

Tuesday 20 April 2004

- having regard to the motion for a resolution by Jorge Salvador Hernández Mollar on private investment in transport infrastructure (B5-0360/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Regional Policy, Transport and Tourism and the opinions of the Committee on Economic and Monetary Affairs and the Committee on the Environment, Public Health and Consumer Policy (A5-0220/2004),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

P5_TC1-COD(2003)0175

Position of the European Parliament adopted at first reading on 20 April 2004 with a view to the adoption of Directive 2004/.../EC 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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1) thereof,

Having regard to *European Parliament and Council Directive 1999/62/EC* of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures ⁽¹⁾, and in particular Article 7 thereof,

Having regard to the proposal from the Commission ⁽²⁾,

Having regard to the Opinion of the Economic and Social Committee ⁽³⁾,

Having regard to the Opinion of the Committee of the Regions ⁽⁴⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁵⁾,

Whereas:

- (1) *The Commission announced its intention of proposing a directive on charging for the use of road infrastructure in the White Paper 'European transport policy for 2010: time to decide'. The European Parliament confirmed the need for infrastructure charging in its resolution of 12 February 2003 ⁽⁶⁾ on the White Paper and welcomed the fair allocation of external costs for each mode of transport as a key element of a sustainable transport policy, both from the point of view of fair competition between the individual modes of transport, and from the point of view of effective environmental protection. The Copenhagen European Council of December 2002 and the Brussels European Council of March 2003 also welcomed the Commission's intention of presenting a new 'Eurovignette' Directive.*

⁽¹⁾ OJ L 187, 20.7.1999, p. 42.

⁽²⁾ OJ C ...

⁽³⁾ OJ C ...

⁽⁴⁾ OJ C ...

⁽⁵⁾ *Position of the European Parliament of 20.4.2004.*

⁽⁶⁾ **OJ C 43 E, 19.2.2004, p. 250.**

Tuesday 20 April 2004

- (2) A **fair** system of charging for the use of road infrastructure, **based on the ‘user pays’ and the ‘polluter pays’ principles**, is crucial in order to ensure sustainable transport in the Community. The objective of making optimum use of the existing road network and achieving a significant reduction in its negative impact **must be** achieved, without **ultimately increasing the overall cost to users and in such a way as to avoid double taxation**, in the interests of sound economic growth and the proper functioning of the single market. **In addition, the Commission should develop uniform calculation principles, based on scientifically recognised data, which will in future clear the way for the internalisation of external costs.**
- (3) **In paragraph 29 of the conclusions of its meeting of 15 and 16 June 2001 in Göteborg, the European Council stated that a sustainable transport policy should tackle rising volumes of traffic and levels of congestion, noise and pollution and encourage the use of environment-friendly modes of transport as well as the full internalisation of social and environmental costs.**
- (4) **The concern to avoid adding to the burden on operators becomes especially important regarding outlying regions, which already suffer a disadvantage in terms of transport cost on account of the greater distances which their operators have to cover in order to reach the main production and consumption centres.**
- (5) **Eliminating distortions of competition between transport undertakings in the Member States, the proper functioning of the internal market, improved competitiveness and concern for the environment and public health all depend on non-discriminatory fair mechanisms being established, in accordance with the subsidiarity principle, to charge hauliers for the cost of infrastructure use. A degree of harmonisation has already been achieved through the adoption of Directive 1999/62/EC.**
- (6) **With regard to infrastructure financing, efforts to reduce congestion and complete the trans-European network infrastructure should be stepped up.**
- (7) For the purposes of setting tolls, Directive 1999/62/EC takes account of infrastructure construction, operating, maintenance and development costs. To avoid charging for construction costs more than once, the costs that may be taken into account for this purpose must be limited to those for new infrastructure, i.e. infrastructure to be built in future or which has been completed **within an appropriate period before this Directive enters into force**. However, a special provision should be introduced, so as not to cause prejudice, with regard to taking into account construction costs, to the rights relating to concession contracts in existence at the time of entry into force of the directive.
- (8) **The provisions in this Directive will not in any circumstances affect rights derived from existing concessionary contracts.**
- (9) **International** road transport operations are concentrated on the trans-European road transport network. Furthermore, the operation of the internal market is vital to commercial transport. Consequently, the Community framework must apply to commercial transport on the trans-European road network as defined in Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network⁽¹⁾. In order to avoid traffic being diverted, with potentially serious consequences for road safety and the optimum use of the transport network, Member States must be able to introduce charging on any road which is in direct competition with the trans-European network (Main road network). In accordance with the principle of subsidiarity, Member States **and, in accordance with their respective powers, regional and local authorities** are free to apply tolls and/or user charges on roads other than those on the main road network, in compliance with the rules of the Treaty.
- (10) The fact that the user is able to take decisions which will influence the burden of tolls by choosing the least polluting vehicles, itineraries which are less ecologically sensitive, less congested periods or itineraries and safer vehicles, is central to a charging system. States should therefore be able to dif-

⁽¹⁾ OJ L 228, 9.9.1996, p. 1. Decision as amended by Decision No 1346/2001/EC (OJ L 185, 6.7.2001, p. 1).

Tuesday 20 April 2004

ferentiate tolls according to a vehicle's emission category ('EURO' classification) and the level of damage it causes to roads, the place, the time and the amount of congestion. **The variations in toll rates must not result in an increase in the weighed average toll referred to in Article 7(9).**

- (11) **The** financial burden for the transport sector must not be increased, but distributed differently by replacing fixed taxes and charges by a system of charges related to use. When Member States introduce tolls and/or user charges, they must therefore be able to reduce in particular the rates of annual taxes on vehicles, where appropriate to below the minimum levels provided for in Annex I to Directive 1999/62/EC, **and/or excise duty on motor fuels.**
- (12) **Member States should be allowed to apply reduced rates of vehicle taxes to, or to exempt from such taxes, vehicles used for national defence or civil protection purposes, vehicles used by fire and other emergency services and by the police and by road maintenance services and vehicles used by recognised relief organisations.**
- (13) **In accordance with the principle of subsidiarity, Member States shall decide on the use of revenue from fees for the benefit of road infrastructure.** Consequently, the revenue from fees **should, however,** be used for the benefit of the transport sector **and for improving the entire transport system,** in the interests of the transport network as a whole.
- (14) Particular attention must be devoted to mountain regions such as the Alps or the Pyrenees **and to the zones and agglomerations referred to in Article 8(1) of Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management**⁽¹⁾. The launch of major new infrastructure projects has often failed because the substantial financial resources they would require were not available. In **these** particularly sensitive regions, users must therefore pay a mark-up to finance essential projects of very high European value – **such as priority TENs projects** – including those involving another mode of transport **and network links** in the same corridor **and/or** area; the level of such a mark-up must be proportionate in order to safeguard freedom of movement. This amount must be linked to the financial needs of the project. It should also be linked to the basic value of the tolls in order to avoid artificially high charges in any one corridor, which could lead to traffic being diverted to other corridors, thereby causing local congestion problems and inefficient use of networks.
- (15) Fees must be non-discriminatory and not involve excessive formalities or create barriers at the internal borders. Appropriate measures must therefore be taken to make payment possible at any time and by various means, and to ensure that the electronic payment tool (on-board unit) is as accessible to the occasional user as to the frequent traveller.
- (16) In order to ensure consistent, harmonised application of the infrastructure charging system, Member States will have to set the level of tolls with the aid of a common methodology to take account of the various costs which should be covered. **The Commission should develop principles for calculating tolls, based on scientifically recognised data, which will open the way for full internalisation of external costs.**
- (17) **Further** technical progress is still needed to develop the system of charging for the use of road infrastructure. There must be a procedure allowing the Commission to adapt the requirements of Directive 1999/62/EC to technical progress following consultation of the Member States for this purpose. The measures necessary to implement this Directive must be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁾.

⁽¹⁾ OJ L 296, 21.11.1996, p. 55. Directive as amended by European Parliament and Council Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

Tuesday 20 April 2004

- (18) Given that the objectives of the proposed action, namely to harmonise the conditions applicable to tolls and user charges for the use of road infrastructure, cannot be satisfactorily achieved by the Member States and may therefore be better achieved at Community level by reason of their European dimension and with a view to safeguarding the internal transport market, the Community can take measures, in accordance with the principle of subsidiarity enshrined in Article 5 of the Treaty. In accordance with the principle of proportionality set out in that Article, this Directive does not exceed what is necessary to achieve those objectives.
- (19) ***If the objective of fair charging is to be achieved, account must be taken of the system of road infrastructure concessions or equivalent solutions existing in the Member States (for roads, motorways, tunnels and bridges) since, on networks where concessions are in operation, HGVs already pay their external costs in line with the 'user pays' principle, where the concessions in question are public-private partnerships (PPPs) subject to the rules of free competition,***

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 1999/62/EC is amended as follows:

1) Article 2 is amended as follows:

(a) point (a) is replaced by the following text:

'(a) 'trans-European network' means the road network defined in Section 2 of Annex I to Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network (*) as illustrated by maps. The maps refer to the corresponding sections mentioned in the operative part and/or in Annex II to this Decision;

(*) OJ L 228, 9.9.1996, p. 1. Decision as last amended by Decision No 1346/2001/EC (OJ L 185, 6.7.2001, p. 1).'

(b) the following points (aa) and (ab) are inserted:

'(aa) 'main road network' means the trans-European road network and any other road to which traffic may be diverted from the trans-European road network and which is in direct competition with certain parts of that network;

(ab) 'construction costs' means the costs related to construction, including; where appropriate, the cost of the interest on the capital invested, ***as regards the portion not yet amortised by the date of entry into force of this Directive; construction costs should, in any case, not exceed the current costs of reconstructing the infrastructure concerned;***

(c) in point (b), the phrase 'the amount shall be based on the distance travelled and the type of vehicle' is replaced by 'the amount shall be based on the distance travelled and the corresponding costs per kilometre';

(d) ***the following point (ba) is inserted:***

'(ba) the 'weighted average toll' shall be calculated in accordance with the criteria set out in Article 7(9), with reference to the road infrastructure concerned, on the basis of the cost per kilometre. This weighted average toll must be determined by the competent authority in each Member State.'

(e) points (d) and (e) are replaced by the following text:

'(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;

(e) vehicle of the 'EURO 0', 'EURO I', 'EURO II', 'EURO III', 'EURO IV', 'EURO V' category means a vehicle that complies with the emission limits set out in Annex 0 to this Directive'

Tuesday 20 April 2004

(f) *the following point (ea) is inserted:*

'(ea) 'road infrastructure concession' means an act (a contract or unilateral act) delegating a general interest service by which an administrative authority authorises a private-law corporation to take charge of designing, constructing, financing and operating a road infrastructure (road, motorway, tunnel, bridge) for a long and specified period, while being reimbursed for the debt incurred and the capital invested by the revenues obtained by operating a toll system.'

(g) point (f) is *replaced by the following text:*

'(f) 'external costs': costs being clearly caused by the road freight system, but not calculated in the market prices of their services. They can include congestion costs, environmental costs, such as local and global air pollution, noise, landscape damages and social costs, such as health and indirect accidents costs, not covered by insurances.'

2) Article 6 is amended as follows:

(a) in paragraph 2, the phrase 'Member States may apply reduced rates or exemptions for:', is replaced by the following text: 'Without prejudice to Article 7b, Member States may apply reduced rates or exemptions for:'

(b) *paragraph 2 (a) is replaced by the following text:*

'(a) vehicles used for national or civil defence purposes, by fire and other emergency services, by recognised humanitarian and relief organisations, by the police, and vehicles used for road maintenance;'

(c) in paragraph 4, the phrase 'Without prejudice to the second subparagraph of paragraph 1 and to paragraphs 2 and 3 of this Article', is replaced by the following text: 'Without prejudice to paragraphs 3 and 4 of this Article and to Article 7b,'

3) Article 7 is amended as follows:

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

'1. Member States may maintain or introduce tolls and/or user charges under the conditions set out in paragraphs 2 to 12.

2. Tolls and user charges shall be imposed on the vehicles defined and on the trans-European road network. **After informing the Commission**, Member States may extend the imposition of tolls and user charges to other roads of the primary road network. **When deciding on any such extension, they must consult the local and/or regional authorities responsible for the roads to which the tolls and/or user charges would be extended and ensure that those tolls and/or user charges are compatible with any other charging system applied at local or regional level.**

This Directive shall be without prejudice to the right of Member States **and, in accordance with their respective powers, of regional and local authorities** to apply tolls and/or user rights on **other** roads, in compliance with rules of the Treaty.'

(b) paragraph 4 is replaced by the following text:

'4. Tolls and user charges may not discriminate, directly or indirectly, on the grounds of nationality of the haulier, the country or place of registration of the vehicle, or the origin or destination of the transport operation.'

(c) a new paragraph 5a is inserted as follows:

'5a. Member States using electronic systems to collect tolls and/or user charges shall make available to all vehicles, under reasonable administrative and economic arrangements, the appropriate vehicle on-board units ('OBU'). These arrangements should not, financially or otherwise, e.g. by imposing an additional administrative burden or requirements for other additional equipment, place non-regular users of the road network at a disadvantage.'

Tuesday 20 April 2004

(d) the second subparagraph of paragraph 7 is replaced by the following text:

'The maximum rates shall be reviewed every two years from ... [date of entry into force of this Directive]. When necessary, the Commission shall adapt the rates, in conformity with the procedure referred to in Article 9c(2).'

(e) the third subparagraph of paragraph 7 is deleted

(f) paragraph 9 is replaced by the following text:

'9. The weighted average tolls shall be related to:

- **the costs of constructing, operating, maintaining and developing the infrastructure network concerned, including payment of interest on capital invested,**
- **the return on capital invested,**
- **any infrastructure costs designed to reduce nuisance related to noise and costs of actual payments made by the infrastructure operator for investments aimed at accident prevention and reduction,**
- **costs corresponding to objective environmental elements such as for example soil contamination and atmospheric pollution, including congestion costs where these can be objectively quantified by a methodology duly adopted at European level for the purpose of such calculations.**

The weighted average tolls shall be calculated without prejudice, as regards taking into account **the costs of constructing, operating, maintaining, and developing the transport infrastructure concerned**, to rights relating to concession contracts, **as defined in Article 2(ab)**, existing at ... [date of entry into force of this Directive].

These tolls, calculated according to the method outlined in Annex II, are maximum levels; Member States may apply lower levels as well.'

(g) Paragraph 10 is replaced by the following text:

'10. Without prejudice to the **average value of the** weighted tolls referred to in paragraph 9, Member States may vary the toll rates, **provided that the value of the highest rates is no more than 100 % above the value of the lowest rates**, according to:

- (a) vehicle type, based on its road damage class in conformity with **Annex III**;
- (b) EURO emission **standards** in accordance with Annex 0;
- (c) **whether it is a working day or a holiday**;
- (d) time of day and level of congestion on the road **concerned**;
- (e) the particular road in the network, depending on the environmental sensitivity of the area, the population density or the accident risk;
- (f) **the level of PM10 and NO_x**.

Any variation in tolls charged with respect to **the elements specified in points (a) to (f)** shall be proportionate to the objective **pursued**.'

(h) **a new paragraph 10a is inserted as follows:**

'10a. Not later than ... (*) the Commission shall devise a generally applicable, transparent, and comprehensible model for the assessment of all external environment-, congestion-, and health-related costs to serve as the basis for future calculations of infrastructure charges.

The Commission shall be assisted for that purpose by a committee consisting of representatives of the Member States and chaired by the representative of the Commission. The procedure referred to in Article 9c(3) and (4) shall apply.

(*) **Two years after entry into force of this Directive.'**

Tuesday 20 April 2004

- (i) paragraphs 11, 12 and 13 are added as follows:

‘11. In exceptional cases concerning infrastructure in mountainous regions **and the zones and agglomerations referred to in Article 8(1) of Directive 96/62/EC**, and after consulting the Commission in conformity with the procedure referred to in Article 9c(5), a mark-up may be added to the tolls to allow for cross-financing the investment costs of other **environment-friendlier** transport infrastructures **which are also** of a high European interest, **such as priority TENs projects**, in the same corridor **and/or** in the same transport zone.

The mark-up may not exceed 25 % of the tolls. **Notwithstanding Article 2(ab), reference shall also be made, purely for the purposes of calculating the mark-up, to the infrastructure construction costs already amortised by the date of entry into force of this Directive.**

The application of this provision shall be subject to the presentation of financial plans for the infrastructure concerned and a cost-benefit analysis for the new infrastructure project. Application of this provision to new trans-frontier projects shall be subject to the agreement of the Member States concerned.

Should the Commission consider that the planned mark-up does not meet the conditions set in this paragraph, it shall seek the opinion of the Committee referred to in Article 9c(1). It may reject the plans for charges submitted by the Member State concerned in conformity with the procedure referred to in Article 9c(2).

When the Commission informs the Member State concerned that it intends to seek the opinion of the Committee, the deadline of 30 days mentioned in Article 2 of the Council Decision referred to in Article 9c(5) shall be suspended.

12. Each Member State shall ensure that the emission classification and the road damage classification of vehicles registered on their territory can easily be identified.

Where a driver is unable to produce the necessary documents in the event of a check, Member States **must** apply tolls as for the most polluting and damaging vehicle category, i.e. EURO 0 and damage class III.

13. This Directive shall be without prejudice to the right of Member States to apply concession tolls. Concession tolls, which are the result of a contract delegating a general interest service in a Member State shall be subject to national law and to European law on public markets in transport.’

- 4) Articles 7a and 7b are inserted as follows:

‘Article 7a

1. In determining the levels of tolls to be charged, Member States shall take account of the various costs to be covered, according to the common methodology set out in **Annex III**.

2. Member States shall communicate to the Commission the unit values and other parameters they use in calculating the various cost elements. After consulting the Committee referred to in Article 9c(1), the Commission shall approve these values and parameters in accordance with the procedure referred to in Article 9c(2).

Article 7b

1. Without prejudice to Articles 87 and 88 of the Treaty, and subject to other provisions of Community law, Member States may, on introducing a system of tolls and/or user charges for infrastructure, provide compensation for these charges, in particular by reducing the rates of vehicle taxes, where appropriate, to a level below the minimum rates in Annex I to the Directive.

2. Compensation in respect of road charges must be provided without discrimination to all hauliers from EU Member States, irrespective of the driver’s country of origin.

Tuesday 20 April 2004

3. The level of compensation must be proportionate to the level of the tolls and/or user charges paid. Member States may, however, average out the compensation paid to the various categories of vehicles referred to in the Annex.

4. Member States shall include both the system of tolls and/or user charges and the compensation scheme in a common programme. Any compensation scheme must be implemented in the year following the introduction of the new system of tolls and/or user charges.

5. The compensation schemes shall also fully take into account the fiscal effects of existing or future local and regional charging schemes falling outside the geographical scope of the Directive.'

5) Article 8a is inserted as **follows**:

'Article 8a

Any discounts or reductions in tolls shall be limited to the actual saving in administrative costs by the infrastructure operator. In setting the level of any discount, no account may be taken of the cost savings already internalised in the tolls levied.'

6) Article 9 is amended as follows:

(a) **a new point (d) is added to paragraph 1:**

'(d) insurance taxes.'

(b) paragraph 2 is replaced by the following text:

'2. In keeping with the principle of subsidiarity, Member States shall determine the use to be made of revenue from charges for the use of road infrastructure. To enable the transport network to be developed as a whole, revenue from charges should be used to benefit the transport sector and optimise the entire transport system.'

7) Articles 9a, 9b and 9c are inserted as follows:

'Article 9a

Member States shall establish appropriate controls and determine the penalty system applicable to infringements of the national provisions adopted under this Directive; they shall take all necessary measures to ensure that they are implemented. The penalties established must be efficient, proportionate and dissuasive.

Article 9b

The Commission shall update the Annexes in the light of technical progress or of inflation, in accordance with the procedure referred to in Article 9c(3). **In that connection, it shall draw up uniform bases and principles for calculating external costs.**

Article 9c

1. The Commission shall be assisted by the Committee, *hereinafter referred to as 'the Committee'*, established by Article 9 of Regulation (EEC) No 1108/70 of the Council of 4 June 1970 introducing an accounting system for expenditure on infrastructure in respect of transport by rail, road and inland waterway (*).

2. Whenever reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, subject to the provisions of Article 8 thereof.

3. Whenever reference is made to this paragraph, Article 5 and 7 of Decision 1999/468/EC shall apply, subject to the provisions of Article 8 thereof.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be *three months*.

4. The Committee shall adopt its rules of procedure.

Tuesday 20 April 2004

5. Whenever reference is made to this provision, the Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States (*) shall apply.

(*) OJ L 130, 15.6.1970, p. 4. Decision as amended by Regulation (EEC) No 3572/90 (OJ L 353, 17.12.1990, p. 12).

(**) OJ L 23, 3.4.1962, p. 720. Decision as amended by Council Decision 73/402/EEC (OJ L 347, 17.12.1973, p. 48).

8) Article 11 is replaced by the following text:

‘Article 11

No later than 1 July 2008, the Commission shall present a report to the European Parliament and the Council on the implementation and the effects of this Directive, taking account of developments in technology, the trend in traffic density **and road accidents, and the impact of transport on the environment.**

Member States shall forward the necessary information to the Commission no later than twelve months before this date’

9) The table in Annex II indicating the amount of annual charges is amended as follows:

Annual charge

	Max. of 3 axles	Min. of 4 axles
EURO 0	1 332	2 223
EURO I	1 158	1 933
EURO II	1 008	1 681
EURO III	876	1 461
EURO IV and less polluting	797	1 329

10) Annex 0, the text of which appears in Annex I to this Directive is inserted.

11) Annex III, the text of which appears in Annex II to this Directive is added.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 July 2005. They shall forthwith inform the Commission thereof and communicate a table of equivalence between those provisions and this Directive.

When Member States adopt such measures, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such a reference shall be adopted by Member States.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at ..., on ...

For the European Parliament
The President

For the Council
The President