



**COUNCIL OF
THE EUROPEAN UNION**

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ADDENDUM TO "I/A" ITEM NOTE

from : General Secretariat of the Council
to : COREPER/CONSEIL

Subject : 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 **(second reading)**
- Approval of the European Parliament's amendments **(LA + S)**
Statements

Statement by the Commission on Article 9(2)

"The Commission confirms that Article 9(2) of Directive 2011/.../EU of the European Parliament and of the Council amending Directive 1999/62/EC does not impose binding obligations on the Member States."

Statement by the Commission on recital 25

"The term "within a reasonable distance" in recital 25 of Directive 2011/.../EU is to be construed as referring to alternative routes representing minor travel distance variations along the corridor, to which it can be demonstrated that a substantial part of the long distance traffic may be diverted as a result of the mark-up, and on which the traffic diverted due to the application of the mark-up would account for a substantial share of the long distance traffic."

Statement by Ireland

"Ireland notes that the proposed adoption of amendments to the Eurovignette Directive on the sole legal base of Article 91(1) of the Treaty of the Functioning of the European Union is inappropriate for a legislative measure which contains substantial fiscal provisions.

In line with observations Ireland has made in similar circumstances previously, Ireland continues to take the view that where EU legislation includes fiscal provisions the legal base should include, either solely or, where appropriate, jointly, one of the Treaty articles dealing with fiscal issues.

In this case, Ireland believes that Article 113 should have been used as a legal base for the Amending Directive.

Ireland supports the internalisation of external costs on a balanced basis for all transport modes in the interests of sustainable economic development.

However, the application of this principle must be undertaken in a manner that does not result in the targeting of any particular transport mode or transport user.

In the current economic crisis, anything that adds costs to our goods or services is a matter of serious concern to Ireland."

Statement by Italy

"While agreeing with the ecological principles underlying the proposed amendment to the *Eurovignette* Directive, it is with deep regret that Italy must cast a negative vote on the text emerging from the long and complex negotiations, in the course of which, furthermore, we have never failed to make a constructive contribution. The text of the final agreement, however, raises major problems because:

The directive further adds to the impact of transport costs on the value of the goods transported, at a time of difficulty in economic recovery and without affording any certainty as regards the transfer of resources generated to assist with the identifiable necessary infrastructure works. A European system in which over 90 % of goods now move by road, while the cost of supply and transport in some cases exceeds the threshold of 25 %, is further burdened by payments which are not reinvested in the area of infrastructure networks or of the transport sector overall. This means that the directive becomes principally a piece of fiscal legislation, raising doubts as to the appropriateness of the legal basis referring to "transport" which was adopted, and is clearly in conflict with the "Europe 2020" strategy and the policy of cohesion. It also causes serious damage in the sphere of road transport, which despite expenditure of resources receives no benefit, for example in terms of improving the efficiency of the infrastructure available.

Specifically, we are very much concerned by the fact that the directive does not even introduce the provision on "*mini-earmarking*", i.e. the forecast for reinvestment in TEN networks priority projects of resources deriving from mountain multipliers of external costs.

Concern is also raised by the provision which introduces uncertainty to the legal framework for imposing *mark-up* (in the absence of specific references to an unequivocal delimitation of distance), thus allowing possible applications of such a supplementary payment in an arbitrary fashion.

Furthermore, the directive does not take into account the specificities of some countries of the European Union, such as Italy, with regard to their mountainous nature, the number of mountain passes and the high level of land use (anthropisation); and it ends up considerably affecting the competitiveness of production processes (the "mountain multipliers" actually involve large increases in the applicable external costs and penalise growth and development).

The negotiations on the amendment of the Eurovignette Directive have therefore been a lost opportunity, in open and paradoxical contradiction to the objective (reaffirmed in the recent 2011 White Paper on Transport) of creating a renewed financial framework to develop an integrated and efficient system and ensure the necessary support for the completion of the strategic infrastructures needed by the European Union.

We hope that in future, in particular with regard to dossiers of similar importance, sufficient account will be taken of the need to reconcile legitimate concerns by choosing balanced solutions which will not penalise individual Member States and will not result in the adoption of rigid positions on their part."

Statement by the United Kingdom and Sweden

"The UK and Sweden note that the proposed adoption of amendments to the Eurovignette Directive on the sole legal base of Article 91(1) of the Treaty of the Functioning of the European Union is inappropriate for a legislative measure which contains substantial fiscal provisions.

In line with observations the UK and Sweden have made in similar circumstances previously, the UK and Sweden continue to take the view that where EU legislation includes fiscal provisions the legal base should include, either solely or, where appropriate, jointly, one of the Treaty articles dealing with fiscal issues.

In this case, the UK and Sweden believe that Article 113 should have been used as a legal base for the Amending Directive.

The support of the UK and Sweden for this Directive is without prejudice to their stance on similar measures in the future."

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 twelve 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."

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."

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 twelve 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."
