

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2003/0175(COD) Procedure completed
Road transport: charging of heavy goods vehicles and infrastructures fees Amending Directive 1999/62/EC, "Eurovignette" <a href="#">1996/0182(COD)</a>	
Subject 2.70.02 Indirect taxation, VAT, excise duties 3.20.05 Road transport: passengers and freight	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>TRAN</b> Transport and Tourism		04/07/2005
		PPE-DE <a href="#">WORTMANN-KOOL Corien</a>	
	Former committee responsible		
	<b>RETT</b> Regional Policy, Transport and Tourism		10/09/2003
		PPE-DE <a href="#">COCILOVO Luigi</a>	
Council of the European Union	Former committee for opinion		
	<b>ECON</b> Economic and Monetary Affairs		22/09/2003
		PSE <a href="#">DOS SANTOS Manuel</a>	
	<b>ENVI</b> Environment, Public Health, Consumer Policy		09/09/2003
	NI <a href="#">KRONBERGER Hans</a>		
European Commission	Council configuration	Meeting	Date
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2721</a>	27/03/2006
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2654</a>	21/04/2005
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2607</a>	07/10/2004
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2589</a>	10/06/2004
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2531</a>	09/10/2003
Commission DG	Commissioner		
Energy and Transport			

Key events			
23/07/2003	Legislative proposal published	<a href="#">COM(2003)0448</a>	Summary
01/09/2003	Committee referral announced in Parliament, 1st reading		

09/10/2003	Debate in Council	<a href="#">2531</a>	
17/03/2004	Vote in committee, 1st reading		Summary
17/03/2004	Committee report tabled for plenary, 1st reading	<a href="#">A5-0220/2004</a>	
20/04/2004	Debate in Parliament		
20/04/2004	Decision by Parliament, 1st reading	<a href="#">T5-0305/2004</a>	Summary
10/06/2004	Debate in Council	<a href="#">2589</a>	Summary
07/10/2004	Debate in Council	<a href="#">2607</a>	
06/09/2005	Council position published	<a href="#">09856/1/2005</a>	Summary
08/09/2005	Committee referral announced in Parliament, 2nd reading		
14/11/2005	Vote in committee, 2nd reading		Summary
30/11/2005	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A6-0377/2005</a>	
13/12/2005	Debate in Parliament		
15/12/2005	Results of vote in Parliament		
15/12/2005	Decision by Parliament, 2nd reading	<a href="#">T6-0516/2005</a>	Summary
27/03/2006	Act approved by Council, 2nd reading		
17/05/2006	Final act signed		
17/05/2006	End of procedure in Parliament		
09/06/2006	Final act published in Official Journal		

### Technical information

Procedure reference	2003/0175(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 1999/62/EC, "Eurovignette" <a href="#">1996/0182(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 071-p1
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/29354

### Documentation gateway

Document attached to the procedure	<a href="#">B5-0360/2003</a>	02/07/2003	EP	
Legislative proposal	<a href="#">COM(2003)0448</a>	23/07/2003	EC	Summary
Committee of the Regions: opinion	<a href="#">CDR0290/2003</a> <a href="#">OJ C 109 30.04.2004, p. 0014-0024</a>	11/02/2004	CofR	

Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0220/2004</a>	17/03/2004	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T5-0305/2004</a> <a href="#">OJ C 104 30.04.2004, p. 0037-0371 E</a>	20/04/2004	EP	Summary
Economic and Social Committee: opinion, report	<a href="#">CES0856/2004</a> <a href="#">OJ C 241 28.09.2004, p. 0058-0064</a>	02/06/2004	ESC	
Council position	<a href="#">09856/1/2005</a> <a href="#">OJ C 275 08.11.2005, p. 0001-0018 E</a>	06/09/2005	CSL	Summary
Commission communication on Council's position	<a href="#">COM(2005)0423</a>	07/09/2005	EC	Summary
Amendments tabled in committee	<a href="#">PE362.683</a>	23/09/2005	EP	
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A6-0377/2005</a>	30/11/2005	EP	
Text adopted by Parliament, 2nd reading	<a href="#">T6-0516/2005</a>	15/12/2005	EP	Summary
Commission response to text adopted in plenary	<a href="#">SP(2006)0053</a>	12/01/2006	EC	
Commission opinion on Parliament's position at 2nd reading	<a href="#">COM(2006)0131</a>	20/03/2006	EC	Summary
Draft final act	<a href="#">03682/9/2005</a>	17/05/2006	CSL	

#### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

#### Final act

[Directive 2006/38](#)  
[OJ L 157 09.06.2006, p. 0008-0023](#) Summary

## Road transport: charging of heavy goods vehicles and infrastructures fees

PURPOSE : to present a proposal for a Directive amending Directive 1999/62/EC (the "Eurovignette" Directive) on the charging of heavy goods vehicles for the use of certain infrastructures. CONTENT : this proposal aims to improve the framework for national road use fee in the interests of the proper functioning of the single market. 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 when it adopted the report on the conclusions of the White Paper on 12 February 2003. 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. 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 just been completed. 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. The Commission's proposal provides a framework that will enable Member States, with due regard for the subsidiarity principle, to give economic incentives to transport in the form of a price structure that better reflects the costs to society. It is not so much the level of charges on transport as the structure of the charges and the manner in which they are applied to the various categories of user that need to change. Infrastructure fees offer the possibility of greater differentiation by vehicle type, time and place, and hence of more accurately reflecting costs in different situations without increasing the overall burden of taxes and fees in the road sector. Whereas the existing Community rules apply only to heavy goods vehicles of at least 12 tonnes, the system proposed by the Commission would apply to all lorries exceeding 3.5 tonnes used for goods transport. Such vehicles are widely used for intra-Community goods transport, and must therefore be covered by the toll systems set up for commercial transport. The proposed framework covers 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. Such traffic diversion has serious consequences in terms of traffic regulation and congestion, not to mention accidents; it was therefore appropriate to include them in the scope of the Community directive. In accordance with the principle of subsidiarity, the Member States remain free to apply tolls on roads not covered by the proposal for a directive, provided they comply with the rules and principles laid down in the Treaty. The objectives of the framework proposed by the

Commission are as follows: - passing on costs more accurately. The existing legislation links charges only approximately to damage to infrastructure, congestion or accident risks. The proposed directive therefore gives Member States the possibility of varying tolls according to a number of factors: distance travelled; the damage caused to roads according to the type of vehicle; the environmental impact in terms of the EURO emission standards for heavy goods vehicles; the time of day; and the level of congestion on the road concerned; Member States which choose to apply such a system of road charging can offset the introduction of tolls by reducing or eliminating the annual vehicle road tax. - improving the quality of service. The revenue from infrastructure charges should be used for the benefit of the transport sector. In certain cases, there should be scope for cross-financing of infrastructure providing an alternative to road transport. To that end, the Commission's proposal lays down that the revenue from the charging system must be ploughed back into road infrastructure and into the transport sector as a whole, taking due account of the balanced development of the transport networks; - allowing the cross-financing of infrastructure construction in sensitive areas. The proposal for a directive allows the Member States to apply mark-ups to tolls for using roads in particularly sensitive areas, notably mountainous regions. Such mark-ups will be used to cross-finance the investment costs of other transport infrastructures of a high European interest (railways). The construction of such rail infrastructure is increasingly necessary in view of the density and growth of traffic in such regions. Particular attention must be devoted to particularly sensitive areas, in particular mountain regions such as the Alps or the Pyrenees. In order to ensure that the requirements of the Directive are correctly enforced, Member States must designate an independent infrastructure supervision authority. This body will have a key role in ensuring, through appropriate monitoring, balanced use of the available resources. Simple, clear rules must therefore be established regarding the possibility of promoting synergies between competing transport infrastructure modes in a single corridor.?

## Road transport: charging of heavy goods vehicles and infrastructures fees

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The committee adopted the report by Luigi COCILOVO (EPP-ED, I) tabling a large number of amendments to the proposal under the 1st reading of the codecision procedure: - Member States would be able to extend the imposition of tolls and user charges to roads other than the trans-European road network only after informing the Commission, consulting the local and/or regional authorities responsible and ensuring that the proposed tolls or user charges are compatible with any other charging system applied at local or regional level; - the committee proposed a more precise definition of "weighted average toll", specifying that it should be calculated by reference to the specific road infrastructure concerned, on the basis of the cost per kilometre, and should be determined by the competent authority in each Member State; - the committee introduced a definition of "external costs" caused by the road freight system, including "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"; - whereas the proposal provided for weighted average tolls to include costs for "objective environmental elements", the committee added that this could include congestion costs "where these can be objectively quantified by a methodology duly adopted at European level for the purpose of such calculations". In another amendment, MEPs said that the Commission should draw up a uniform method of calculating external costs which may serve as a basis for Member States to internalise external costs; - as far as internal costs are concerned, when determining the levels of weighted average tolls it is also necessary to take account of payment of interest on capital invested and return on capital invested; - the committee added a new clause aimed at introducing a distinction between tolls levied by concessionaires (i.e. user charges paid to a company holding a concession under a contract drawn up with the state) and fee-based tolls (a form of taxation levied by a state or a public body); - compensation for road charges should be provided without discrimination to all hauliers from EU Member States, irrespective of the driver's country of origin - in other words, not just to drivers originating in the Member State where the road tolls are levied. Such compensation could take the form of a reduction in the rates of fuel taxes as well as a reduction in the rates of vehicle taxes as proposed. The compensation schemes should also take local and regional charging schemes into account; - when reporting to Parliament and Council on the implementation and effects of the directive, the Commission should take account not only of developments in technology and the trend in traffic density but also of the trend in road accidents and the impact of transport on the environment; - MEPs amended the Commission's proposed table of charges in order to differentiate clearly between more polluting vehicles (in the EURO 0 and EURO I categories) and the EURO II and less polluting vehicles which are already on the market and in use (EURO III and EURO IV and others).?

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The European Parliament adopted a resolution drafted by Luigi COCILOVO (EPP-ED, I) making several amendments to the proposal. Parliament stated that, 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 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. There is, however, no obligation for Member States to do so. In addition, Parliament inserted the following amendments: - a new recital states that the Directive should not undermine rights stemming from existing concession contracts; - the highest toll charges should not exceed the value of the lowest rates by more than 100%; - there is no obligation on Member States to designate an independent authority charged with monitoring road infrastructure; - a new recital states that, 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. - there is a more precise definition of "weighted average toll", with Parliament specifying that it should be calculated by reference to the specific road infrastructure concerned, on the basis of the cost per kilometre, and should be determined by the competent authority in each Member State; - Parliament introduced a definition of "external costs" caused by the road freight system, including "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"; - whereas the proposal provided for weighted average tolls to include costs for "objective environmental elements", Parliament added that this could include congestion costs "where these can be objectively quantified by a methodology duly adopted at European level for the purpose of such calculations"; - Not later than two years after entry into force of the Directive, the Commission must 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; - 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. 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. - The Commission must draw up uniform bases and principles for calculating external costs; - Parliament amended the Commission's proposed table of charges in order to differentiate clearly between more polluting vehicles (in the EURO 0 and EURO I categories) and the EURO II and less polluting vehicles which are already on the market and in use (EURO III and EURO IV and others); - when reporting to Parliament and Council on the implementation and effects of the directive, the Commission should

take account not only of developments in technology and the trend in traffic density but also of the trend in road accidents and the impact of transport on the environment.?

## Road transport: charging of heavy goods vehicles and infrastructures fees

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The Council had an exhaustive debate on the proposal for a Directive on the charging of heavy good vehicles for the use of certain infrastructures. Delegations expressed differing views on some key aspects of the Presidency compromise proposal.

The Presidency concluded that, it being impossible to reach agreement on the revision of the existing "Eurovignette" Directive at this stage, the file should be referred back to Coreper for further examination.

## Road transport: charging of heavy goods vehicles and infrastructures fees

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In its opening comments, the Council notes that it has taken the Council eighteen months to reach a political agreement on the matter of the ?Eurovignette? Directive. This is thanks in no small part to the differing interests of the EU Member States, depending by and large on their geographical location and whether or not they are at the centre or periphery of the internal market. The Council also notes that discussions were taken within the context of the White Paper on European Transport for 2010, where the crucial role of effective charging for transport infrastructure is highlighted. In its Common Position, the Council has sought to:

- Address the problems of congestion and environmental damage.
- Provide a means to raise additional financing for investment into alternative infrastructure.
- Make the setting of tolls more transparent as well as objective.
- Adapt the legal framework to a PPP model for financing future infrastructure work.

Specifically speaking, on the question of tackling congestion and damage to the environment the Council proposes that toll variation is the most appropriate methodology. Thus, the ability to vary tolls according to EURO class and time of day is the principal mechanism envisaged for dealing with congestion and the subsequent environmental damage this entails. Under the variation model, a heavy, polluting lorry travelling at a busy time of day could end up paying perhaps four times more than a lighter, cleaner vehicle travelling at a quieter time. This effect would be further enhanced by the introduction of ?zero rating? at certain times of the day. As a safeguard measure the Council proposes making any revenue raised from the variation schemes neutral.

An alternative financing infrastructure, being proposed by the Council is the ?Mark-up? model. Here, the Council accepts the need for a mark-up on tolls in mountainous areas on roads prone to congestion. For cross border cases the level of 25% has been retained, 15% being the maximum for non-cross-border cases. However, Parliamentary proposals to extend mark-up to polluted urban zones was not taken onboard, even though a requirement for mark-up revenue to be reused for cross-border financing of TEN priority projects is retained.

Regarding the definition of ?Construction Costs?, the Common Position includes a new definition as a means of defining the historic costs, which can be taken into account when calculating toll levels. The Council?s text takes account of Parliamentary suggestion to permit only a portion of these costs. The new text, however, uses lifetime, rather than the extent of amortisation, as the reference for this apportioning.

On the matter of ?allowable costs?, the Common Position accepts the need to develop in more detail the costs on which tolls may be based. Thus, Parliamentary suggestion to delete uninsured accident costs, the inclusion of a return on capital and clarification that these are maximum level, has been taken on board by the Council.

Concerning the matter of ?frequent users?, the Council proposes provisions containing a percentage limit for frequent user discounts.

Concerning the methodology of calculation principles found in Annex III, the Commission methodology has been expanded into a set of comprehensive principles for cost calculation and allocation. They will be binding on all future tolling systems introduced, although in an indirect manner for concession-based systems. Any updates and clarifications can be conducted by the Commission through the comitology procedure. In addition, the Commission is given greater authority to oversee the system and verify compliance of new tolling arrangements.

In its Common Position, the Council has sought to make the Directive compatible with Public Private Partnership. Under this policy, new definitions have been introduced and include, for example, special treatment for construction costs, the possibility for tolls to include a profit margin and indirect application to concession contracts of the supervision system.

Significantly, the Council has considerably re-worded the Scope of the Directive. Thus, Member States can retain the ability to decide which part of their TEN network is tolled and whether or not they wish to limit tolling to heavier vehicles. In other places, the Council has sought to limit the flexibility suggested by the Commission for Member States to charge very high tolls on certain routes.

Lastly, regarding compensation for road users, the Council, together with the European Parliament, expresses concern that the Commission?s proposed scheme to compensate hauliers for any new costs they may face from tolling schemes could be discriminatory. As a result the Common Position deletes the article outlying the originally proposed compensation scheme. It is replaced, instead by a recital, which refers to other means of providing for compensation in another form. For example, reduced fuel taxation.

The Council concludes that it has made intense and sustained efforts to reach agreement on the proposed ?Eurovignette? Directive given its importance to the EU?s wider transport policy. It proposes that the Common Position establishes a legal framework that is both clear and easy to implement but which, at the same time acts as an effective tool for addressing environmental and congestion problems across the EU. According to the Council, the text as it now stands, achieves real, identifiable and tangible improvements to the 1999 Directive, carefully balancing the needs of a sustainable transport policy with that of the internal market.

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The Council?s Common Position makes a number of changes to the Commission?s initial proposal. These changes are deemed acceptable

by the Commission given that they are, by and large, compatible with the Directive's main objectives. The actual Common Position is described by the Commission as a hard won compromise and the changes made are to be welcomed. Those changes include:

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

Concerning the inclusion of external costs and the coverage of tolls, the Commission made a declaration in which it:

- Agrees to concentrate on the progressive internalisation of external costs when it undertakes the mid term review of the White Paper on transport due at the end of 2005. The Commission will give added consideration to Parliament's views following its second reading of the proposal.
- Acknowledges the right of the Member States to exclude certain parts of the network and that it must be exercised in a non discriminatory manner and in conformity with the Treaty. The Commission agrees to take account of the need to improve the accessibility of isolated regions as well as the level of congestion and pollution.

To repeat, of the 42 amendments adopted by Parliament in April 2004, nine were acceptable to the Commission and included in the Common Position; 23 were acceptable to the Commission but not adopted by the Council; six were not acceptable to the Commission but incorporated into the Common Position and four were neither acceptable to the Commission nor to the Council.

The amendments accepted by the Commission and incorporated in full or in part in the common position are:

- The principle of only considering the portion of costs not amortised is incorporated into the definition of construction costs.
- A definition of weighted average tolls has been included.
- A definition of a concession has been included.
- The removal of references to accident costs.
- Rejection of the proposed independent infrastructure authority.
- The inclusion of insurance taxes will be added to the list of taxes and charges unaffected by the Directive.

Amendments accepted by the Commission but not incorporated into the Common Position are:

- Changing the order of general reasoning for the Directive and the order of the Directive's policy priorities.
- References to external costs, including the recital and definition.
- Allowing compensation through the reduction of other transport taxes below minimum EU levels.
- References to the main road network from Article 1.
- Exempting vehicles of humanitarian and relief organisations from tolls.
- The principle that Member States consult regional and local authorities.
- The basis for determining tolls has been limited to infrastructure costs. External costs have been excluded by the Council.
- Clarification of the toll differentiation. That proposed by Parliament was deemed insufficient.
- An amendment to permit toll mark ups in urban zones.
- A proposal obliging Member States to impose the heaviest toll on vehicles unable to verify their euro emissions category.
- Any articles relating to a compensation regime (reducing vehicle taxes etc.)
- Proposals that the Commission prepare Reports on the Directive's impact on road accidents and the environment.

Amendments rejected by the Commission yet incorporated in the Common Position include:

- Permitting concession regimes to be included in the scope of the Directive. However, the Council has introduced a separate enforcement structure for concession regimes, so that the special nature of concessions is addressed and the Commission's right of enforcement maintained.
- In accordance with Parliamentary proposals, the allocation of revenues is made voluntarily.

Amendments rejected by the Commission and not incorporated in the Common Position include:

- Constraining the Commission to undertake a work programme ? although the Commission does plan to consider future external costs in the White Paper on Transport. In addition, the Council has rejected any references to developing a methodology for external costs.
- Compensation plans for national tolling regimes given that they are the responsibility of the Member States and thus need not be incorporated into the Directive's framework.

To conclude, the Commission welcomes the Common Position adopted by the Council.

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MEPs adopted the report by Corien WORTMANN-KOOL (EPP-ED, NL) amending the Council's common position under the 2nd reading of the codecision procedure. The modifications included a number of amendments reinstated from Parliament's 1st reading which had not been taken up by the Council:

- external costs: the committee reinstated Parliament's 1st reading amendment introducing a definition of external costs: "costs being clearly caused by the road freight system, but not calculated in the market price of their services. These can include chargeable congestion costs, environmental costs, such as local and global air pollution, noise, landscape damages and social costs, such as health and indirect accident costs, not covered by insurances";
- no later than 2 years after the directive's entry into force, the Commission should present "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". This model would 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 this model for all modes of transport". Moreover, if a revision of the directive is not adopted within 3 years following the presentation of the model, Member States may add no more than 60% of the infrastructure costs to reflect a minimum of external costs;
- geographical scope: the committee amended the wording of Art. 7(1) so that tolls and user charges would be applied to the whole of the trans-European road network, in line with the Commission's original proposal, and not just "on parts of that network" as the Council would have allowed;
- with slight modifications, MEPs reiterated Parliament's 1st reading position that Member States should be able to extend the imposition of tolls and user charges to other roads of the main road network only after informing the Commission and ensuring coordination with the authorities responsible for those roads to guarantee that the proposed tolls and/or user charges are compatible with any other charging schemes operating at local or regional level;
- Member States should be allowed to exempt from tolls or user charges any part of the network where "there is a need to encourage and to maintain the economic integration of isolated or economically weak regions" or where "there is a need to avoid perverse incentives for diverting traffic";
- lorries to be covered by the directive: whereas the Council was proposing that tolls and/or user charges be applicable only to vehicles with a permissible laden weight of 12 tonnes or more, the committee wanted lorries of 3.5 tonnes or more to be covered by the directive by 2010 at the latest;
- mark-ups: MEPs reiterated Parliament's 1st reading proposal that the exceptional cases in which the relevant authorities may impose a mark-up on tolls should include not only mountainous regions but also "agglomerations within the meaning of Article 8(1) of Directive 96/62/EC" (i.e. urban areas). They added that such mark-ups should be allowed provided that they do not exceed 25% of the tolls and that the revenue generated "is sufficient to allow for cross-financing the investment costs of other environment friendlier transport infrastructures which are also of a high European interest (...)";
- compensation: the committee repeated Parliament's 1st reading position that compensation for road charges should be provided without discrimination to all hauliers from EU Member States, irrespective of the vehicles' country of registration. It added that the level of compensation must be proportionate to the level of the tolls and/or user charges paid;
- charges: as Parliament had done at 1st reading, MEPs amended the Commission's proposed table of charges in order to differentiate clearly between more polluting vehicles (in the EURO 0 and EURO I categories) and the EURO II and less polluting vehicles which are already on the market and in use (EURO III and EURO IV and others).

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The European Parliament adopted a resolution drafted by Corien WORTMANN-KOOL (EPP-ED, NL) amending the Council's common position. The amendments were negotiated in advance with the Council and the European Commission and supported by the EPP-ED, PES, ALDE, GUE/NGL and UEN groups. They address the most controversial issues of this directive, such as a clear strategy for internalising external costs, the geographical scope of the directive, the types of lorries concerned, and obligatory toll variations.

Lorries to be covered by the directive: barring exemptions, the legislation will apply to all commercial vehicles over 3.5 tonnes from 2012. This falls short of Parliament's position in first reading (vehicles over 3.5 tonnes immediately) and the report initially presented by the Transport Committee, which voted for vehicles over 3.5 tonnes from 2010. (Please see the summary of 14/11/2005.)

External costs: again, the amendments finally adopted by Parliament fall short of the draft report adopted by the Transport Committee in November. Within two years of the entry into force of the Directive, the Commission shall present, after examining all options including environment, noise, congestion and health related costs, a generally applicable, transparent, and comprehensible model for the assessment of all external costs to serve as the basis for future calculations of infrastructure charges, and this model will be accompanied by an impact analysis on the internalisation of external costs for all modes of transport and a strategy for a stepwise implementation of this model for all modes of transport. There is no definition of external costs in the legislation.

Geographical scope: Member States may apply tolls and/or user charges on roads not included in the trans-European road network, inter alia, on parallel roads to which traffic may be diverted from the trans-European road network and/or which are in direct competition with certain parts of that network, provided that the imposition of tolls on such roads does not discriminate against international traffic and does not result in distortions of competition between operators. Where a Member State decides to maintain or introduce tolls and/or user charges on only parts of the trans-European road network, the resulting exemptions for the other parts (for reasons such as their isolation or low levels of congestion or pollution or where essential for the introduction of a new tolling arrangement) shall not result in any discrimination against international

traffic. Member States shall also inform the Commission at least four months before their implementation about new tolling arrangements applicable to parallel roads to which traffic may be diverted from the trans-European road network and/or which are in direct competition with certain parts of that network on which tolls are levied. This information shall include at least an explanation of the geographic extent of the toll, the vehicles covered and the levels of toll envisaged, together with an explanation of how the level of toll was determined.

**Variation of toll:** The new Directive will also permit greater variation of motorway tolls compared with current rules. Whereas repayment of infrastructure costs is currently the only element that can be considered in setting tolls, Member States will in future be able to vary tolls according to the pollution discharged by vehicles (Euro category, PM10 particulate and nitrogen oxide levels), and according to the time and type of day - holiday or normal working day - and season (thereby taking account of traffic congestion). Consideration of these elements will be compulsory for all new toll schemes introduced after 2010. Specified derogations are permitted but should be notified to the Commission. Member States may apply specific taxes or charges on vehicles or loads of abnormal weights or dimensions, as well as parking fees and specific urban traffic charges. Member States may also apply regulatory charges specifically designed to combat time and place-related traffic congestion; and regulatory charges designed to combat environmental impacts, including poor air quality, on any road notably in urban areas, including trans-European network roads crossing an urban area.

**Charges:** Parliament amended the Commission's proposed table of charges in order to differentiate clearly between more polluting vehicles (in the EURO 0 and EURO I categories) and the EURO II and less polluting vehicles which are already on the market and in use (EURO III and EURO IV and others).

**Revenue:** Parliament added a recital stating that revenue from tolls or user charges should be used for the maintenance of the infrastructure concerned and the transport sector as a whole, in the interest of a balanced and sustainable development of transport networks.

## Road transport: charging of heavy goods vehicles and infrastructures fees

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The Commission can accept all the amendments adopted by the European Parliament in second reading. They are the result of a compromise package agreed between the European Parliament and the Council with a view to the adoption of the Directive in second reading.

These amendments favour the approach taken by the Commission in its proposal and address the Commission's concerns on geographical scope and external costs. More specifically:

- on geographical scope : these amendments establish rules for the treatment of different types of roads within the directive. TENs are subject to the rules of the directive; Member States must inform the Commission of tolls on other main roads; and secondary roads are not subject to any rules in the directive;
- on external costs: these amendments make statements about the importance of internalising external costs and require the Commission to undertake a modelling exercise and impact assessment of the internalisation of external costs within two years of the directive's entry into force;
- on toll variation: this amendment allows toll variation according to NOx and PM emissions, and makes toll variation according to emissions obligatory as from 2010;
- on the type of vehicle: these amendments remove reference to 'heavy' in heavy goods vehicles, as the scope of the directive has changed to include vehicles of between 3.5t and 12t, rather than just those above 12t, as in directive 1999/62;
- on urban charges: these amendments clarify that urban regulatory charges are not subject to any of the rules in the directive and so Member States are free to levy such charges in accordance with the rules of the Treaty.

Other amendments make minor changes to other parts of the text, dealing with compensation, hypothecation, eurovignette maximum rates and non discrimination.

## Road transport: charging of heavy goods vehicles and infrastructures fees

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**PURPOSE:** to amend the 1999 'Eurovignette' Directive and to introduce new provisions for the charging of heavy goods vehicles.

**LEGISLATIVE ACT:** Directive 2006/38/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 infrastructure.

**CONTENT:** the Council adopted, by qualified majority, this Directive, which amends Directive 1999/62/EC on the charging of heavy good vehicles for the use of certain infrastructures. The Council approved all of the amendments passed by the European Parliament tabled during the second reading of the proposed Directive. Both the Portuguese and the Maltese delegations voted against the amended Directive. The Estonian, Finnish and Greek delegations abstained.

The 1999 Directive, on a framework for the levying of tolls and user charges on Europe's motorways, has been amended in order to increase the efficiency with which Europe's road network is operated and to do so in a harmonised manner compatible with the EU's internal market. It is also intended to introduce balanced provisions for charging hauliers for the cost of using the infrastructure. In adopting this legislation the EU is trying to eliminate competitive distortions between transport undertakings, whilst at the same time promoting provisions which will ultimately benefit the environment. To achieve this objective, the Directive introduces new rules for tolls or user charges on the trans-European network.

The Directive's scope has been broadened so that it now applies to the whole of the trans-European network and not just motorways ? as was previously the case. Although not obliged to do so, the Directive also allows Member States to levy tolls and user charges on all other roads as well ? any such revenues raised, however, must be in conformity with this Directive. Toll rates will be based on the principle of recovery of infrastructure costs although environmental considerations will also play a key role in determining the rate charged. Revenues from tolls or user charges will be used for the maintenance of the infrastructure and for the transport sector as a whole. Importantly, the amended Directive states that any tolls charged should not discriminate against international traffic and should not result in distortions of competition between operators. Fees should be non-discriminatory and their collection should not involve excessive formalities or create barriers at internal borders. The calculation of costs will be based on a core set of principles set out in Annex II of the Directive.

As from 2012, the Directive (subject to certain derogations) will apply to vehicles over 3.5 tonnes, rather than only to vehicles over 12 tonnes ? the limit set by previous requirements. In other provisions, the Directive allows for a greater variation of tolls depending on the level of

congestion. A fairer system of charging for use of the road infrastructure is based on the 'user pays' principle. Thus, toll variations, reflecting the pollution caused by vehicles, will be mandatory as from 2010. Member States, will be able to differentiate tolls depending on a vehicles emission category (EURO classification) and the level of damage caused to roads, the place, the time and the amount of congestions.

As far as the 'polluter pays' principle is concerned the Directive states that any future decisions for all modes of transport will take account of both internal as well as external costs. In addition, any future decision on this matter will take full account of the tax burden already borne by road haulage companies, including vehicle taxes and fuel excise duties.

Provisions have been put in place to allow the Member States to increase tolls with a 'mark-up' on roads in particularly sensitive mountainous regions such as the Alps or the Pyrenees. Any revenue thus collected must be re-invested into alternative transport infrastructure.

In accordance with implementation procedures the European Commission will begin work on developing a generally applicable, transparent and comprehensible model for the assessment of external costs for all modes of transport, which will serve as the basis for future calculation of infrastructure charges.

ENTRY INTO FORCE: 10 June 2006.

TRANSPOSITION: 10 June 2008.