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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**

{SEC(2008) yyy}

(presented by the Commission)

Substantial modifications are in grey

Rest is simplification

DIRECTIVE ... OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

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 the proposal from the Commission¹,

Having regard to the Opinion of the Economic and Social Committee²,

Having regard to the Opinion of the Committee of the Regions³

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

Whereas:

(1) A stepwise strategy for the internalization of the external costs related to air pollution, noise, climate change and congestion in the price paid by transport users is crucial in order to encourage sustainable transport in the Community. Such a strategy should apply to all transport modes, while taking into account their own characteristics and specificities;

(2) A better internalisation of external costs of road freight transport requires that these costs are allocated to road users, which would in turn provide them with incentives to reduce pollution, relieve congestion and ensure a more efficient use of infrastructures. To do so, road infrastructure charges must be set in proportion to the cost of pollution and congestion and reflect the real use of vehicles;

(3) As required by the EU legislator in 2006, the Commission has developed a simple model for the calculation of external costs which can be used for the calculation of road user charges

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levied on heavy goods vehicles, this model can be updated to the technical and scientific progress;

(4) The costs of air pollution, noise and congestion borne mostly locally where it takes place, even if attributable to transport from or to other Member States are more efficiently allocated to transport users through distance-based tolls as tolls can vary according to the environmental performance of vehicles, location and time of use;

(5) Allocating the cost of local pollution and the cost of congestion to transport users would have a positive effect not only to optimise the use of infrastructure, reduce local pollution, encourage cleaner vehicle technologies but also in reducing fuel consumption and contributing to the fight against climate change;

(6) encouraging the implementation of tolls based on the "user pays" principle and the ability to apply the "polluter pays" principle is therefore a key element of the stepwise strategy for the internalisation of external transport costs;

(7) Directive 1999/62/EC which caps the level of tolls to what is strictly necessary to recover the infrastructure costs may stop Member States from charging the cost of pollution and congestion, especially in areas with dense traffic where external costs are high. Moreover, the Community legislation prevents to internalise external costs in rail transport as long as it is not the case in road transport. This legal bottleneck should be addressed as a matter of priority and Directive 1999/62/EC amended to allow explicitly the levy of specific charges based on the cost of pollution and congestion;

(8) Preserving the integrity of the internal market requires a Community framework so that the road charges based on the cost of pollution and congestion are transparent and proportional. Moreover the harmonisation of the charging systems plays an important role in reducing the distortions of competition between hauliers registered in different Member States;

(9) Pollution and congestion charges levied through tolls for the purpose of providing incentives to change the mobility behaviors can be effective only if the user can clearly and distinctively identify them in the bill of the tolls;

(10) The acceptability by transport users of charges will be raised if the revenues are earmarked to projects to fund sustainable mobility. This includes research and development to reduce vehicle emissions and measures to mitigate pollution at source, develop alternative infrastructures and to improve the infrastructure capacities, such as traffic management systems;

(11) The recourse to electronic systems for levying tolls is crucial to avoid any hindrance to the free flow of traffic and reduce queues at toll barriers which have environmentally adverse effects; at European level such systems must be fully interoperable as foreseen by Directive 2004/52/EC on the European Electronic Toll Service;

(12) Overcharging road freight transport may have detrimental effect on competitiveness and the integrity of the internal market. The authority which sets the charge should have no interest in setting its amount at an unduly level and must therefore be independent from the ones who collect and manage the revenues from tolls;

(13) The information patterns required to calculate precisely external costs is complex and dependent of local parameters. A Community coordination combining a prior approval by the

Commission, common calculation methods and caps based on acknowledged scientific methods and values of external costs constitute a reasonable way of ensuring proportionality, non discrimination and efficient pricing;

(14) The amending Directive 2006/38/EC introduced the possibility to vary tolls according to the environmental performance of vehicles provided that the revenues do not exceed the infrastructure cost. Variation under constant revenue can contribute to accelerate the renewal of fleets with cleaner vehicles and this possibility should be kept. However when a pollution charge is levied on top of tolls, double charging should be avoided and the variation within the infrastructure costs should not be allowed in such a case; the same holds true as far as the congestion charge and variation over time are concerned

(15) The amending Directive 2006/38/EC introduced the possibility to levy a mark-up added to tolls in mountainous areas provided that the revenues are used to co-finance projects declared as being of European interest by the EU. Projects declared thus, have cross-border benefits and this option given to Member States should remain attractive;

(16) The mountainous mark-up should be allowed to be levied on all roads which constitute alternatives for the main origin and destination routes crossing the project financed with the earmarked revenues and which could be affected by traffic diversion in case of increases in tolls;

(17) Time-based charges constitute a transitional and temporary system until the moment when a more efficient and environmentally friendly system, based on distance travelled , can be implemented. Time-based charges levied on a daily, weekly, monthly or annual basis should not discriminate against occasional users;

(18) For subsidiarity reasons, Member States or their local authorities should have the possibility in certain agglomerations to set charges for combating pollution, congestion or other purposes independently from this Directive;

(19) A common classification of vehicles could reduce the administrative costs for hauliers which use roads in different Member States, and it would also improve the understanding by users of the price signals; such classifications must be based on all the relevant criteria reflecting the impacts of vehicles on infrastructure and the environment while being enforceable;

(20) Excessive discounts or reductions could hamper the harmonisation of levy systems and the establishment of fair mechanisms for charging infrastructure costs to hauliers. The discounts or reductions reflect administrative savings and economy of scale and not unduly discriminate certain category of users. Accordingly, they should not exceed 13% of the normal charge level ;

(21) Two or more Member States may cooperate for the purpose of introducing a common system of user charges or tolls, subject to compliance with some additional conditions;

(22) Based on the experience acquired in front-runner Member States, a comprehensive assessment by 31 December 2013 is required to identify the further steps to be taken to install a single European charging system covering all interurban roads;

(23) The measures necessary for the implementation of this Directive should 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 Commission⁴;

(24) In particular power should be conferred on the Commission to adapt Annexes 0, III, IIIa and IV to technical and scientific progress, and Annexes I and II to inflation. Since those measures are of a general scope and are designed to amend non-essential elements of this Directive, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC;

(25) Since the objectives of the action to be taken cannot be sufficiently achieved by the Member States alone, and can therefore, by reason of the scale and the effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty. 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 those objectives.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 1999/62/EC shall be modified as follows :

1. In Article 2, points (b) and (ba) shall be replaced and completed by the following points :

(b) 'toll' means a specified amount payable for a vehicle travelling a given distance on the infrastructures referred to in Article 10; the amount shall be based on the distance travelled and the type of vehicle and may be based on the type of road and time periods;

(ba) 'infrastructure charge' means a specific charge levied through a toll for a vehicle travelling a given distance, on a given road for the purpose of recovering the costs related to infrastructure;

(bb) 'external cost charge' means a specific charge levied through a toll for a vehicle travelling a given distance, on a given road and during a given period, for the purpose of recovering the cost of traffic air pollution, the cost of traffic noise pollution and the cost of congestion generated by road users when they drive their vehicle;

(bc) 'cost of traffic air pollution' means the cost related to the damages caused by the release of various harmful air emissions in the course of the operation of motor vehicles. For the purpose of this Directive only the emissions of fine particulate matter and nitrogen oxide emissions will be taken into consideration. These costs may include health costs, including medical care, loss of production and welfare costs, and crop losses and damages to the ecosystem;

⁴ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

(bd) 'cost of traffic noise' means the cost of the damages caused by unwanted or harmful outdoor sound emitted by the vehicle or created by the interaction of the vehicle and the road surface. These costs consists of the negative effects on human health in terms of medical care, production loss and welfare costs due to sleep disturbance, and the degree of community noise annoyance;

(be) 'cost of congestion' means the additional cost in terms of time loss, unreliability of travel time, increased fuel consumption and vehicle maintenance costs imposed by a vehicle on the others in conditions where and when the road that they use approaches its capacity;

(bf) '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, both the revenue and the vehicle kilometres being calculated for the vehicles to which the infrastructure cost charge apply;

(bg) 'weighted average external cost charge' means the total revenue in a Member State 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, both the revenue and the vehicle kilometres being calculated for the vehicles to which the external cost charge applies;

(bh) 'type of road' means a category of roads determined by a Member State on the basis of objective criteria describing the environmental and congestion generated by their use and which is either a category of roads located in areas exposed to higher external cost charge (hereafter referred as "roads in built-up areas") or a category of roads located in areas exposed to lower, or without, external cost charge (hereafter referred as "roads in non built-up(rural) areas ");

(bi) 'agglomeration' shall mean part of a territory delimited by a Member State having a population in excess of 100,000 persons and a population density such that the Member State considers it to be an urbanised area.;

2. Chapter III shall be replaced by the following:

CHAPTER III

USER CHARGES AND TOLLS

Article 7

1. Member States may maintain or introduce user charges or tolls on their entire road network, or on a limited number of sections of that network, provided that the user charges or tolls do not discriminate, directly or indirectly, on the grounds of nationality of the haulier, the Member State or the third country or place of establishment of the haulier or of registration of the vehicle, the origin or destination of the transport operation.

2. Tolls and user charges may not both be imposed at the same time on any given category of vehicle. However, Member States may also impose tolls on networks where user charges are levied for the use of bridges, tunnels and mountain passes.

Article 8

[1. When a Member State maintains or introduces user charges or tolls, they shall apply to all motor vehicle or articulated vehicle combination intended or used exclusively for the carriage by road of goods and having a maximum permissible laden mass of over 3.5 tonnes.]

2. 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 equipment in road transport⁵, and in the cases covered by, and subject to the conditions contained in, Article 6(2)(a) and (b) of this Directive.

CHAPTER IV USER CHARGES

Article 9

1. User charge rates shall be in proportion to the duration of the use made of the infrastructure and shall be available for the duration of a day, week, month and a year. A Member State may apply only annual rates for vehicles registered in that State.

2. User charges, including administrative costs, for all vehicle categories shall be set by the Member State concerned at a level which is not higher than the maximum rates laid down in Annex II. The daily rate shall be no more than one fifth of the weekly rate, 1/13 than the monthly rate and 1/80 than the yearly rate.

CHAPTER V TOLLS

Article 10

1. Tolls may incorporate an infrastructure charge, an external cost charge or both. When a Member State levies at the same time and on the same road section and for the same vehicle both an infrastructure charge and an external cost charge, both charges shall be levied and collected through the same toll system and that the bills of the tolls shall indicate them distinctively.

2. The infrastructure charge shall be related to the construction costs and the costs of operating, maintaining and developing the infrastructure network concerned. The infrastructure charge may also include a return on capital or profit margin based on market

⁵ OJ L 370, 31.12.1985, p. 8. Regulation as last amended by Commission Regulation (EC) No 432/2004 (OJ L 71, 10.3.2004, p. 3).

conditions. Member States may choose not to recover these costs through toll revenue or to recover only a percentage of the costs.

3. The external cost charge may include elements of costs reflecting the local air and noise pollution. It may also include elements of congestion cost provided that a similar charge is levied on other road users causing congestion, including cars.

In any cases, the weighted average external cost charge calculated for the Member State in which it is levied shall not exceed [XX] cents of euros per vehicle kilometre at constant price.

4. The Commission shall adapt to the scientific progress and to changes in transport technologies, fleet composition and traffic patterns the maximum amount as referred in paragraph 3. The measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article XX.

Article 11

1. On road sections where no external cost charge including an air pollution element is levied, infrastructure charges shall be varied according to EURO emission class in a way that no toll is more than 100% above the toll charged for equivalent vehicles meeting the strictest emission standards.

2. Where a driver is unable to produce the vehicle documents necessary to ascertain the information referred to in the first paragraph and the type of vehicle in the event of a check, Member States may apply tolls up to the highest level chargeable.

3. On road sections where no external cost charge which includes a congestion element is levied, Member States may vary the infrastructure charges for the purpose of reducing congestion, minimising infrastructure damage and optimising the use of the infrastructure concerned or promoting road safety, on conditions that:

- such variation is available to all users on equal terms, openly published and easy to understand for users;
- such variation is not designed to generate additional tolling revenue, any unintended increase in revenue being counterbalanced through changes to the structure of the variation which must be implemented within two years of the end of the accounting year in which the additional revenue is generated; and
- such variation is according to the time of day, type of day or season and provided that that no toll is more than 100% above the toll charged during the cheapest period of the day, type of day or season which is not zero rated.

Article 12

1. The external cost charge as referred to in Article 10 shall vary according to the type of road where it is levied. Should the charge include an air pollution cost element, it shall vary

according to EURO emission class. Should the charge include a noise cost element, it shall vary according to day and night periods. Should the charge comprise a congestion cost element, it shall vary according to daily, weekly or seasonal peak and off peak periods.

2. The Member State in which the external cost charge is levied shall ensure that the revenues generated from the charge are earmarked to finance projects and measures aimed at reducing the external costs of transport, notably traffic management systems, measures to reduce pollution at sources, and the development of alternative infrastructure

3. The charge shall be levied and collected by means of an electronic system which avoids hindrances to the free flow of traffic and which can subsequently be extended to a large number of other road sections without additional significant roadside investments.

Article 12a

1. The specific amounts of the external cost charge as referred to in Article 10 for each combination of class of vehicle, type of road and time period shall be determined by an authority which is legally and financially independent from the organisation in charge of managing or collecting part or the totality of the revenue of tolls. The specific amounts of the charge for each combination of class of vehicle, type of road and time period shall be set in accordance with the minimum requirements, the common formulae and the maximum values of external costs in Annex IIIa.

2. On road sections where an infrastructure charge is levied and where a mountainous mark-up according to Article 14 is added to the infrastructure charge, the amount of the mark-up shall be deducted from the specific amounts of paragraph 2. On road sections where an infrastructure charge is levied and where the criteria to apply a mountainous mark-up could be met, the Member States may not levy an external cost charge as long as a mountainous mark-up which fulfils the conditions of Article 14 is not added to the infrastructure charge.

Article 13

1. No later than [31 December 2013], the Commission shall establish a common classification of vehicles to be used both for the variation of infrastructure charge and for the variation of external cost charge.

2. The classification shall comprise classes of vehicles determined on the basis of their average impact on environment, congestion and infrastructure and the practical and economic feasibility of levying and enforcing tolls. The classification shall be based on a combination of criteria including the EURO class, the maximum laden weight, the number of axles. The classification may also be combined with vehicle noise standards defined in Directive 70/157/EC and any other relevant criteria.

3. After [31 December 2013], any variations of tolls according to vehicle classes or types, including the ones as referred to in Article 11(1) and Article 12(2) shall be based on the common classification in paragraph 1.

Article 14

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 the subject of acute congestion, or the use of which by vehicles is the cause of significant environmental damage, on condition that:

- the revenue generated from the mark-up is invested to finance the construction of priority projects of European interest identified in Annex III to Decision No 1692/96/EC, which contribute directly to the alleviation of the congestion or environmental damage in or nearby the road sections where the mark-up is applied,
- the mark-up is applied on roads located in the same corridor as the one of the priority projects co-financed with the revenue of the mark-up, including roads located on alternative routes to which an increase of toll rates would divert a significant share of traffic,
- the mark-up, which may be applied to tolls varied in accordance with paragraph 11, does not exceed 15 % of the weighted average infrastructure charge calculated in accordance with Article XX 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 %,
- the application of the mark-up does not result in unfair treatment of commercial traffic compared to other road users,
- information on the exact location of the mark-up and proof of a decision to finance the construction works of the new infrastructure project are submitted to the Commission in advance of the mark-up's application,
- 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 of the projects co-financed with the revenue of the mark-up.

Application of this provision to new cross-border projects shall be subject to the agreement of the Member States on both sides of the border.

When the Commission receives the required information from a Member State intending to apply a mark-up, it shall make this information available to the members of the Committee referred to in Article XX. Should the Commission consider that the planned mark-up does not meet the conditions set out in this paragraph, 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 modification of the plans for charges submitted by the Member State concerned, in accordance with the procedure referred to in Article XX.

Article 15

1. Member States shall calculate infrastructure costs that can be recovered through the 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 a concession contract.

3. Tolling arrangements already in place on 10 June 2008 or for which tenders or responses to invitations to negotiate under the negotiated procedure have been received pursuant to a public procurement process before 10 June 2008 shall not be subject to the obligations set out in this paragraph, for as long as these arrangements remain in force and provided that they are not substantially modified.

Article 16

1. Member States shall communicate to the Commission at least six months before the implementation of a new tolling arrangement:

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

- the unit values and other parameters they use in calculating the various infrastructure cost elements, and
- clear information on the vehicles covered by their tolling regime and the geographic extent of the network, or part of the network, used for each cost calculation and the percentage of costs that they are seeking to recover;

(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; this base case shall include the estimated costs as defined in Article 10(2) envisaged under the concession, the forecasted traffic divided into types of vehicle, the levels of tolls envisaged and the geographic extent of the network covered by the concession contract.

2. For new tolling arrangements, the Commission shall, within four months of receiving the information in accordance with paragraph 1, give an opinion as to whether the obligations of Article 14 appear to have been fulfilled. The opinions of the Commission shall be made available to the Committee referred to in Article XX.

3. Where a Member State wishes to apply the provisions contained in Article 13 in respect of tolling arrangements already in place on 10 June 2008, it shall provide information that demonstrates that the weighted average infrastructure charge being applied to the infrastructure concerned complies with Article 10(2).

4. Where a Member State wishes to levy an external cost charge through an existing toll arrangement or through a new toll arrangement, it shall communicate to the Commission at least six months before the implementation of the external cost charge the information required to verify the conformity with Article 10(3) and Article 12, including :

- the envisaged total revenue raised and total number of vehicle kilometres subject to the charge so that the weighted average external cost charge can be forecasted;
- precise information locating the road sections where the charge shall be levied and describing the class of vehicles, type of roads and the exact time period according to which the external cost charge shall vary; and;
- when the external cost charge is levied in combination with an infrastructure charge, information that demonstrates that the weighted average infrastructure charge complies with Article 10(2);
- the name of the independent authority designated to set the specific amounts of the charge and of its representative;

5. The Commission may within four months of receiving the information in accordance with paragraph 4 decide to suspend the introduction of the external cost charge, or ask the Member State concerned to adapt it, should it consider that the obligations of Article 12 appear not to have been fulfilled..

Article 17

1. Member States may provide for discounts or reductions of tolls for certain groups of users on condition that:

- the resulting charging structure is proportionate, openly published and available to all users on equal terms;
- the resulting charging structure lead to actual savings in administrative costs for the infrastructure operator and does not lead to additional costs being passed on to other users in the form of higher tolls and, and;
- such discounts or reductions do not exceed 13% of the toll paid by equivalent vehicles not eligible for the discount or reduction.

2. Toll rates may in exceptional cases for specific projects of high European interest be subject to other forms of variation in order to secure the commercial viability of such projects, when they are exposed to direct competition with other modes of transport for vehicles. The resulting charging structure shall be linear, proportionate, openly published, 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 the conditions of this point prior to the implementation of the charging structure in question.

CHAPTER VI

COLLECTION OF USER CHARGES AND TOLLS

Article 18

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 avoid any mandatory controls or checks at the Community's internal borders. To this end, Member States shall cooperate in establishing methods for enabling hauliers to pay user charges 24 hours a day, at least at the major sales outlets, using all 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 the collection of tolls and/or 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 and/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 Directive 2004/52/EC and related decisions on the European Electronic Toll Service] can be obtained by all users under reasonable administrative and economic arrangements.

Article 19

This Directive does not affect the freedom of Member States which introduce a system of tolls and/or user charges for infrastructure to provide, without prejudice to Articles 87 and 88 of the Treaty, appropriate compensation for these charges.

Article 20

1. Two or more Member States may cooperate in introducing a common system for user charges applicable to their territories as a whole. In that case, those Member States shall ensure that the Commission is closely involved therein and in the system's subsequent operation and possible amendment.

2. A common system shall be subject to the following conditions in addition to those in Article 7:

(a) the common user-charge rates shall be set by the participating Member States at levels that are not higher than the maximum rates referred to in Article 7(7);

(b) payment of the common user charge shall give access to the network as defined by the participating Member States in accordance with Article 7(1);

(c) other Member States may join the common system;

(d) a scale shall be worked out by the participating Member States whereby each of them shall receive a fair share of the revenues accruing from the user charge.

Article 21

1. Two or more Member States may cooperate in introducing a common system for tolls applicable to their territories as a whole. In that case, those Member States shall ensure that the Commission is closely involved therein and in the system's subsequent operation and possible amendment.
2. The common toll system shall be subject to the conditions in Articles 10, 11, 12 and 13 of Chapter IV and shall be open to other Member States.

Article 22

Each Member State shall monitor the system of tolls and/or user charges to ensure that it functions in a transparent and non-discriminatory manner.

3. Chapter IV is hereby amended as follows:

(a) Article 9(1a) shall be replaced by:

This directive shall not prevent the non-discriminatory application by Member States of regulatory charges specifically designed to reduce traffic congestion or to improve air quality on any road section located in an agglomeration.

(b) Article 9b is replaced by the following article

Article XX

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. The Commission shall adapt Annexes 0, III, IIIa and IV in the light of scientific and technical progress and Annexes I and II in the light of inflation. The measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article XX.

(c) Article 9c is replaced by the following article

Article XX

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

(c) Article 11 is replaced by the following Article :

Article XX

1. Every two years, the Member States which levy an external cost charge and/or an infrastructure charge shall draw up a report on tolls levied on their territory and shall forward it to the Commission. The report shall comprise:

- the total revenue raised in the Member State through the external cost charge, and the total number of vehicle kilometres travelled on the road sections subject to the charge both the revenue and the vehicle kilometres being calculated for the vehicles to which the external cost charge applies;
- the specific amounts of the external cost charge levied for each combination of class of vehicle, type of roads and period of time;
- information on the use of revenues raised through the external cost charges, including description of the projects financed;
- the total revenue raised in the Member State through the infrastructure charge, and the total number of vehicle kilometres travelled on the road sections subject to the charge both the revenue and the vehicle kilometres being calculated for the vehicles to which the infrastructure charge applies;

2. No later than [31 December 2013], the Commission shall present a report to the European Parliament and the Council on the implementation and effects of this Directive. The report shall also comprise an assessment of the technical and economic feasibility of introducing a single, general and mandatory distance-based charging for heavy goods vehicles for the use of road infrastructure. The report shall in particular:

- specify the minimum amounts of the charge to be set according to the classification of vehicles referred to in Article 13 on the basis of marginal environmental and infrastructure costs;
- identify the road sections where such a distance based charge should apply;
- identify the requirements for cost/effective levying and collection of charges and enforcement.

(e) the title of the chapter shall be replaced by 'CHAPTER VII' and the number of Articles 9, 9a, 9b, 9c, 10, 11, 12, 13 and 14 shall be replaced respectively by XX

4. In Annex III, the words "weighted average tolls" are replaced by "weighted average infrastructure charge"

5. The Annex shall be inserted after Annex III.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2010. They shall forthwith inform the Commission thereof and communicate a table of equivalence between those provisions and this Directive.
2. 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.
3. Member States shall communicate to the Commission the text of the main 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 of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

ANNEX IIIA

MINIMUM REQUIREMENTS TO LEVY AN EXTERNAL COST CHARGE AND MAXIMUM AUTHORISED COST ELEMENTS TO SET ITS AMOUNT

This Annex stipulates the minimum requirements to fulfil to levy an external cost charge and the maximum authorised cost elements to be included when setting its amount.

1. DEFINITION OF THE PARTS OF THE NETWORK CONCERNED

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

Where a Member State chooses to levy an external cost charge on only a part or parts or the network, the part or parts shall be chosen on the basis of objective assessment establishing that :

the use by vehicles of the roads where the external cost charge is applied generate environmental damages and congestion higher than the ones generated on average by the remaining parts of the road infrastructure network which are not subject to an external cost charge, or

that the imposition of an external cost charge on the other parts of the network may have adverse effects on the environment, congestion or road safety or would entail disproportionate cost for the collection and levying of the external cost charge.

2. CLASSIFICATION OF VEHICLES, ROADS AND TIME PERIOD COVERED

The Member State shall notify to the Commission the classification of vehicles according to which the toll shall vary. It shall also notify the location of roads subject to higher external cost charge (hereafter referred as “built-up areas”) and of roads subject to lower, or without, external cost charge (hereafter referred as “non built-up (rural) areas”).

Where applicable, it shall also notify the exact time periods corresponding to the night period and to the daily, weekly or seasonal peak periods during which a higher external cost charge may be imposed to reflect higher congestion or higher noise annoyance.

The classification of roads 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 congestion and pollution. For that purpose, Member States shall use at least two of the following indicators: average daily and hourly traffic, percentage of day or year when the usage of the road is close to or above capacity, density of population, and yearly number of pollution peaks measured in accordance with Directive 96/62/EC.

3. AMOUNT OF THE CHARGE

The external cost charge structure and amounts shall be set by the independent authority referred in Article 12 on the basis of sound economic assessment. For each vehicle class, type of roads and time period, the independent authority shall determine one single specific amount. The independent authority shall publish and make available to all road users the amounts for all vehicle class, type of roads and time periods.

When setting the charge, the 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 which is charged. The charge shall be set as close as possible to the external costs which can be allocated to the category of road users concerned. The charge shall be set so that the resulting charging structure is clear, understandable and predictable for the users. The charge shall also be set after having assessed the demand elasticities and the possible risk of traffic diversion with possible adverse effects on road safety, environment and congestion and solutions to mitigate these risks.

The independent authority shall monitor the effectiveness of the charging scheme in reducing the environmental damages generated by road transport and in relieving congestion where it is applied. It shall adjust regularly the charging structure and the specific amount of the charge set for a given class of vehicle, type of roads and period of time to the changes in transport demand. Such adjustments shall take place at least once a year.

4. EXTERNAL COST ELEMENTS

4.1. Cost of air pollution

When a Member State chooses to include a cost element related to air pollution in the external cost charge, the independent authority shall apply the following formulae:

$$PCE_{ij} = \sum_k EF_{ik} * PC_{jk} \text{ where :}$$

PCE_{ij} air pollution cost element of vehicle class *i* on road type *j* (€ct/kilometre)

EF_{ik} emission factor for pollutant *k* and vehicle class *i* (gramme/kilometre)

PC_{jk} monetary cost of pollutant *k* for type of road *j* (€ct/gramme)

The emission factors used for the calculation of air pollution costs shall be the same as the ones used by the Member State to report the emissions inventories as foreseen in Directive 2001/81/EC (National Emission Ceilings Directive). The monetary cost of pollutants shall be taken from Table 1.

Table 1: Monetary cost air pollutants

€ct/gramme	NO _x	PM
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Built-up area	0.44	10.0
Non built-up (rural) area	0.44	2.6

Source: Handbook, values in € 2000

The independent authority may use more elaborated methods based on local parameters and values including air pollutant measurement campaigns in the vicinity of infrastructure provided that the results do not exceed the results which would have been obtained with the above formulae.

4.2 Cost of environmental noise

When a Member State chooses to include a cost element related to noise pollution in the external cost charge, the independent authority shall apply the following formulae, provided that the results do not exceed the unit values in table 2:

$$NCV_{ij} \text{ day/night} = NF_i * NC_j * N_{\text{day/night}}$$

- NCV_{ij} noise cost of vehicle class i on road type j (euro/kilometre)
- NC_j monetary noise cost per person exposed on road type j (euro/dB(A))
- NF_i noise factor (dB(A)/kilometre)
- $N_{\text{day/night}}$ number of persons exposed to day/night noise level above 55db(A) for day and 50 db(A) for night

The number of persons to noise level above 55db(A) and 50 db(A) shall be estimated on the basis of the noise maps established in accordance with Directive 2002/49/EC when available. The noise factors shall be estimated for each class of vehicles to reflect the current fleet composition of vehicles using the road concerned. The monetary cost per person exposed will be based on state of the art surveys of the willingness to pay or the willingness to accept compensation for more silence.

Table 2: Maximum values of noise

€/t /vkm	Day	Night
Built-up area	7	12
Non built-up (rural) area	1.1	2

Source: Handbook, values in € 2000

The independent authority may use more elaborated methods based on local parameters and values including the noise maps established in accordance with Directive 2002/49/EC provided that the results do not exceed the results which would have been obtained with the above formulae.

4.3 Congestion

A Member State may choose to include a congestion element in the external cost charge provided that :

a similar charge is applied to other motor vehicles than heavy goods vehicles, including private cars;

the Member State demonstrates that the congestion cost imposed by a vehicle to other users exceeds the development cost already charged to this vehicle (congestion costs representing a payment for capacity in the same way as development costs, otherwise there could be double charging);

the congestion element charged to heavy goods vehicles does not exceed the values in table 3.

Table 3: Maximum values of congestion

€/vkm	Peak	Off peak
Built-up area	[30]	[0]
Non built-up (rural) area	[10]	[0]

Values in € 2000 estimated on the basis of the Handbook (congestion cost divided by two to take into account demand elasticity and reduced by EU average construction cost to avoid double charging).

In such a case, the independent authority shall apply the following generic formulae to calculate the congestion cost :

$$CC = VOT * Q * (v(Q) - v(Qo)) / (Q - Qo)$$

Where

- CC= Cost of congestion
- VOT = Value of Time (€/hour)
- Q = Current traffic level (veh./hour)
- Qo= Optimal traffic level (veh./hour)
- v(Q) = speed-flow function (km/hour)

The current traffic level will be based on measured data. The optimal traffic level will reflect the equilibrium taking into account the adjustment of demand to changes in transport price or will reflect an acceptable level of congested traffic. The speed flow function will be estimated based on standard curves depending on the number

of lanes, the slope and the share of heavy goods vehicles in the traffic. The value of time will be based on state of the art surveys of the willingness to pay.