



September 2008
AK Position Paper

Charging of heavy goods vehicles for the use of certain infrastructures (Eurovignette-Directive)

About us

The Federal Chamber of Labour is by law representing the interests of about 3.2 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership.

The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.

Organisation and Tasks of the Austrian Federal Chamber of Labour

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

Herbert Tumpel
President

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 560.000 - amongst others unemployed, persons on maternity (paternity) leave, community- and military service - of the 3.2 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labor.

Werner Muhm
Director

Executive Summary

The AK welcomes the proposal as a step in the right direction in principle. However, it has turned out to be far too half-hearted to induce a change towards greater sustainability. From the AK's point of view, the key points from the proposal are as follows:

- The directive should enable all external costs involved in road freight transport to be recorded in full. The cost categories "climate change" and "costs resulting from accidents" in particular must also be able to be collected via tolls. The level of charges for external costs above all for congestion and air pollution must be geared as far as possible to the objective and measurable local costs.
- Adherence to safety and social welfare provisions as well as road safety is vital in order to avoid costs resulting from accidents. The proposal needs to make it clear that administrative costs for road safety (e.g. HGV controls on motorways) can also be included in the calculation of tolls.
- The directive must ensure a sufficient number of satisfactory parking and resting places on trans-European motorways for HGV drivers. This is vital for adherence to the driving times and rest periods of HGV drivers and to prevent accidents.
- Ensure that due regard is paid to sensitive mountainous regions. The ban provided for in the proposal on the accumulation of "external cost charges" with existing mark ups for cross-financing contradicts the user pays principle and needs to be abolished.
- We support the proposed earmarking of charges from external costs. This should be extended further in the proposal.
- We reject extending the scope of the directive to parts of the lower-ranked road network away from the TEN. The existing legal framework is sufficient to record toll avoidance traffic on roads outside the TEN. As long as the aim is not an EU-wide duty to levy tolls with minimum amounts, there is no need to extend the scope.
- Member States must retain the possibility to impose regulatory charges on their urban road network. We reject the restriction made in the proposal.
- Getting rid of time-based user charges in favour of an HGV toll based on mileage with prescribed minimum amounts on the TEN network should be specified on a longer term basis in the directive.

Content of the proposal

The Commission presented a package of measures called "Greening Transport"¹ on July 8 2008. At the heart of the package is a new proposal for a directive on the charging of heavy goods vehicles (hereafter referred to as "Eurovignette-Directive"), which defines the framework for Member States wanting to include the external costs of heavy goods traffic in tolls. External costs are all costs that must be borne at present by the rest of society rather than the user.

Core principles of the Commission proposal include:

- Enabling Member States to charge the external costs (= subsequent costs) of HGV transport – air pollution, noise and congestion – to the user in the form of an extra charge.
 - Establishing principles vis-à-vis toll charging and calculation methods for infrastructure and external costs with regard to proportionality and non-discrimination.
 - Using electronic road pricing technologies to support the collection of charges based on mileage.
- Earmarking additional revenue from tolls to combat noise, congestion and air pollution in favour of new and sustainable transport concepts (e.g. research into environmentally friendly power trains, creation of action plans to combat noise etc).
 - Expanding the legal scope of the directive from the trans-European network to other road categories.

¹ Greening Transport. Communication from the Commission to the European Parliament and the Council. COM(2008) 433 final

The AK position in detail

The AK advocates in principle that the price of transport services in road freight transport should reflect the costs relating to society as a whole. A lack of cost transparency in road freight transport has led to a decoupling of real value added and regional production forms being put at a disadvantage. HGV transport is currently growing faster than the economy and does not inevitably mean prosperity for everyone. Because HGV transport does not pay all costs that it creates (via environmental costs, health costs, costs resulting from accidents and congestion), the rest of society must raise 2.6 per cent of GDP just for these external costs. This is the equivalent of a charge of EUR 820 per person every year in Austria². We therefore advocate a change towards greater cost transparency in principle through price signals.

We firmly refute fears that an accelerated internalisation of external costs might lead to a general price increase and decreased competitiveness among European economies in general. In connection with this, we refer to the introduction of the HGV toll based on mileage in Austria, Germany and Switzerland, which has not produced any inflationary push whatsoever, although it has no doubt led to increased efficiency in the transport sector (e.g. reduction in unladen journeys). By as-

² Calculation for Austria based on the study "The external costs of transport" by INFRAS

sessing the overall economic impact of HGV tolls we need to pay greater attention to how these tolls are used (e.g. investment in infrastructure, reduction of general tax burden. Incidentally, Switzerland demonstrates very well that high HGV tolls can be accompanied by competitiveness.

The European Trade Union Confederation (ETUC)³ has pointed to Europe's particular responsibility towards climate change and has also declared its support for unilateral commitments to reducing CO₂. A study⁴ commissioned by the ETUC on employment and climate change emphasises that the transport sector in the course of climate protection measures (stabilisation of CO₂ emissions attributable to transport in the year 2030 vis-à-vis the reference year 1990) would record an employment increase of 20% (above all in rail and local public transport). Whilst employment in road freight transport would not increase as much, it would still be higher than today's employment level. The BAK therefore also sees the internalisation of external costs, particularly in the transport sector, as an opportunity for a "double dividend".

³ Tackling climate change: A social priority - Avenues for action. Resolution adopted by the ETUC Executive Committee in its meeting held in Brussels on 18-19 October 2006.

⁴ ETUC study "Climate Change and Employment" – can be downloaded at <http://www.etuc.org/a/3676>

Enable complete internalisation of external costs

The Commission's proposal for a directive unfortunately only takes the cost categories air pollution, noise and congestion into account to some extent. Other categories from the EU handbook such as costs resulting from accidents, climate change, nature and landscape consumption, soil and water pollution, "up and downstream costs"⁵ and energy dependence are not included in the proposal.

Applied to normal motorway sections, the proposal for a directive would only allow an extra charge for external costs of 2 up to a maximum of 9 cents per kilometre. However, in the Commission handbook the external costs of an HGV kilometre are indicated as approx. 110 cents in the urban collection area during peak periods and 54 cents on roads outside cities.⁶ In addition, these figures are already the basis of extremely restrictive assumptions (e.g. assessing a tonne of CO₂ at € 22 compared with the "Stern Report", which puts it at € 71). The AK therefore feels that preferably all external cost categories from the EU handbook need to be taken into account in the proposal. In the process, the emphasis should be placed on climate change and costs resulting from accidents.

In the light of the ambitious goals of the EU on climate protection, it is inexplica-

⁵ "Up and downstream costs" arise e.g. when obtaining energy, building transport infrastructures or producing vehicles.

⁶ Handbook on estimation of external costs in the transport sector. p. 105, February 2008

ble that an extra charge for climate protection is not included when it comes to road freight transport. The AK refers to the fact that HGVs in international transport can get round existing taxation instruments (above all oil taxation) in the EU Member States by filling up their tanks with up to 1,000 litres. We reject the examination of a "common fuel tax element related to climate change" in 2013 solely provided for in the proposal for a directive in Art 11 2(a) as inadequate in view of the previous EU efforts on the taxation of diesel. As long as there is no adequate harmonised framework for excise duty on fuels or an emission trading system for road freight transport at EU level, it must be possible for the Member States with reference to the EU's climate goals to charge the user for climate change via toll systems.

Recognition in the directive of costs resulting from accidents as an external cost category is imperative as insurance premiums do not include the economic loss of production. The AK advocates a top down approach that compares the total average social costs from accidents with the payments of insurance companies and charges them proportionately to HGV transport.

In view of the maximum rates permitted for the cost of congestion in the proposal, we are sceptical about its ability to induce a change. The rates should therefore be raised for the periods A, B and C provided this can be substantiated owing to the objective cost of congestion in the region concerned.

As regards traffic-based air pollution, we find fault with the fact that the proposal only recognises the air pollutants particulate matter (PM), nitric oxide (Nox) and volatile organic compounds, but not carbon monoxide (CO). As regards the rates for all air pollutants, higher rates should be permissible in urban centres and sensitive (mountainous) regions as the health costs are higher because of the specific conditions.

When assessing the external costs and calculating the external cost extra charge, it is imperative that values for these are used that conform to current prices. The AK criticises the fact that the Commission uses without exception costs from the year 2000 in the annexes without adjusting them to the inflation trend as a criterion for the external cost charges. Although indexation is provided for several annexes in Article 9 b, this does not apply in particular to Annex III A ("Minimum requirements for levying an external cost charge and maximum chargeable external cost elements").

The AK rejects linking the internalisation of external costs in road freight transport only with the simultaneous inclusion of passenger vehicles given that a road toll structure only exists at present in the HGV sector and EU Member States already have other fiscal and legal instruments at their disposal for passenger vehicles.

For adequate internalisation, the definitions in Article 2 of "costs of traffic-based climate change", "costs from

traffic-based accident costs", "costs of traffic-based nature and landscape consumption", "costs of traffic-based soil and water pollution" and "traffic-based costs from up and downstream processes" therefore need to be incorporated in Article 7b(2).

Include administrative costs for transport safety in the calculation of tolls

Compliance with the regulations on technical HGV standards, general transport safety (above all speed limits, overloading, minimum distance) as well as driving times and rest periods and social law provisions for HGV drivers is an indispensable prerequisite for stable and fair competition in road freight transport on the trans-European network. However, carrying out this duty calls for investments in facilities (e.g. test centres and control places for HGVs) and expenditure on safety personnel. In some countries, performing some of these control functions is even incumbent on regional authorities or territorial authorities, who are faced with enormous challenges in view of the increase in road freight transport. We would like to point out that international road freight transport in particular makes very small tax-specific contributions in order to carry out this duty.

An AK study on transport prices and transport costs⁷ reveals that the prices in HGV transport would need to be at least 50 per cent higher without illegal practices. In road freight transport,

⁷ Max Herry: Transport prices and transport costs of various transport modes in the carriage of goods. Study commissioned by AK Vienna. Vienna, 2002 (transport and infrastructure, 14)

hauliers save considerable costs by not complying with the statutory provisions on labour law and traffic law (speed, overloading). The prices would need to be correspondingly higher if the laws were to be adhered to at least remotely.

At the interface between “operating and maintaining the infrastructure” (e.g. police intervention against HGVs that are overloaded) and external costs (above all higher likelihood of accidents due to professional drivers not complying with driving times and rest periods, greater air pollution due to HGVs that are poorly maintained), it should be stipulated by law that “police” duties and costs correlated on the trans-European network can also be charged to road freight transport proportionately via the HGV toll.

The AK would like to stress that a sufficient “safety infrastructure” can be ensured even with comparatively small toll revenues. In an amended Art 7b (1), the concrete proposal should therefore see to it that the “weighted average infrastructure charge” can also include the costs for “police transport safety”.

Provide a sufficient number of good-quality parking and resting places on trans-European networks

From the employee’s viewpoint, it should be pointed out that professional HGV drivers encounter inadequate conditions when it comes to the range of parking and resting places available on trans-European networks. The increase in HGV traffic has led to resting

places becoming overcrowded particularly at night. It goes without saying that overtired drivers constitute a considerable accident risk with costs resulting from accidents for the rest of society. The AK therefore also considers the concrete proposal for a directive to be suitable for making arrangements regarding this in order to avoid negative externalities in road transport.

With recourse to the representative social partners, a technical committee should therefore be deployed that, based on HGV revenues for all motorway sections, establishes qualitative and quantitative minimum criteria for resting places on TEN motorways. This needs to find its way into the annex of the concrete Eurovignette directive. Provided national infrastructure operators and franchise companies do not meet these criteria on TEN sections, price reductions on tolls should be carried out on these toll sections.

Do not raise administrative costs of electronic toll systems unnecessarily

The application of electronic toll systems is essential for charging the user for the use of infrastructure and external costs. The AK fully supports the intentions in the proposal (e.g. recital 22) to design these systems so that they can also be extended to roads away from the TEN network. However, the Commission’s concrete inputs and incentives in its proposal are not sufficient based on the experiences with the introduction of toll systems in Austria, Germany and Czech Republic. The stipulation alone that charges for external costs may

only be levied based on electronic road pricing systems is not enough of an incentive.

In connection with this, we would like to point out that owing to the interoperability directive⁸ decisions should already have been taken to establish a European toll service in 2006 that will also not be on the agenda in the foreseeable future and will therefore increase the risk involved in developing new electronic toll systems. It is worth emphasising above all the technical definitions of GPS/GSM functionalities and a single standard for Dedicated Short Range Communications (DSRC).

However, more important than technical standardisation issues concerning on-board units is the interpretation of the principle of proportionality for "non-regular users" in Art 7i of the concrete proposal for greater use of electronic road pricing systems. The proposed rules in Art 7i also indirectly reinforce the condition that a toll operator cannot legally enforce an "obligation to install an on-board unit" for HGVs on its network and as a result needs to set up cost-intensive alternative systems for recording and enforcement. It is therefore not the technology that is the problem when implementing and extending toll systems on road sections with low traffic frequency and on motorways – it is the way in which the Commission interprets the criteria "proportionality" and "non-discrimination".

⁸ DIRECTIVE 2004/52/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on the interoperability of electronic road toll systems in the Community

Regarding this, the AK therefore calls for a rethink on the Commission's extremely rigid interpretation. Art 7i of the proposal for a directive should therefore enable the Member States, when recording and enforcing tolls for HGVs with on-board units, to pass on cost savings to these users in the form of discounts or reductions in charges. A categorical prohibition on discounts or reductions in charges based on external costs in recital 20 and Art 7i(1) seems questionable against this background.

Due consideration for sensitive mountainous regions

The AK welcomes the fact that the special conditions in sensitive mountain areas (above all greater amphitheatre effect in narrow valleys, poor aeration vis-à-vis particulate matter and nitric oxide in valleys) have been taken into account at least in principle. The special conditions of sensitive mountain areas are acknowledged by applying a factor of 2 for calculating charges for air pollution and a factor of 5 for noise pollution. However, the effects are modest owing to the low maximum rates for external charges.

The AK criticises above all the fact that it is forbidden to accumulate charges for external costs with the possibility that already exists of marks ups to cross-finance priority TEN projects. With reference to the limited possibilities for easing or diverting goods transport to certain TEN sections without full cost transparency along the entire corridor, both variants need to be possible in a sensitive mountain area. The provision

in Art 7e(6) should therefore be abolished.

We welcome the new provision on “alternative routes” in Art 7e(2) in terms of its approach. However, the Commission should make it clear that an alternative route can be in an adjacent corridor and not necessarily a parallel road in the regional or local road network.

Limit the spatial scope of the directive to TEN networks

The AK considers the Commission’s plan to extend the spatial scope in the concrete proposal to roads outside trans-European networks as half-baked and excessive for the reasons cited below.

Levies on local, regional and national roads have no relevance to the single market. They are of course compatible with EU law provided they adhere to the principles of Community law, above all non-discrimination and proportionality. Charges that are levied here affect almost exclusively regional traffic and to a minute degree international traffic. This also formed the basis for amending the last Eurovignette Directive⁹.

⁹ cf Art 7.1 of Directive 2006/38/EC

“(1) Member States shall maintain or introduce tolls and/or user charges on the trans-European 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 the 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 among operators.”

It is all the more difficult to comprehend the Commission’s new line in which it plans to extend the scope to an undefined “road network” outside the trans-European network. In recital 13, it wants the same charging principles for TENs and the “entire interurban road network” of a Member State and in Article 7(1) even expands all provisions of the Eurovignette Directive to the entire “road network”. In Annex III A, it is confusing that only “suburban roads” and “other interurban roads” are used for the maximum rates for charges on air pollution, whilst “motorways” and “urban roads” / “motorways in the metropolitan area” are not mentioned once.

For reasons of legal certainty and user friendliness, an exact definition should be made urgently for all road categories contemplated by the Commission in Art 1.

With reference to the EU handbook on the estimation of external costs, it stresses the enormous range inter alia in the cost category “Congestion”, which reflects different local conditions. The aim of the directive should in fact be to stipulate the maximum rates permitted for external costs only for the TEN network. On the other hand, subsidiarity on other roads should be stressed in recital 13 and 29 and in Art 7(1) and 7c.

Retain subsidiarity for regulatory charges on urban road networks

The provision in Art 9(1) of the proposal for a directive brings with it a restriction for Member States as well as for re-

gional and local authorities in particular. Although the last amendment to the Eurovignette Directive¹⁰ made it clear that on all roads in an urban conurbation, including TEN motorways, charges on cars above 3.5 tonnes may be levied in commercial traffic in order to achieve environmental goals, this is again revoked for motorways. This was in fact taken into account in internal European Commission directive drafts shortly before the resolution was adopted.¹¹

The AK calls for an abolition as local authorities in particular must be able to meet the demanding EU statutory requirements inter alia on immission limit values for PM10 (particulate matter) and NO2 (nitric oxide). In view of the numerous environmental zones in the EU (e.g. Low Emission Zone in London), these may not be contradicted by divergent rules governing motorways contained in the current directive. Incidentally, reference is made to the EU handbook on external costs, which reveals an enormous range of external costs particularly for congestion costs and in turn reflects the different local conditions in Europe.

¹⁰ Directive 2006/38/EC, Art 9 1a

"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 specifically 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."

¹¹ "This directive shall not prevent the non-discriminatory application by Member States of regulatory charges specifically designed to reduce traffic congestion or combat environmental impacts, including poor air quality, on any road section located in an area 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."

Ensure that the revenue generated by charges for external costs are earmarked effectively

The AK expressly welcomes the approach in the proposal of introducing additional toll revenue from the part of the toll based on "external costs" earmarked for certain measures contributing to sustainable transport or alternative mobility concepts.

By earmarking this revenue, reference can be made on the one hand in EU law to the existing mark-up rule (=cross-financing in sensitive mountain areas with compliance with certain criteria) as well as to possible interpretation problems in Art 71 EC Treaty (setting user-specific charges as part of the European transport policy) to the detriment of Art 93 EC Treaty (=legal basis for further Community legal instruments to harmonise indirect taxes between the Member States). We do not consider a legal basis based on Art 93 EC Treaty and with it the requirement for unanimity to be appropriate.

The service-related charging nature of rates with regard to TEN users and citizens can be argued only through specific local services and in the region concerned (e.g. setting up public transport to ease traffic on motorways, encouraging hauliers to fit particle filters to HGVs, using road asphalt that reduces noise etc.). However, we reject considerations like in the explanatory notes on the Commission proposal to use these additional resources for research activities at EU level.

Although all ex-ante requirements for implementing external cost charges are indicated in Art 7g(3), this is not included in the earmarking process. Regarding this, the AK proposes an amendment in connection with the ex-post control in Art 11. The authority in the Member State entrusted with determining the external cost charges should also be able to state the purpose of use ex-ante. The AK proceeds on the assumption that action programmes for compliance with the relevant EU directives on noise and immission control (air) need to be created in the regional authorities. Additional toll revenue from these external cost categories should therefore be diverted to these action programmes.

Introduce charges based on mileage on the trans-European network

Although the proposal for a directive aims to help the user pays principle on the road to success by charging infrastructure and external costs in heavy goods traffic, in Art 11(2) the Commission only intends to present a report on the “technical and economic feasibility of introducing on the main interurban roads minimum distance-based charges” by 31 December 2013.

The AK considers this provision to be lacking vision and no longer acceptable in view of the above-average increase in HGVs along the large European corridors. The Member States should in fact target a long-term implementation goal for reorganising their fiscal tax systems and can introduce a toll system based on mileage with prescribed

minimum rates on TEN networks and interurban roads. In view of the tense situation in several sensitive mountainous regions in Austria (e.g. Brenner), we would like to point out that Member States can only achieve limited control effects for a sustainable transport situation even with high tolls on their short TEN sections.

When reaching a decision on this directive, a longer-term date should therefore be used for introducing compulsory and distance-based minimum charges on the TEN network or all interurban roads in Europe. This should be accompanied by progress on the interoperability of on-board units within the framework of the relevant directive.

The AK is critical of the fact that exemption possibilities that are too far-reaching are provided for vehicles of less than 12 tonnes in Art 7(5) when it comes to the principle of charging tolls on vehicles from 3.5 tonnes. Based on the experiences with levying tolls in Austria, these are inexplicable.

In addition, with reference to recital 27 (compatibility with EU promotion funds from the European Structural Funds for setting up transport infrastructures) we call for the provision of compulsory and distance-based user financing on these TEN sections for commercial heavy goods traffic when setting up transport infrastructures with the help of the European Structural Funds.

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