup>) A maximum of 8 % of each quota may be fished in EU and international waters of VI, VII and VIII',

*read:* '(<sup>2</sup>) A maximum of 8 % of each quota may be fished in EU and international waters of VI, VII and VIII (SBR/\*678-);

8. on page 11, Annex, Part 2, the first, second and third tables showing the annual fishing opportunities for Forkbeards *Phycis* spp., heading:
- for:* 'Forkbeards *Phycis* spp.',
- read:* 'Greater Forkbeard *Phycis blennoides*';
9. on page 11, Annex, Part 2, the second table showing the annual fishing opportunities for Forkbeards *Phycis* spp., footnote 1:
- for:* '(<sup>1</sup>) A maximum of 8 % of each quota may be fished in EU and international waters of VIII and IX.',
- read:* '(<sup>1</sup>) A maximum of 8 % of each quota may be fished in EU and international waters of VIII and IX (GFB/\*89-).';
10. on page 11, Annex, Part 2, the third table showing the annual fishing opportunities for Forkbeards *Phycis* spp., footnote 1:
- for:* '(<sup>1</sup>) A maximum of 8 % of each quota may be fished in EU and international waters of V, VI, VII.',
- read:* '(<sup>1</sup>) A maximum of 8 % of each quota may be fished in EU and international waters of V, VI, VII (GFB/\*567-).';
11. on page 12, Annex, Part 2, the table showing the annual fishing opportunities for Forkbeards *Phycis* spp., heading:
- for:* 'Forkbeards *Phycis* spp.',
- read:* 'Greater Forkbeard *Phycis blennoides*'.
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2011/686/EU:

- ★ **Commission Implementing Decision of 13 October 2011 amending Annex I to Decision 2004/211/EC as regards the entry for Mexico in the list of third countries and parts thereof from which the introduction into the Union of live equidae and semen, ova and embryos of the equine species are authorised** (*notified under document C(2011) 7168*) <sup>(1)</sup> ..... 37
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**Corrigenda**

- ★ **Corrigendum to Council Regulation (EU) No 1225/2010 of 13 December 2010 fixing for 2011 and 2012 the fishing opportunities for EU vessels for fish stocks of certain deep-sea fish species** (OJ L 336, 21.12.2010) ..... 39



<sup>(1)</sup> Text with EEA relevance

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