

This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

► **B** **DIRECTIVE 1999/62/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**
of 17 June 1999
on the charging of heavy goods vehicles for the use of certain infrastructures
(OJ L 187, 20.7.1999, p. 42)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Directive 2006/38/EC of the European Parliament and of the Council of 17 May 2006	L 157	8	9.6.2006
► <u>M2</u>	Council Directive 2006/103/EC of 20 November 2006	L 363	344	20.12.2006

Amended by:

► <u>A1</u>	Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded	L 236	33	23.9.2003
--------------------	---	-------	----	-----------



**DIRECTIVE 1999/62/EC OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL**

of 17 June 1999

**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 Articles 71(1) and 93 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the Opinion of the Economic and Social Committee
⁽²⁾,

Having regard to the Opinion of the Committee of the Regions ⁽³⁾

Acting in accordance with the procedure laid down in Article 251 of the
Treaty ⁽⁴⁾,

Whereas:

- (1) The elimination of distortions of competition between transport undertakings in the Member States calls for both the harmonisation of levy systems and the establishment of fair mechanisms for charging infrastructure costs to hauliers;
- (2) These objectives can be achieved only in stages;
- (3) A degree of harmonisation of levy systems has already been achieved through the adoption of Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils ⁽⁵⁾ and Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils ⁽⁶⁾;
- (4) By judgment of 5 July 1995 in Case C-21/94 European Parliament v. Council ⁽⁷⁾ the Court of Justice of the European Communities annulled Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and user charges for the use of certain infrastructures ⁽⁸⁾, while preserving the effects of that Directive until the Council had adopted a new Directive; therefore, Directive 93/89/EEC is replaced by this Directive;

⁽¹⁾ OJ C 59, 26.2.1997, p. 9.

⁽²⁾ OJ C 206, 7.7.1997, p. 17.

⁽³⁾ Opinion delivered on 3 June 1999 (not yet published in the Official Journal).

⁽⁴⁾ Opinion of the European Parliament of 17 July 1997 (OJ C 286, 22.9.1997, p. 217), Council Common Position of 18 January 1999 (OJ C 58, 1.3.1999, p. 1) and Decision of the European Parliament of 7 May 1999 (not yet published in the Official Journal).

⁽⁵⁾ OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

⁽⁶⁾ OJ L 316, 31.10.1992, p. 19. Directive as amended by Directive 94/74/EC. [1995] ECR I-1827.

⁽⁷⁾ OJ L 36, 9.2.1988, p. 33. Directive as last amended by Directive 96/1/EC (OJ L 40, 17.2.1996, p. 1).

⁽⁸⁾ OJ L 279, 12.11.1993, p. 32.

▼B

- (5) Under present circumstances the adjustment of national levy systems should be confined to commercial vehicles of more than a certain gross laden weight;
- (6) For this purpose minimum rates should be set for the vehicle taxes currently applied by the Member States or any which might succeed them;
- (7) The use of road-friendly and less polluting vehicles should be encouraged through differentiation of taxes or charges, provided that such differentiation does not interfere with the functioning of the internal market;
- (8) It is appropriate that certain Member States may be granted a period of derogation from the minima to facilitate adaptation to the levels required by this Directive;
- (9) Certain local domestic transport operations with little impact on the Community transport market are at present subject to reduced rates of vehicle tax; in order to ensure smooth transition, Member States should be authorised to lay down temporary derogations from minimum rates;
- (10) Member States should be permitted to apply reduced rates or exemptions of vehicle taxes in the case of vehicles whose use is not liable to affect the Community transport market;
- (11) In order to make allowance for certain special situations, a procedure should be laid down whereby Member States may be permitted to maintain further exemptions or reductions;
- (12) Existing distortions of competition cannot be eliminated solely by harmonising taxes or fuel excise duties; however, until technically and economically more appropriate forms of levy are in place, such distortions may be attenuated by the possibility of retaining or introducing tolls and/or user charges for the use of motorways; in addition Member States should be allowed to levy charges for the use of bridges, tunnels and mountain passes;
- (13) In view of the specific conditions on certain Alpine routes, it may be appropriate for a Member State to disapply a user charge system from a well defined section of its motorway network in order to permit application of an infrastructure related charge;
- (14) Tolls and user charges should not be discriminatory nor entail excessive formalities or create obstacles at internal borders; therefore, adequate measures should be taken to permit the payment of tolls and user charges at any time and with different means of payment;
- (15) The rates of user charges should be based on the duration of the use made of the infrastructure in question and be differentiated in relation to the costs caused by the road vehicles;
- (16) Reduced rates of user charges should be applied temporarily for vehicles registered in Greece to take account of difficulties due to its geopolitical position;
- (17) In order to ensure that user charges and tolls are applied homogeneously, certain rules for determining their manner of application should be laid down, such as the characteristics of the infrastructure to which they are applicable, the maximum levels of certain rates and other general conditions that will have to be complied with; weighted average tolls should be related to the costs of construction, operating and developing the infrastructure network concerned;
- (18) Member States should be able to attribute to environmental protection and the balanced development of transport networks a percentage of the amount of the user charge or of the toll,

▼B

provided that this amount is calculated in accordance with the provisions of this Directive;

- (19) The amounts in this Directive expressed in the national currency units of Member States adopting the euro were fixed on 1 January 1999 when the value of the euro was determined in accordance with Council Regulation (EC) No 2866/98 of 31 December 1998 on the conversion rates between the euro and the currencies of the Member States adopting the euro⁽¹⁾; it is appropriate that Member States not adopting the euro should review annually the amounts in this Directive in national currencies and adjust them where appropriate to take account of changes in the exchange rates; annual adjustments in national currencies may not be compulsory if the change resulting from the application of the new exchange rates is below a certain percentage level;
- (20) The principle of territoriality should be applied; two or more Member States may cooperate for the purpose of introducing a common system of user charges, subject to compliance with some additional conditions;
- (21) In accordance with the principle of proportionality, this Directive limits itself to the minimum required for the attainment of the objectives under the third paragraph of Article 5 of the Treaty;
- (22) A strict timetable should be set for reviewing the provisions of this Directive and considering adjustments to them, if necessary, with the aim of developing a more territorial levy system,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

General provisions

Article 1

This Directive applies to vehicle taxes, tolls and user charges imposed on vehicles as defined in Article 2.

This Directive shall not affect vehicles carrying out transport operations exclusively in the non-European territories of the Member States.

It shall also not affect vehicles registered in the Canary Islands, Ceuta and Melilla, the Azores or Madeira and carrying out transport operations exclusively in those territories or between those territories and, respectively, mainland Spain and mainland Portugal.

Article 2

For the purposes of this Directive:

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

⁽¹⁾ OJ L 359, 31.12.1998, p. 1.

⁽²⁾ OJ L 228, 9.9.1996, p. 1. Decision as last amended by Decision No 884/2004/EC (OJ L 167, 30.4.2004, p. 1).

▼M1

- (aa) ‘construction costs’ means the costs related to construction, including, where appropriate, the financing costs, of:
- new infrastructure or new infrastructure improvements (including significant structural repairs), or
 - infrastructure or infrastructure improvements (including significant structural repairs) completed no more than 30 years before 10 June 2008, where tolling arrangements are already in place on 10 June 2008, or completed no more than 30 years before the establishment of any new tolling arrangements introduced after 10 June 2008; costs regarding infrastructure or infrastructure improvements completed before these time limits may also be considered as construction costs where:
 - (i) a Member State has established a tolling system which provides for the recovery of these costs by means of a contract with a tolling system operator, or other legal acts having equivalent effect, which enter into force before 10 June 2008, or
 - (ii) a Member State can demonstrate that the case for building the infrastructure in question depended on its having a design lifetime in excess of 30 years.

In any event, the proportion of the construction costs to be taken into account shall not exceed the proportion of the current design lifetime period of infrastructure components still to run on 10 June 2008 or on the date when the new tolling arrangements are introduced, where this is a later date.

Costs of infrastructure or infrastructure improvements may include any specific expenditure on infrastructure designed to reduce nuisance related to noise or to improve road safety and actual payments made by the infrastructure operator corresponding to objective environmental elements such as protection against soil contamination;

- (ab) ‘financing costs’ means interest on borrowings and/or return on any equity funding contributed by shareholders;
- (ac) ‘significant structural repairs’ means structural repairs excluding those repairs no longer of any current benefit to road users, e.g. where the repair work has been replaced by further road resurfacing or other construction work;
- (b) ‘toll’ means a specified amount payable for a vehicle travelling a given distance on the infrastructures referred to in Article 7(1); the amount shall be based on the distance travelled and the type of vehicle;
- (ba) ‘weighted average toll’ means the total revenue raised through tolls over a given period divided by the number of vehicle kilometres travelled on a given network subject to tolling during that period, both the revenue and the vehicle kilometres being calculated for the vehicles to which tolls apply;

▼B

- (c) ►**M1** ‘user charge’ means a specified amount payment of which confers the right for a vehicle to use for a given period the infrastructures referred to in Article 7(1);
- (d) ‘vehicle’ means a motor vehicle or articulated vehicle combination intended or used exclusively for the carriage by road of goods and having a maximum permissible laden weight of over 3,5 tonnes;
- e) vehicle of the ‘EURO 0’, ‘EURO I’, ‘EURO II’, ‘EURO III’, ‘EURO IV’, ‘EURO V’, ‘EEV’ category means a vehicle that complies with the emission limits set out in Annex 0;

▼B

- (f) ‘type of vehicle’ means a category into which a vehicle falls according to the number of its axles, its dimensions or weight, or other vehicle classification factors reflecting road damage, e.g. the road damage classification system set out in Annex IV, provided that the classification system used is based on vehicle characteristics which either appear in the vehicle documentation used in all Member States or are visually apparent; ◀

▼M1

- (g) ‘concession contract’ means a ‘public works concession’ or a ‘service concession’ as defined in Article 1 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ⁽¹⁾;
- (h) ‘concession toll’ means a toll levied by a concessionaire under a concession contract.

▼B

CHAPTER II
Vehicle taxation

Article 3

1. The vehicle taxes referred to in Article are as follows:

— *Belgium:*

taxe de circulation sur les véhicules automobiles/ verkeersbelasting op de autovoertuigen,

▼M2

— *Bulgaria:*

данък върху превозните средства,

▼A1

— *Czech Republic:*

silniční daň,

▼B

— *Denmark:*

vaegtafgift of motorkeretrajer m.v.,

— *Germany:*

Kraftfahrzeugsteuer,

▼A1

— *Estonia:*

raskeveokimaks,

▼B

— *Greece:*

Τέλη κυκλοφορίας,

— *Spain:*

(a) impuesto sobre vehículos de tracción mecánica;

(b) impuesto sobre actividades económicas (solely as regards the amount of the levies charged for motor vehicles),

— *France:*

⁽¹⁾ OJ L 134, 30.4.2004, p. 114. Directive as last amended by Commission Regulation (EC) No 2083/2005 (OJ L 333, 20.12.2005, p. 28).

▼ B

- (a) taxe spéciale sur certains véhicules routiers;
- (b) taxe différentielle sur les véhicules a moteur,

— *Ireland*:

vehicle excise duty,

— *Italy*:

- (a) tassa automobilistica;
- (b) addizionale del 5 % sulla tassa automobilistica,

▼ A1

— *Cyprus*:

Τέλη Κυκλοφορίας Οχημάτων,

— *Latvia*:

transportlīdzekļa ikgadējā nodeva,

— *Lithuania*:

- (a) Transporto priemonių savininkų ar valdytojų naudotojų mokestis;
- (b) Mokestis už Lietuvoje įregistruotas krovinines transporto priemones,

▼ B

— *Luxembourg*:

taxe sur les véhicules automoteurs,

▼ A1

— *Hungary*:

gépjárműadó,

— *Malta*:

licenzja tat-triq/road licence fee,

▼ B

— *Netherlands*:

motorrijtuigenbelasting,

— *Austria*:

Kraftfahrzeugsteuer,

▼ A1

— *Poland*:

podatek od środków transportowych,

▼ B

— *Portugal*:

- (a) imposto de camionagem;
- (b) imposto de circulação,

▼ M2

— *Romania*:

Taxa asupra mijloacelor de transport,

▼ A1

— *Slovenia*:

letno povračilo za uporabo javnih cest za motorna in priklopna vozila,

— *Slovakia*:

cestná daň,

▼B

- *Finland*:
varsinainen ajoneuvovero/egentlig fordonsskatt,
- *Sweden*:
fordonsskatt,
- *United Kingdom*:
(a) vehicle excise duty;
(b) motor vehicles licence.

2. Member States which replace any tax listed in paragraph 1 with another tax of the same kind shall notify the Commission, which shall make the necessary amendments.

Article 4

Procedures for levying and collecting the taxes referred to in Article 3 shall be determined by each Member State.

Article 5

As regards vehicles registered in the Member States, the taxes referred to in Article 3 shall be charged solely by the Member State of registration.

Article 6

1. Whatever the structure of the taxes referred to in Article 3, Member States shall set the rates so as to ensure that the tax rate for each vehicle category or subcategory referred to in Annex I is not lower than the minimum laid down in that Annex.

Until two years after entry into force of the Directive, Greece, Italy, Portugal and Spain shall be authorised to apply rates that are lower than, but not less than, 65 % of the minima laid down in Annex I.

2. Member States may apply reduced rates or exemptions for:

- (a) vehicles used for national or civil defence purposes, by fire and other emergency services and by the police, and vehicles used for road maintenance;
- (b) vehicles which travel only occasionally on the public roads of the Member State of registration and are used by natural or legal persons whose main occupation is not the carriage of goods, provided that the transport operations carried out by these vehicles do not cause distortions of competition, and subject to the Commission's agreement.

- 3. (a) The Council, acting unanimously on a proposal from the Commission, may authorise a Member State to maintain further exemptions from or reductions in taxes on vehicles on the grounds of specific policies of a socio-economic nature or linked to that State's infrastructure. Such exemptions or reductions may apply only to vehicles registered in that Member State which carry out transport operations exclusively inside a well-defined part of its territory.
- (b) Any Member State wishing to maintain such an exemption or reduction shall inform the Commission thereof and shall also forward to it all necessary information. The Commission shall inform the other Member States of the proposed exemption or reduction within one month.

▼B

The Council shall be deemed to have authorised maintenance of the proposed exemption or reduction if, within a period of two months from the date on which the other Member States were informed in accordance with the first subparagraph, neither the Commission nor any Member State has requested that the matter be examined by the Council.

4. Without prejudice to the second subparagraph of paragraph 1 and to paragraphs 2 and 3 of this Article or to Article 6 of Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States ⁽¹⁾, Member States may not grant any exemption from, or any reduction in, the taxes referred to in Article 3 which would render the chargeable tax lower than the minimum referred to in paragraph 1 of this Article.

CHAPTER III**Tolls and user charges***Article 7*

1. ►**M1** Member States may maintain or introduce tolls and/or user charges on the trans-European road network, or on parts of that network, only under the conditions set out in paragraphs 2 to 12. This shall be without prejudice to the right of Member States, in compliance with the Treaty, to 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, or to other types of motor vehicle not covered by the definition of 'vehicle' on the trans-European road network, provided that the imposition of tolls and/or user charges on such roads does not discriminate against international traffic and does not result in distortions of competition between operators.

1a. 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.

2. (a) A Member State may choose to maintain or introduce tolls and/or user charges applicable only to vehicles having a maximum permissible laden weight of not less than 12 tonnes. Where a Member State chooses to apply tolls and/or user charges to vehicles below this weight limit, the provisions of this Directive shall apply.

(b) Toll and/or user charges shall be applied to all vehicles from 2012.

(c) A Member State may derogate from the requirement set out in point (b) where it considers that the extension of tolling to vehicles of less than 12 tonnes would:

- create significant adverse effects on the free flow of traffic, the environment, noise levels, congestion or health, or
- involve administrative costs which would be more than 30 % of additional revenue generated.

3. Toll and user charges may not both be imposed at the same time on any given category of vehicle for the use of a single road section.

⁽¹⁾ OJ L 368, 17.12.1992, p. 38.

▼B

However, Member States may also impose tolls on networks where user charges are levied for the use of bridges, tunnels and mountain passes.

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

▼M1

4a. 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 transport ⁽¹⁾, and in the cases covered by, and subject to the conditions contained in, Article 6(2)(a) and (b) of this Directive.

4b. As charging structures involving discounts or reductions in tolls for frequent users may lead to actual savings in administrative costs for the infrastructure operator, Member States may provide for such discounts or reductions on condition that:

- they fulfil the conditions set out in paragraph 10(a),
- they comply with the Treaty, in particular Articles 12, 49, 86 and 87 thereof,
- they do not distort competition in the internal market,
- the resulting charging structure is linear, proportionate, available to all users on equal terms and does not lead to additional costs being passed on to other users in the form of higher tolls.

Such discounts or reductions shall in no case exceed 13 % of the toll paid by equivalent vehicles not eligible for the discount or reduction.

4c. All discount and reduction schemes shall be communicated to the Commission, which shall verify compliance with the conditions set out in paragraphs 4a and 4b and shall approve them in accordance with the procedure referred to in Article 9c(2).

▼B

5. 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.

6. ►**M1** 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 make available the appropriate on-board units under reasonable administrative and economic arrangements. ◀

7. 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.

▼M1

⁽¹⁾ 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).

▼B

8. User-charge rates shall be in proportion to the duration of the use made of the infrastructure.

A Member State may apply only annual rates for vehicles registered in that State.

9. ►**MI** Tolls shall be based on the principle of the recovery of infrastructure costs only. Specifically the weighted average tolls shall be related to the construction costs and the costs of operating, maintaining and developing the infrastructure network concerned. The weighted average tolls may also include a return on capital or profit margin based on market conditions.

10. (a) Without prejudice to the weighted average tolls referred to in paragraph 9, Member States may vary the toll rates for purposes such as combating environmental damage, tackling congestion, minimising infrastructure damage, optimising the use of the infrastructure concerned or promoting road safety, provided that such variation:

- is proportionate to the objective pursued;
- is transparent and non-discriminatory particularly regarding the nationality of the haulier, the country or place of establishment of the haulier or of registration of the vehicle, and the origin or destination of the transport operation;
- is not designed to generate additional tolling revenue, any unintended increase in revenue (leading to weighted average tolls which are not in accordance with paragraph 9) 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;
- respects the maximum flexibility thresholds set out in point (b).

(b) Subject to the conditions of point (a), toll rates may be varied according to:

- EURO emission class as set out in Annex 0, including the level of PM and NO_x, provided that no toll is more than 100 % above the toll charged for equivalent vehicles meeting the strictest emission standards; and/or
- the time of day, type of day or season, provided that:
 - (i) no toll is more than 100 % above the toll charged during the cheapest period of the day, type of day or season; or
 - (ii) where the cheapest period is zero-rated, the penalty for the most expensive time of day, type of day or season is no more than 50 % of the level of toll that would otherwise be applicable to the vehicle in question.

Member States shall be required to vary the rates at which tolls are charged in conformity with the first indent no later than 2010, or in the case of concession contracts, when that concession contract is renewed.

A Member State may nevertheless derogate from this requirement if:

- (i) this would seriously undermine the coherence of the tolling systems in its territory;

▼B

- (ii) for the tolling system concerned, it would not be technically practicable to introduce such differentiation; or
- (iii) this would lead to diversion of the most polluting vehicles away from the trans-European road network with consequential impacts on road safety and public health.

Any such derogations shall be notified to the Commission.

- (c) Subject to the conditions of point (a), 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. ◀

▼M1

11. Without prejudice to Article 9(1) and (1a), in exceptional cases concerning infrastructure in mountainous regions and after informing the Commission, a mark-up may be added to the tolls of specific road sections:

- (a) which are the subject of acute congestion affecting the free movement of vehicles; or
- (b) 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 in priority projects of European interest identified in Annex III to Decision No 884/2004/EC, which contribute directly to the alleviation of the congestion or environmental damage in question and which are located in the same corridor as the road section on which the mark-up is applied,
- the mark-up, which may be applied to tolls varied in accordance with paragraph 10, does not exceed 15 % of the weighted average toll calculated in accordance with paragraph 9 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,
- financial plans for the infrastructure on which the mark-up is applied and a cost/benefit analysis for 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 submitted.

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

When the Commission receives the financial plans 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 9c(1). Should the Commission consider that the planned mark-up does not meet the

▼ M1

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 9c(2).

12. Where a driver is unable to produce the vehicle documents necessary to ascertain the information referred to in the first indent of paragraph 10(b), and the type of vehicle in the event of a check, Member States may apply tolls up to the highest level chargeable.

Article 7a

1. In determining the levels of weighted average tolls to be charged on the infrastructure network concerned or a clearly defined part of such a network, Member States shall take into account the various costs set out in Article 7(9). The costs taken into account shall relate to the network or part of the network on which tolls are levied and to the vehicles that are subject to the tolling. Member States may choose not to recover these costs through toll revenue or to recover only a percentage of the costs.

2. Toll levels shall be determined in accordance with Article 7 and paragraph 1 of this Article.

3. For new tolling arrangements other than those involving concession tolls put in place by Member States after 10 June 2008, Member States shall calculate costs using a methodology based on the core calculation principles set out in Annex III.

For new concession tolls put in place after 10 June 2008, the maximum level of tolls 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.

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.

4. Member States shall communicate to the Commission at least four 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 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 7(9) 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.

5. Member States shall also inform the Commission at least four months before their implementation of new tolling arrangements

▼M1

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 network covered by the toll, the vehicles covered and the levels of toll envisaged, together with an explanation of how the level of toll was determined.

6. For the cases subject to the obligations in paragraph 3 the Commission shall, within four months of receiving the information in accordance with paragraph 4, give an opinion as to whether these obligations appear to have been fulfilled.

For the tolling arrangements referred to in paragraph 5, the Commission may also give an opinion, in particular regarding the proportionality and the transparency of the proposed arrangements and their likely impact on competition in the context of the internal market and the free movement of goods.

The opinions of the Commission shall be made available to the Committee referred to in Article 9c(1).

7. Where a Member State wishes to apply the provisions contained in Article 7(11) in respect of tolling arrangements already in place on 10 June 2008, it shall provide information that demonstrates that the weighted average toll being applied to the infrastructure concerned complies with Articles 2(aa), 7(9) and 7(10).

Article 7b

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.

▼B*Article 8*

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) ►**M1** 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.

▼M1*Article 8a*

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.

▼B**CHAPTER IV
Final provisions***Article 9*

1. ►**M1** This Directive shall not prevent the non-discriminatory application by Member States of:

- (a) specific taxes or charges:
 - levied upon registration of the vehicle, or
 - imposed on vehicles or loads of abnormal weights or dimensions;
- (b) parking fees and specific urban traffic charges.

1a. This Directive shall not prevent the non-discriminatory application by Member States of:

- (a) regulatory charges specifically designed to combat time and place-related traffic congestion;
- (b) regulatory charges designed to combat environmental impacts, including poor air quality

on any road, notably in urban areas, including trans-European road network roads crossing an urban area. ◀

2. ►**M1** Member States shall determine the use to be made of revenue from charges for the use of road infrastructure. To enable the transport network to be developed as a whole, revenue from charges should be used to benefit the transport sector and optimise the entire transport system. ◀

▼M1*Article 9a*

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

Article 9b

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 Annex III. The Commission shall update and clarify Annexes 0, III and IV in the light of technical progress and Annexes I and II in the light of inflation, in accordance with the procedure referred to in Article 9c(3).

Article 9c

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 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

▼M1

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

4. The Committee shall adopt its rules of procedure.

▼B*Article 10*

1. For the purpose of this Directive, the rates of exchange between the euro and the national currencies of the Member States which have not adopted the euro shall be those in force on the first working day of October and published in the *Official Journal of the European Communities*; they shall have effect from 1 January of the following calendar year.

2. Member States which have not adopted the euro may maintain the amounts in force at the time of the annual adjustment made pursuant to paragraph 1 if the conversion of the amounts expressed in euro would result in a change of less than 5 % when expressed in national currencies.

▼M1*Article 11*

No later than 10 June 2011, the Commission shall present a report to the European Parliament and the Council on the implementation and effects of this Directive, taking account of developments in technology and the trend in traffic density, including the use of vehicles of more than 3,5 and less than 12 tonnes, and evaluating its impact on the internal market, including on island, landlocked and peripheral regions of the Community, levels of investment in the sector and its contribution to the objectives of a sustainable transport policy.

Member States shall forward the necessary information for the report to the Commission no later than 10 December 2010.

No later than 10 June 2008, 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. This model shall 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 the model for all modes of transport.

The report and the model shall be accompanied, if appropriate, by proposals to the European Parliament and the Council for further revision of this Directive.

▼B*Article 12*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 2000. They shall forthwith inform the Commission thereof.

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.

2. 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. The Commission shall inform the other Member States thereof.

▼B

Article 13

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 14

This Directive is addressed to the Member States.

▼ **M1**

ANNEX 0

EMISSION LIMITS**1. 'EURO 0' vehicle**

Mass of carbon monoxide (CO) g/kWh	Mass of hydrocarbons (HC) g/kWh	Mass of nitrogen oxides (NOx) g/kWh
12,3	2,6	15,8

2. 'EURO I'/'EURO II' vehicles

	Mass of carbon monoxide (CO) g/kWh	Mass of hydrocarbons (HC) g/kWh	Mass of nitrogen oxides (NOx) g/kWh	Mass of particulates (PT) g/kWh
'EURO I' vehicle	4,9	1,23	9,0	0,4 ⁽¹⁾
'EURO II' vehicle	4,0	1,1	7,0	0,15

⁽¹⁾ A coefficient of 1,7 is applied to the particulate emission limit value in the case of engines with a power rating of 85 kW or less.

3. 'EURO III'/'EURO IV'/'EURO V'/'EEV' vehicles

The specific masses of carbon monoxide, total hydrocarbons, nitrogen oxides and particulates, determined by the ESC test and the exhaust gas opacity, determined by the ELR test, must not exceed the following values ⁽¹⁾:

	Mass of carbon monoxides (CO) g/kWh	Mass of hydrocarbons (HC) g/kWh	Mass of nitrogen oxides (NOx) g/kWh	Mass of particulates (PT) g/kWh	Exhaust gas m ⁻¹
'EURO III' vehicle	2,1	0,66	5,0	0,10 ⁽²⁾	0,8
'EURO IV' vehicle	1,5	0,46	3,5	0,02	0,5
'EURO V' vehicle	1,5	0,46	2,0	0,02	0,5
'EEV' vehicle	1,5	0,25	2,0	0,02	0,15

⁽¹⁾ A test cycle consists of a sequence of test points, each point being defined by a speed and a torque which the engine must respect in steady state (ESC test) or transient operating conditions (ETC and ELR tests).

⁽²⁾ 0,13 for engines whose unit cylinder capacity is less than 0,7 dm³ and the nominal speed is in excess of 3 000 min⁻¹.

4. Future emission classes of vehicles as defined in Directive 88/77/EEC and subsequent amendments may be considered.



ANNEX I

MINIMUM RATES OF TAX TO BE APPLIED TO VEHICLES

Moteur vehicles

Number of axles and maximum permissible gross laden weight (in tonnes)		Minimum rate of tax (in euro/year)	
Not less than	Less than	Driving axle(s) with air suspension or recognised equivalent ⁽¹⁾	Other driving axle(s) suspension systems
Two axles			
12	13	0	31
13	14	31	86
14	15	86	121
15	18	121	274
Three axles			
15	17	31	54
17	19	54	111
19	21	111	144
21	23	144	222
23	25	222	345
25	26	222	345
Four axles			
23	25	144	146
25	27	146	228
27	29	228	362
29	31	362	537
31	32	362	537

⁽¹⁾ Suspension recognised as equivalent in accordance with the definition in Annexe II to Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 235, 17.9.1996, p. 59).

VEHICLE COMBINATIONS (ARTICULATED VEHICLES AND ROAD TRAINS)

Number of axles and maximum permissible gross laden weight (in tonnes)		Minimum rate of tax (in euro/year)	
Not less than	Less than	Driving axle(s) with air suspension or recognised equivalent ⁽¹⁾	Other driving axle(s) suspension systems
2 + 1 axles			
12	14	0	0
14	16	0	0
16	18	0	14
18	20	14	32
20	22	32	75
22	23	75	97

▼B

Number of axles and maximum permissible gross laden weight (in tonnes)		Minimum rate of tax (in euro/year)	
Not less than	Less than	Driving axle(s) with air suspension or recognised equivalent ⁽¹⁾	Other driving axle(s) suspension systems
23	25	97	175
25	28	175	307
2 + 2 axles			
23	25	30	70
25	26	70	115
26	28	115	169
28	29	169	204
29	31	204	335
31	33	335	465
33	36	465	706
36	38	465	706
2 + 3 axles			
36	38	370	515
38	40	515	700
3 + 2 axles			
36	38	327	454
38	40	454	628
40	44	628	929
3 + 3 axles			
36	38	186	225
38	40	225	336
40	44	336	535

⁽¹⁾ Suspension recognised as equivalent in accordance with the definition in Annex II to Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 235, 17.9.1996, p. 59).

▼B*ANNEX II***MAXIMUM AMOUNTS IN EURO OF USER CHARGES, INCLUDING ADMINISTRATIVE COSTS, REFERRED TO IN ARTICLE 7(7)****Annual****▼M1**

	maximum three axles	minimum four axles
EURO 0	1 332	2 233
EURO I	1 158	1 933
EURO II	1 008	1 681
EURO III	876	1 461
EURO IV and less polluting	797	1 329

▼B**Monthly and weekly**

Maximum monthly and weekly rates are in proportion to the duration of the use made of the infrastructure.

Daily**▼M1**

The daily user charge is equal for all vehicle categories and amounts to EUR 11.

▼ **M1***ANNEX III***CORE PRINCIPLES FOR THE ALLOCATION OF COSTS AND CALCULATION OF TOLLS**

This Annex stipulates the core principles for the calculation of weighted average tolls to reflect Article 7(9). The obligation to relate tolls to costs shall be without prejudice to the freedom of Member States to choose, in accordance with Article 7a(1), not to recover the costs in full through toll revenue, or to the freedom, in accordance with Article 7(10), to vary the amounts of specific tolls away from the average ⁽¹⁾.

The application of these principles shall be fully consistent with other existing obligations under Community law, in particular the requirement for concession contracts to be awarded in accordance with Directive 2004/18/EC and other Community instruments in the field of public procurement.

Where a Member State engages in negotiations with one or more third parties with a view to establishing a concession contract regarding the construction or operation of a part of its infrastructure, or in view of this purpose engages in a similar arrangement based on national legislation or an agreement entered into by the government of a Member State, compliance with these principles shall be judged on the basis of the outcome of these negotiations.

1. Definition of the network and of vehicles covered

- Where a single tolling regime is not to be applied to the whole TEN road network, a Member State shall specify precisely the part or parts of the network which are to be subject to a tolling regime as well as the system its uses to classify vehicles for the purposes of toll variation. Member States shall also specify whether they are extending the scope of their tolling regime to cover vehicles below the 12-tonne threshold.
- Where a Member State chooses to adopt different policies regarding cost recovery for different parts of its network (as permitted under Article 7a (1)), each clearly defined part of the network shall be subject to a separate calculation of costs. A Member State may choose to split its network up into a number of clearly defined parts so as to establish separate concession arrangements or similar for each part.

2. Infrastructure costs**2.1. Investment costs**

- Investment costs shall include the costs of construction (including financing costs) and the costs of developing the infrastructure plus, where appropriate, a return on the capital investment or profit margin. Costs of land acquisition, planning, design, supervision of construction contracts and project management, and of archaeological and ground investigations, as well as other relevant incidental costs, shall also be included.
- The recovery of construction costs shall be based on either the design lifetime of the infrastructure or such other amortisation period (not being less than 20 years) as may be considered appropriate for reasons of financing through a concession contract or otherwise. The length of the amortisation period may be a key variable in negotiations regarding the establishment of concession contracts, particularly if the Member State concerned wishes, as part of the contract, to set a ceiling regarding the weighted average toll applicable.
- Without prejudice to the calculation of investment costs, the recovery of costs may:

⁽¹⁾ These provisions, together with the flexibility offered in the way costs are recovered over time (see the third indent of point 2.1), give considerable margin to fix tolls at levels which are acceptable to users and adapted to the specific transport policy objectives of the Member State.

▼M1

- be apportioned evenly over the amortisation period or weighted to the early, middle or later years, provided that such weighting is carried out in a transparent manner,
 - provide for indexation of tolls over the amortisation period.
- All historic costs shall be based on the amounts paid. Costs which are still to be incurred will be based on reasonable cost forecasts.
- Government investment may be assumed to be financed borrowings. The rate of interest to be applied to historical costs shall be the rates that applied to government borrowings over that period.
- Costs shall be apportioned to heavy goods vehicles (HGVs) on an objective and transparent basis taking account of the proportion of HGV traffic to be carried on the network and the associated costs. The vehicle kilometres travelled by HGVs may for this purpose be adjusted by objectively justified 'equivalence factors' such as those set out in point 4 ⁽¹⁾.
- Provision for estimated return on capital or profit margin shall be reasonable in the light of market conditions and may be varied for the purpose of providing performance incentives for a contracted third party with regard to quality of service requirements. Return on capital may be evaluated using economic indicators such as IRR (internal rate of return on investment) or WACC (weighted average cost of capital).

2.2. Annual maintenance costs and structural repair costs

- These costs shall include both the annual costs of maintaining the network and the periodic costs relating to repair, reinforcement and resurfacing, with a view to ensuring that the level of operational functionality of the network is maintained over time.
- Such costs shall be apportioned between HGV and other traffic on the basis of actual and forecast shares of vehicle kilometres and may be adjusted by objectively justified equivalence factors such as those set out in point 4.

3. Operating, management and tolling costs

These costs shall include all costs incurred by the infrastructure operator which are not covered under Section 2 and which relate to the implementation, operation and management of the infrastructure and of the tolling system. They shall include in particular:

- the costs of constructing, establishing and maintaining toll booths and other payment systems,
- the day to day costs of operating, administering and enforcing the toll collection system,
- administrative fees and charges relating to concession contracts,
- management, administrative and service costs relating to the operation of the infrastructure.

The costs may include a return on capital or profit margin reflecting the degree of risk transferred.

Such costs shall be apportioned on a fair and transparent basis between all vehicle classes that are subject to the tolling system.

⁽¹⁾ The application of equivalence factors by Member States may take account of road construction developed on a phased basis or using a long life cycle approach.

▼M1**4. Share of goods traffic, equivalence factors and correction mechanism**

— The calculation of tolls shall be based on actual or forecast HGV shares of vehicle kilometres adjusted, if desired, by equivalence factors, to make due allowance for the increased costs of constructing and repairing infrastructure for use by goods vehicles.

— The following table gives a set of indicative equivalence factors. Where a Member State uses equivalence factors with ratios differing from those in the table, they shall be based on objectively justifiable criteria and shall be made public.

Vehicle class ⁽¹⁾	Equivalence factors		
	Structural repair ⁽²⁾	Investments	Annual maintenance
Between 3,5 t and 7,5 t, Class 0	1	1	1
> 7,5 t, Class I	1,96	1	1
> 7,5 t, Class II	3,47	1	1
> 7,5 t, Class III	5,72	1	1

⁽¹⁾ See Annex IV for the determination of the vehicle class.

⁽²⁾ The vehicle classes correspond to axle weights of 5,5, 6,5, 7,5 and 8,5 tonnes respectively.

— Tolling regimes which are based on forecast traffic levels shall provide for a correction mechanism whereby tolls are adjusted periodically to correct any under or over-recovery of costs due to forecasting errors.

▼ **M1***ANNEX IV***INDICATIVE VEHICLE CLASS DETERMINATION**

The vehicle classes are defined by the table below.

Vehicles are classed in subcategories 0, I, II and III according to the damage they cause to the road surface, in ascending order (Class III is thus the category causing most damage to road infrastructure). The damage increases exponentially with the increase in axle weight.

All motor vehicles and vehicle combinations of a maximum permissible laden weight below 7,5 tonnes belong to damage class 0.

Motor vehicles

Driving axles with air suspension or recognised equivalent ⁽¹⁾		Other driving axle suspension systems		Damage class	
Number of axles and maximum permissible gross laden weight (in tonnes)		Number of axles and maximum permissible gross laden weight (in tonnes)			
Not less than	Less than	Not less than	Less than		
Two axles					
7,5	12	7,5	12	I	
12	13	12	13		
13	14	13	14		
14	15	14	15		
15	18	15	18		
Three axles					
15	17	15	17	II	
17	19	17	19		
19	21	19	21		
21	23	21	23		
23	25				
25	26				
		23	25		
		25	26		
Four axles					
23	25	23	25		I
25	27	25	27		
27	29				
		27	29	II	
		29	31		
		31	32		
29	31				
31	32				

⁽¹⁾ Suspension recognised as equivalent according to the definition in Annex II to Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 235, 17.9.1996, p. 59). Directive as last amended by Directive 2002/7/EC of the European Parliament and of the Council (OJ L 67, 9.3.2002, p. 47).

▼ **M1****Vehicle combinations (articulated vehicles and road trains)**

Driving axles with air suspension or recognised as equivalent		Other driving axle suspension systems		Damage class
Number of axles and maximum permissible gross laden weight (in tonnes)		Number of axles and maximum permissible gross laden weight (in tonnes)		
Not less than	Less than	Not less than	Less than	
2 + 1 axles				
7,5	12	7,5	12	I
12	14	12	14	
14	16	14	16	
16	18	16	18	
18	20	18	20	
20	22	20	22	
22	23	22	23	
23	25	23	25	
25	28	25	28	
2 + 2 axles				
23	25	23	25	
25	26	25	26	
26	28	26	28	
28	29	28	29	
29	31	29	31	II
31	33	31	33	III
33	36	33	36	
36	38			
2 + 3 axles				
36	38	36	38	II
38	40			
		38	40	III
3 + 2 axles				
36	38	36	38	II
38	40			
		38	40	III
		40	44	
40	44			
3 + 3 axles				
36	38	36	38	I
38	40			
		38	40	II
		40	44	
40	44	40	44	