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Group of Experts on Charging Policies

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“ACQUIS COMMUNAUTAIRE” AND FUTURE EC POLICIES ON ROAD TRANSPORT CHARGES

Prepared by the UNECE secretariat

Note by the Secretariat:

This summary is intended to give a quick overview of the existing EU legislation and perspectives on road transport charges. It has been prepared mainly based on the following documents:

- Directive 1999/62/EC of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ 1999 L 187, p.42);
- White Paper of 22.07.1998 “Fair Payment for Infrastructure Use: A phased approach to a common transport infrastructure charging framework in the EU” COM(1998) 466 final;
- White Paper of 12.09.2001 “European Transport policy for 2010: time to decide” COM(2001) 370;
- Final report of the Phare Multi-Country Transport Programme (ZZ-9610) on Road Transport Charges* (hereinafter, the Phare study).

The document is organized in three parts:

I. The “acquis communautaire”	II. Future developments	III. Conclusions
- Background	- Challenges	- User charges and tolls
- Regulation	- Proposals	- Other charges
- Principles		- Fuel taxation

* This study can be found at the following internet address:

http://europa.eu.int/comm/enlargement/pas/phare/pt/mc/mctp/final_reports/final_report2.pdf

A. THE “ACQUIS COMMUNAUTAIRE”

I. Background

1. Articles 70 ff of the EC Treaty are the framework of a common transport policy to sustain the common transport market. For a long time, the European Community was unable or unwilling to implement this common transport policy.

2. The Commission’s first White Paper on common transport policy of December 1992 had the main objective of opening-up of the transport market in the context of the internal market (now generally achieved, except in the rail sector). This first real advance in common transport policy brought a significant drop in consumer prices, combined with a higher quality of service and a wider range of choices, and as a consequence a boom in demand.

3. The common transport policy in relation to road transport charges has mainly served the aim of eliminating distortion of competition between transport undertakings in the Member States and of creating a level playing field for the road transport haulage industry in a Single Transport Market.

4. These objectives have been mainly achieved through the harmonisation of levy systems and the establishment of fair mechanisms for charging infrastructure costs to road hauliers.

II. Regulation

5. Only transport taxation with respect to heavy goods vehicles is EU-regulated through Directive 1999/62/EC of 17 June 1999, on the charging of heavy goods vehicles for the use of certain infrastructures (OJ 1999 L 187, p.42) which as indicated in the fourth recital in its preamble replaces the Directive 93/89/EEC of 25 October 1993 (OJ 1993 L 279, p.32) annulled by the European Court of Justice on the ground that it had been adopted without proper consultation of the European Parliament, but whose effects remained until the adoption of the new Directive on 17 June 1999.

6. The new Directive 1999/62 which was adopted on the basis of the EC Treaty as amended by the Treaty of Amsterdam, now takes account of preoccupations concerning environmental protection and balanced development of transport networks as regards the fixing of toll rates.

7. The Directive has the following overall objectives: (a) to contribute towards a better functioning of the internal market in transport by reducing differences in the conditions of competition in goods road transport due to unjustifiable divergences in the levels of transport related charges (taxes and other relevant levies); (b) to contribute to efficiency by applying the "user-pays" principle; (c) to provide the necessary legal framework to allow Member States to recover their road infrastructure costs; (d) to contribute towards establishing sustainable transport.

8. The Directive establishes minimum vehicle charges (not being of immediate interest to the Group of Experts' work, this point will not be developed), sets maximum limits on motorway network access rights (user charges) and governs calculation of toll amounts.

Common dispositions for tolls and user charges:

9. According to Article 7 of the Directive 1999/62, Member States maintain or introduce tolls and/or user charges in accordance with the following conditions:

- tolls and user charges shall be imposed only on users of motorways or other multilane roads with characteristics similar to motorways, bridges, tunnels and mountain passes (Article 7(2));
- tolls and user charges may not both be imposed at the same time for the use of a single road section to the exception of tolls for bridges, tunnels and mountain passes which can be imposed in addition to user charges (Article 7(3));
- tolls and user charges may not discriminate directly or indirectly, on the grounds of the nationality of the haulier or of the origin or destination of the vehicle (Article 7(4));
- the collection and monitoring of charges should be done in such a way to cause as little hindrance as possible to the free flow of traffic. (Article 7(5)).

User charges:

10. User charges rates should be proportionate to the duration of use of the infrastructure (Article 7(8) of Directive 1999/62). Article 7(7) provides for maximum rates for user charges for all types of heavy goods vehicles. Maximum rates are to be re-examined on 1st July 2002.

11. According to Article 8 of the Directive Member States can co-operate to introduce a common system of user charges applicable to all their territories. The Commission is associated to this system, its functioning and eventual modification. The common rates of user charges in this case should not be superior to maximum rates provided for in Article 7(7).

12. Such a common system exists between Belgium, Netherlands, Luxembourg, Germany, Denmark and Sweden. Rates are differentiated as to emissions (EURO standard 1 to 5) and the size of the vehicle (number of axles), and range from 750 to 1550 Euros per year. The system is only partly in conformity with the principle of fair and efficient pricing (i.e. that external costs should be paid in full by users) since it is a fixed cost not linked to the distance covered by a vehicle in a year.

Tolls:

13. Article 7(9) of the Directive 1999/62 introduces the requirement of a link between toll rates and the costs of construction, operation and development of the infrastructure network concerned. According to a decision of the European Court

of Justice (ECJ)¹ (which referred to Article 7(h) of the old Directive) the infrastructure network concerned refers only to the section of the infrastructure for the use of which the toll is paid.

14. Article 7(10) of the Directive authorises the Member States to vary the rate-set on which tolls are charged according to vehicle emission classes, provided that no toll is more than 50% above the toll charged for equivalent vehicles meeting the strictest emission standards, and according to the time of day, provided that no toll is more than 100% above the toll charged during the cheapest period of the day. Moreover, any variation in tolls charged with respect to vehicle emission classes or the time of day is to be proportionate to the objective pursued.

According to the ECJ², no account can be taken of considerations relating to environmental protection otherwise than in the strict framework laid down by Directive 1999/62.

15. It should be noted that the objective of combating emissions of gaseous and particulate pollutants from diesel engines is also covered by other legislation, such as Council Directive 88/77/EEC of 3 December 1987 (OJ 1988 L 36, p.33), as amended by Directive 96/1/EC of the European Parliament and of the Council of 22 January 1996 (OJ 1996 L 40, p.1).

16. Levels of fiscal harmonisation are also set down in so-called Mineral Oil Directives (92/81/EEC and 92/82 EEC) where minimum levels for excise taxes on fuel are set.

III. Principles

17. EU policy principles can be summarised as follows:

- (a) charging of road users for the costs they impose according to the "user-pays" principle;
- (b) charging at the point of use, respecting the "territoriality" principle rather than the "nationality" principle;
- (c) fair (non-discriminatory) and efficient pricing, establishing a "level playing field" for the road haulage industry;
- (d) encouraging use of more environmentally friendly vehicles and fuel.

18. In the White Paper on "Fair Payment for Infrastructure Use: A phased approach to a common transport infrastructure charging framework in the EU" (22 July 1998) the following phases are distinguished:

- Phase I, 1998 – 2000, a charging framework should be established, comprising: methodologies for measuring marginal costs (incl. external cost); charging at the point of use; introduction of "transport accounts"; State aid provisions; basic charging systems in place (road, rail, ports, air).

¹ Commission v. Austria (Brenner motorway), C-205/98 (26 September 2000)

² Commission v. Austria (Brenner motorway), C-205/98 (26 September 2000)

- Phase II, 2001 – 2004: “...adapting particular charges better to reflect the new approach and harmonise between modes...”, structure of charges being based on marginal infrastructure and external costs; maximum charges should be set at the average infrastructure costs plus the external costs.
- Phase III, beyond 2004, implementing a mandatory, harmonised charging system for heavy goods vehicles, based on marginal social costs.

19. This approach is based on four concepts:
- the same fundamental principles should apply to all commercial modes of transport in each Member State
 - infrastructure charges should be based on the “user-pays” principle
 - charges should be directly related to the costs that users impose on the infrastructure and on others
 - charges should promote the efficient provision of infrastructure.

20. According to the White Paper the only approach that fully satisfies these criteria is marginal social cost charging, i.e. charging users for both internal and external costs (operating costs, infrastructure damage costs, congestion costs, environmental and accident costs) that they impose at the point of use.

21. As a consequence of facing real costs, transport undertakings would have incentives to adjust transport choices, for instance: using vehicles that are less polluting and safer, choosing routes and logistics with lower levels of road damage, congestion, accident risks and environmental impact, switching to another mode of transport etc.

22. The program proposed in the White Paper of 1998 is still far from taking concrete shape and the Community framework in this respect is still incomplete. In view of the considerable delay incurred it seems more reasonable to assume that Phase I may last till 2003/5. According to the Phare study, at that time, the framework could be in place and acceding countries could head directly for this “fixed” target. In the preparation period towards this target, road charges can continue to be based on total infrastructure costs (i.e. full cost recovery), the application of marginal costs pricing being optional. The framework shall include provisions for “charging at the point of use”. In the longer run, say ten to twenty years from now (moving target), all countries shall comply with the basic principles of (emerging) EU policy, i.e. adoption of user charges and tolling concepts. Intermediate vignette type of systems (time based) could eventually be replaced by (the ultimate goal) distance based tolling systems. A mandatory, harmonized charging system shall reflect the marginal social cost principle.

B. FUTURE DEVELOPMENTS

I. Challenges

23. Escalating congestion and pollution raise doubts about the sustainability of transport. Transport charges can help address these issues in that they influence prices, which in turn can change transport use.

24. On the other hand charges and taxes that do not reflect transport sector costs result in distortions of competition between Member States, distortions of competition between different modes of transport and within modes, and in the failure to consider environmental and social aspects of transport and difficulties in funding infrastructure investments. These distortions translate in modal imbalance, congestion and pollution.

25. According to the most recent White Paper “European transport policy for 2010: time to decide” of 12 September 2001, transport users are entitled to know what they are paying for and why. Containing congestion, tackling greenhouse effect, building infrastructure, improving safety, minimizing environmental disturbance, improving transport control, all this comes at a price. The quid pro quo of these benefits for the society and transport users is that they ought to be more or less reflected in the price users pay for transport, but without affecting access to a good quality, continuous service throughout the Community.

26. The Commission in the White Paper foresees the biggest change to be in price structure rather than in price level. This is because transport, although heavily taxed is badly and unequally taxed. User are treated alike, irrespective of the infrastructure damage, bottlenecks and pollution they cause. This causes considerable distortion of competition both between transport operators and between modes of transport. For this reason taxation should work, says the Commission, according to the same principles regardless of mode of transport and should ensure a fairer distribution of the burden of transport costs. Following the “user-pays” and “polluter-pays” principles transport users should pay for the quantifiable components of transport costs arising from the use, the quality and the safety of infrastructure. According to the Gothenburg European Council, a sustainable policy should tackle the full internalization of social and environmental costs.

II. Proposals

27. According to the White Paper³ “European transport policy for 2010: time to decide” of 12 September 2001 the thrust of Community action should therefore be gradually to replace existing transport system taxes with more effective instruments for integrating infrastructure costs and external costs. These instruments are basically two: charging for infrastructure use and fuel tax.

³ COM(2001)370 or at the internet address:
http://www.europa.eu.int/comm/energy_transport/library/lb_texte_complet_en.pdf

(a) Towards gradual charging for the use of infrastructure:

28. The Community aims at a gradual charging for use of infrastructure which must cover not only infrastructure costs, but also external costs. External costs to be covered are those related to air pollution, climate change, infrastructure, noise, accidents and congestion. This goes for all modes of transport and categories of users, both private and commercial.

29. In the case of private vehicles the Community will not intervene immediately but will instead act by promoting good practice.

30. In the case of commercial transport the Community needs to establish a framework that will enable Member States gradually to integrate external and infrastructure costs and guarantee consistency in their initiatives.

31. Given this objective, a Community framework for infrastructure charging seems to be required in all modes. The goal of effective and fair pricing should be found in the balance between costs and charges that is created as a consequence of reduction of external and infrastructure costs by a drop in traffic provoked by the introduction of an infrastructure charge or fuel tax.

32. A number of measures already in the pipeline should help narrow the gap between costs and charges; for instance, the gradual tightening of motor vehicle emission standards should reduce air pollution.

33. Also development and increasing use of information and telecommunication technologies, especially satellite navigation systems (Galileo) can help tariff schedules be more targeted and be drawn up according to infrastructure category and use. Other objective factors can be taken into account such as vehicle category (environmental performance, factors influencing infrastructure deterioration such as number of axles and type of suspension, loading ratio), level of congestion (period of the day, week, year) and location (urban, suburban, interurban, rural).

34. The Commission plans to propose a framework directive in 2002 to establish the principles of infrastructure charging and a pricing structure for all modes of transport. The proposal will include a common methodology for setting price levels which incorporate external costs, and will specify the conditions for fair competition between transport modes.

35. For road transport, charges will vary according to the vehicle's environmental performance (according to the White Paper this means that in addition to Euro standards 1 to 5 used for emissions, this classification might also reflect performance in terms of noise emissions).

36. To produce maximum benefit for the transport sector, the Commission deems it essential that available revenue (after covering infrastructure costs) be channeled into specific national or regional funds in order to finance measures to lessen or offset external costs (double dividend) (with a few exceptions allowing for financing of alternative, more environmentally friendly infrastructure).

(b) Need to harmonize fuel taxes:

37. According to the White Paper, taxes on fuel complete the transport infrastructure-charging picture by adding external costs to the prices paid by users. In particular they incorporate the external cost component linked to greenhouse gas emissions. Fuel tax being made up essentially of excise duties, the Member States introduced a Community system based on the two mentioned Mineral Oil Directives providing for a minimum rate of tax on each mineral oil according to its use (fuel, industrial and commercial use, heating). Since its introduction in 1992 excise duties have gone way above the minimum values and differ enormously from country to country. This explains the need of harmonizing taxation to avoid this perceived obstacle to the functioning of the internal market.

38. With regard to harmonized taxation for road fuel, the Commission would uncouple taxation arrangements for fuel for commercial uses from tax arrangements for fuel for private use and proposes in the short term, a harmonized taxation of fuel used for commercial purposes. In the medium term this would hopefully extend to all consumers of fuel.

39. Lastly, substitute fuels should enjoy tax exemption (according to a proposed directive on energy products), and the gradual introduction of different types of substitute fuels should be promoted (the Commission is working on a directive which sets a minimum percentage of biofuel to be added to diesel and petrol placed on the market).

C. CONCLUSIONS

40. Apart from objectives such as promotion of fair competition and safeguard of the single market which are linked to the existence of a common market, other objectives such as improving the overall efficiency of the provision and use of infrastructure and enhancing the sustainability of the transport system are pertinent to Southeast European countries as well.

41. What can be retained of the above-mentioned EC developments from the point of view of the RRTC Group of Experts on Charging Policies?

I. User charges and tolls

42. Current EC legislation only regulates maximum limits on motorway network access rights (maximum user charges: the “Eurovignettes” paid by heavy goods vehicles throughout the entire network, generally by the year) and governs calculation of toll amounts (distance based charges which should be related to infrastructure costs and which can differentiate according to vehicle emission classes and according to the time of the day). User charges and tolls cannot be imposed simultaneously for the use of a single road section. The collection and monitoring of charges should be done in such a way to cause as little hindrance as possible to the free flow of traffic.

43. According to the most recent White Paper a short-term measure will be to set up a Community framework to gradually integrate external and infrastructure costs. This framework should cover all modes of transport.

44. The integration of external costs must encourage the use of modes of lesser environmental impact and, using the revenue raised in the process, allow investment in new infrastructure. The current Community rules, for instance the mentioned Directive 99/62 on the “Eurovignette”, therefore need to be replaced by a modern framework for infrastructure-use charging systems so as to encourage advances such as these while ensuring fair competition between modes of transport and more efficient charging, and ensuring that service quality is maintained.

45. Applying the territoriality principle and introducing “transport accounts” will also be a short-term measure. The application of the territoriality principle whereby users of roads should be charged for costs they impose at, or as close as possible to the point of use, will be extended at the cost of the nationality principle. The introduction of a vignette system in this respect has to be seen as an intermediate step in that direction.

46. In road transport, distance related charges (tolls) should be extended to include external costs, in addition to infrastructure costs, and time related charges (user charges) should be gradually eliminated. External costs to be included in the

tolls are air pollution, climate change, infrastructure, noise, accidents and congestion.

47. Development of urban road pricing schemes is encouraged to deal with external costs. These systems should be interoperable with the heavy goods transport vehicle charging. Another option is to introduce an electronic kilometer charge replacing vehicle taxes. But this is a long-term option, which even in current Member States is not feasible in the near future.

II. Other charges

48. The main challenge is to gradually decrease taxes without any relation to the use of the infrastructure (such as transit charges) and develop a uniform and comprehensive charging system that is differentiated and distance based.

49. The tendency is to reduce and eventually eliminate those charges which are difficult and costly to collect while bringing very few revenues.

III. Fuel taxes

50. In the absence of a common market, Southeast European countries are probably not going towards harmonization of fuel taxes, although on the long run that will be the case as these countries aim to join the European Union.

51. It is important for fuel excise duties to charge transport users also for environmental costs related to gas emissions. It would be interesting to see how the idea of differentiating between taxation of fuel for commercial use and fuel for private use (as a first step towards applying the polluter-pays principle to the biggest polluters) evolves in the coming years in the EC context.

52. Another point for consideration is that different levels of taxation apply to the energy used by different modes, e.g. rail and air, and that this can distort competition on certain routes served by both modes.