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From:	General Secretariat of the Council
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Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures – Revised Presidency compromise

Delegates will find, attached, a revised Presidency compromise draft in view of the Land Transport Working Party on 6 and 13 November 2019.

The latest modifications are highlighted in grey.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain
infrastructures**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

[recitals not reproduced]

¹ OJ C , , p. .

² OJ C , , p. .

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 1999/62/EC is amended as follows:

(1) the title is replaced by the following:

"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 road infrastructures";

(2) Articles 1 and 2 are replaced by the following:

"Article 1

1. This Directive applies to:

- (a) vehicle taxes for heavy goods vehicles,
- (b) tolls and user charges imposed on vehicles.

2. This Directive shall not apply to vehicles ~~carrying out transport operations~~ exclusively **used** in the non-European territories of the Member States.

3. This Directive shall not apply to **heavy duty** 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.

4. **Member States may choose not to apply paragraph 5 of Article 7c, paragraph 2 of Article 7g and [...] Article 7g-a to tolls and user charges on road infrastructures covered by concession contracts, until the contract is renewed or substantially amended, and where**
- (a) **the contract was signed before [OJ: add the date of entry into force of the amending Directive]; or**
 - (b) **the tenders or responses to invitations to negotiate under the negotiated procedure were received pursuant to a public procurement process before [OJ: add the date of entry into force of the amending Directive].**
5. **Paragraph 4 applies also to long-term contracts, concluded between a public and non-public entity, signed before [OJ: add the date of entry into force of the amending Directive] for execution of works and/or management of services other than the execution of works not encompassing the transfer of the demand risk.**

Article 2

For the purposes of this Directive:

- (1) ‘trans-European road network’ means the road transport infrastructure referred to in Section 3 in Chapter II of Regulation (EU) No 1315/2013 of the European Parliament and of the Council³ as illustrated by maps in Annex I to that Regulation;
- (2) ‘construction costs’ means the costs related to construction, including, where appropriate, the financing costs, of one of the following:
 - (a) new infrastructure or new infrastructure improvements, including significant structural repairs;

³ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network (OJ L 348 20.12.2013, p. 1.)

- (b) infrastructure or infrastructure improvements, including significant structural repairs, completed no more than 30 years before 10 June 2008, where tolling arrangements were 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;
 - (c) infrastructure or infrastructure improvements completed **more than 30 years** before 10 June 2008 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 entered 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
- (3) ‘financing costs’ means interest on borrowings and return on any equity funding contributed by shareholders;
- (4) ‘significant structural repairs’ means structural repairs excluding those repairs no longer of any current benefit to road users, in particular where the repair work has been replaced by further road resurfacing or other construction work;
- (5) ‘motorway’ means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which meets the following criteria:
- (a) it is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;
 - (b) it does not cross at grade with any road, railway or tramway track, bicycle path or footpath;
 - (c) it is specifically designated as a motorway;

- (6) ‘toll’ means a specified amount based on the distance travelled on a given infrastructure and on the type of the vehicle, the payment of which confers the right for a vehicle to use the infrastructures, comprising **one or more of the following charges**:
- an infrastructure charge;
 - a congestion charge;
 - an external-cost charge;
- (7) ‘infrastructure charge’ means a charge levied for the purpose of recovering the construction, the maintenance, the operation and the development costs related to infrastructure incurred in a Member State;
- (8) ‘external-cost charge’ means a charge levied for the purpose of recovering the costs ~~incurred in a Member State~~ related to traffic-based air pollution, ~~or~~ traffic-based noise pollution **and/or traffic-based CO₂ emissions both** ;
- (8a)** ‘cost of traffic-based air pollution’ means the cost of the damage caused by the release of particulate matter and of ozone precursors, such as nitrogen oxide and volatile organic compounds, in the course of the operation of a vehicle;
- (8b)** ‘cost of traffic-based noise pollution’ means the cost of the damage caused by the noise emitted by the vehicles or created by their interaction with the road surface;
- (8c)** ‘**cost of traffic-based CO₂ emissions**’ means **the cost of the damage caused by the release of carbon dioxide in the course of the operation of a vehicle**;
- (9) ‘congestion’ means a situation where traffic volumes approach or exceed road capacity;
- (10) ‘congestion charge’ means a charge which is levied on vehicles for the purpose of recovering the congestion costs incurred in a Member State ~~and reducing congestion~~;

- (11) ~~‘cost of traffic based air pollution’ means the cost of the damage caused by the release of particulate matter and of ozone precursors, such as nitrogen oxide and volatile organic compounds, in the course of the operation of a vehicle;~~
- (12) ~~‘cost of traffic based noise pollution’ means the cost of the damage caused by the noise emitted by the vehicles or created by their interaction with the road surface;~~
- (13) ‘weighted average infrastructure charge’ means the total revenue of an infrastructure charge over a given period divided by the number of heavy duty vehicle kilometres travelled on the road sections subject to the charge during that period;
- (14) ‘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) and (2);
- (15) ‘vehicle’ means ~~a motor vehicle, with four wheels or more, or articulated vehicle combination intended or used for the carriage by road of passengers or goods~~ **a motor vehicle, or articulated vehicle combination intended or used for the carriage by road of passengers or goods;**
- (16) ‘heavy duty vehicle’ means ~~a heavy goods vehicle or a coach or bus~~ **a vehicle having a maximum permissible mass exceeding 3,5 tonnes;**
- (17) ‘heavy goods vehicle’ means a vehicle intended for the carriage of goods and having a maximum permissible mass exceeding 3,5 tonnes;
- (18) ‘coach ~~or~~ **and** bus’ means a vehicle intended for the carriage of more than 8 passengers, in addition to the driver, and having a maximum permissible mass exceeding 3,5 tonnes;
- (19) ‘light duty vehicle’ means ~~a passenger car, a minibus or van~~ **a vehicle having a maximum permissible mass not exceeding 3,5 tonnes;**

- (20) ~~‘passenger car’ means a vehicle with four wheels intended for the carriage of passengers but not more than eight passengers, in addition to the driver~~ **comprising not more than eight seating positions in addition to the driver’s seating position and having a maximum permissible mass not exceeding 3,5 tonnes, or a motor caravan;**
- (21) ‘minibus’ means a vehicle intended for the carriage of more than eight passengers, in addition to the driver, and having a maximum permissible mass not exceeding 3,5 tonnes;
- (21a) **‘motor caravan’ means a vehicle with a living accommodation space, which contains equipment as: seats and table, sleeping accommodation which may be converted from the seats, cooking facilities and storage facilities, having a maximum permissible mass not exceeding 3,5 tonnes;**
- (22) ~~‘van~~ **light commercial vehicle’** means a vehicle intended for the carriage of goods, and having a maximum permissible mass not exceeding 3,5 tonnes;
- ~~(23) ‘zero-emission vehicle’ means a vehicle with no exhaust emissions;~~
- (23) **‘zero-emission vehicle’ means a**
- i) **passenger car or a light commercial vehicle without an internal combustion engine; or**
 - ii) **heavy-duty vehicle as defined in Article 3(11) of Regulation (EU) 2019/1242⁴ [...];**
- (24) ‘transport operator’ means any undertaking transporting goods or passengers by road;

⁴ **Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO2 emission performance standards for new heavy-duty vehicles and amending Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC, OJ L 198, 25.7.2019, p. 202–240.**

- (25) ‘vehicle of the ‘EURO 0’, ‘EURO I’, ‘EURO II’, ‘EURO III’, ‘EURO IV’, ‘EURO V’, ‘EEV’, ‘EURO VI’ category’ means a heavy duty vehicle that complies with the emission limits set out in Annex 0;
- (26) ‘type of **heavy duty** vehicle’ means a category into which a heavy duty 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;
- (26a) ‘vehicle sub-group’ means a grouping of vehicle as defined in Article 3(8) of Regulation (EU) 2019/1242;**
- (27) ‘concession contract’ means a works ~~contract~~ **concession or a service concession** as defined in Article ~~4~~ **5(1)** of Directive 2014/24 ~~23~~/**23**/EU of the European Parliament and of the Council⁵;
- (28) ‘concession toll’ means a toll levied by a concessionaire under a concession contract;
- (29) ‘substantially amended tolling or charging arrangement’ means a tolling or charging arrangement, where **the amendment of rates results in an increase of the per km rate for any vehicles category of at least [1 or 2] cents and is expected to increase revenues in excess of [7%] in comparison to the previous accounting year, excluding the effect of increase in traffic and after correcting for inflation measured by changes in the EU-wide Harmonised Index of Consumer Prices, and excluding energy and unprocessed food, as published by the Commission (Eurostat).**

⁵ Directive 2014/24 ~~23~~/**23**/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC **on the award of concession contracts** (OJ L 94, 28.3.2014, p. ~~65~~ **1.**)";

~~which has been amended in such a way that costs or revenues are affected by at least 5% in comparison with the previous year, after correcting for inflation measured by changes in the EU-wide Harmonised Index of Consumer Prices, and excluding energy and unprocessed food, as published by the Commission (Eurostat).~~

(30) ‘first reference value’ means for each vehicle sub-group the CO₂ emissions value corresponding to the lowest 10th percentile of reference set of CO₂ emissions provided for by Article 7g-a;

(31) ‘second reference value’ means for each vehicle sub-group the CO₂ emissions value corresponding to the lowest 20th percentile of the reference set of CO₂ emissions provided for by Article 7g-a;

For the purposes of point 2:

- (a) 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;
- (b) 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.

- (3) Article 7 is replaced by the following:

"Article 7

1. Without prejudice to Article 9(1a), Member States may maintain or introduce tolls and user charges on the trans-European road network or on certain sections of that network, and on any other additional sections of their network of motorways which are not part of the trans-European road network under the conditions laid down in paragraphs 3 to 9 8 of this Article and in Articles 7a to 7k.
2. Paragraph 1 shall be without prejudice to the right of Member States, in compliance with the Treaty on the Functioning of the European Union, to apply tolls and user charges on other roads, provided that the imposition of tolls and user charges on such other roads does not discriminate against international traffic and does not result in the distortion of competition between operators. Tolls and user charges applied on roads other than roads belonging to the trans-European road network and other than motorways, shall comply with the conditions laid down in paragraphs 3 and 4 of this Article, Article 7a and Article 7j(1), (2) and (4).
- 2a. Without prejudice to other provisions of this Directive, tolls and user charges for different categories of vehicles, such as heavy duty vehicles, heavy goods vehicles, coaches and buses, light duty vehicles, light commercial vehicles and passenger cars may be introduced or maintained independently from each other.**
3. Member States shall not impose both tolls and user charges on any given category of vehicle for the use of a single road section. However, a Member State which imposes a user charge on its network may also impose tolls for the use of bridges, tunnels and mountain passes.

Member States may decide not to apply paragraphs 7c(5) and 7g-a(3) to such tolls for the use of bridges, tunnels and mountain passes where one or both of the following conditions is met:

- (a) application of paragraphs 7c(5) and 7g-a(3) would not be technically practicable to introduce such differentiation in the tolling system concerned;
- (b) application of paragraphs 7c(5) and 7g-a(3) would lead to diversion of the most polluting vehicles, with negative impacts on road safety and public health.

A Member State that decides not to apply paragraphs 7c(5) and 7g-a(3) in accordance with the second subparagraph of this paragraph shall notify the Commission of its decision.

- 4. Tolls and user charges shall not discriminate, directly or indirectly, on the grounds of the nationality of the road user, the Member State or the third country of establishment of the transport operator or of registration of the vehicle, or the origin or destination of the transport operation.
- 4a. **Member States may provide for reduced toll rates or user charges and exclude road sections with low traffic intensity in sparsely populated areas.**
- 5. Member States may provide for reduced toll rates or user charges, or exemptions from the obligation to pay tolls or user charges for
 - (i) heavy duty vehicles exempted from the requirement to install and use recording equipment under Regulation (EU) No 165/2014 of the European Parliament and of the Council⁶; and
 - (ii) **any vehicle in cases covered by the conditions set out in Article 6(2)(a), or (b) and (c) of this Directive.**

⁶ Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1.)

6. ~~Without prejudice to paragraph 9, From 1 January 2018 [OJ: add the date of entry into force] Member States shall not introduce user charges for heavy duty vehicles. User charges introduced before that date may be maintained until 31 December 2023 [OJ: add the date of entry into force + ten years].~~
7. ~~From [the date of entry into force of this Directive], Member States shall not introduce user charges for light duty vehicles. User charges introduced before that date shall be phased out by 31 December 2027. From [OJ: add the date of entry into force], Member States shall not introduce user charges for minibuses and light commercial vehicles. User charges introduced before that date may be maintained until [OJ: add date of entry into force + ten years].~~
8. Until 31 December 2019 [OJ: add date of entry into force plus four years], as regards heavy **duty goods** vehicles, a Member State may choose to apply tolls or user charges only to **heavy goods** vehicles having a maximum permissible laden weight of not less than 12 tonnes if it considers that an extension to **heavy goods** vehicles of less than 12 tonnes [...] would:
- (a) create significant adverse effects on the free flow of traffic, the environment, noise levels, congestion, health, or road safety due to traffic diversion;
 - (b) involve administrative costs of more than 30% **15%** of the additional revenue which would have been generated by that extension; **or**
 - (c) **concern a category of vehicles which does not cause more than 10% of the chargeable infrastructure costs.**

Member States choosing to apply tolls or user charges or both only to **heavy goods** vehicles having a maximum permissible laden weight of not less than 12 tonnes [...] shall inform the Commission of their decision and on the reasons thereof.

- 8a. Where tolls are applied to all heavy duty vehicles, Member States may choose to recover a different percentage of costs from coaches and buses, on the one hand, and from heavy goods vehicles, on the other hand.**

9. As of 1 January 2020 [~~OJ: add date of entry into force plus two years and one day~~], tolls and user charges applied to heavy duty ~~goods~~ vehicles **having a maximum permissible laden weight of not less than 12 tonnes** shall apply to all heavy duty ~~goods~~ vehicles **within the scope of this Directive**.

~~10. Tolls and user charges for heavy duty vehicles, on the one hand and for light duty commercial vehicles and for passenger cars on the other may be introduced or maintained independently from one another."~~

(4) Article 7a is replaced by the following:

"Article 7a

1. User charges shall be proportionate to the duration of the use made of the infrastructure.
2. Insofar as user charges are applied in respect of heavy duty vehicles, the use of the infrastructure shall be made available for at least the following periods: a day, a week, a month, and a year. The monthly rate shall be no more than [10 %] of the annual rate, the weekly rate shall be no more than [5 %] of the annual rate and the daily rate shall be no more than [2%] of the annual rate. **A Member State may apply only annual rates for vehicles registered in that Member State.**

Member States shall set user charges, including administrative costs, for all heavy duty vehicles ~~categories~~, at a level that does not exceed the maximum rates laid down in Annex II.

3. Insofar as user charges are applied in respect of ~~passenger cars [...]~~, the use of the infrastructure shall be made available at least for the following periods: 10 days, a month or two months or both, and a year. The two-monthly rate shall be no more than [33%] of the annual rate, **and** the monthly rate shall be no more than [20%] of the annual rate. ~~and~~ The 10-day rate shall be no more than [10%] of the annual rate. [...]

Member States may also make the use of the infrastructure available for other periods of time. In such cases, Member States shall apply rates in accordance with the principle of equal treatment between users, taking into account all relevant factors, in particular the annual rate and the rates applied for the other periods referred to in the first subparagraph, existing use patterns and administrative costs.

In respect of user charge schemes adopted before ~~31 May 2017~~ [OJ: *add the date of entry into force*], Member States may maintain rates above the limits set out in the first subparagraph, in force before that date, and corresponding higher rates for other periods of use, in compliance with the principle of equal treatment. However, they shall comply with the limits set out in the first subparagraph as well as with the second subparagraph as soon as substantially amended tolling or charging arrangements enter into force and, at the latest, from ~~1 January 2024~~ [OJ: *add the date of entry into force plus six years*].

4. For minibuses and ~~vans~~ **light commercial vehicles**, Member States shall comply either with paragraph 2 or with paragraph 3. Member States ~~shall~~ **may** however set ~~higher~~ **different** user charge **values** for minibuses and vans than for passenger cars ~~as from 1 January 2024 at the latest.~~
- (5) Article 7c is replaced by the following:

"Article 7c

1. Member States may maintain or introduce an external-cost charge, related to the cost of traffic-based air **pollution**, ~~or~~ noise pollution, **CO₂ emissions** or ~~both~~ **any combination thereof**.

Where an external-cost charge is applied for air and noise pollution of heavy duty vehicles, the external-cost charge Member States shall vary it and be set it in accordance with the minimum requirements and the methods referred to in Annex IIIa and shall respect the reference values set out in Annex IIIb.

2. The costs taken into account shall relate to the network or the part of the network on which external-cost charges are levied and to the vehicles that are subject thereto. Member States may choose to recover only a percentage of those costs.
3. The external-cost charge related to traffic-based air pollution shall not apply to heavy duty vehicles which comply with the most stringent of EURO emission standards.

The first subparagraph shall cease to apply four years from the date when the rules which introduced those standards started to apply.

4. The amount of the external-cost charge shall be set by the Member State concerned. If a Member State designates an authority for this purpose, the authority shall be legally and financially independent from the organisation in charge of managing or collecting part or all of the charge.
5. From ~~1 January 2021~~ [*OJ: add the date of entry into force + four years*], those Member States that levy tolls shall apply an external-cost charge to heavy duty vehicles on at least the part of the network referred to in Article 7(1) where environmental damage generated by heavy duty vehicles is **the most significant**, ~~higher than the average environmental damage generated by heavy duty vehicles defined in accordance with relevant reporting requirements referred to in Annex IIIa.~~";

(5a) Article 7d is replaced by the following:

"Article 7d

By [*six months*] after the adoption of future and more stringent EURO emission standards, the Commission shall, where appropriate, present a legislative proposal to determine the corresponding reference values in Annex IIIb."

(6) The following Article 7da is inserted:

"Article 7da

1. Member States may, in accordance with the requirements set out in Annex V, introduce a congestion charge on any section of their road network which is subject to congestion. The congestion charge may only be applied on those road sections which are regularly congested and only during the periods when they are typically congested.
2. Member States shall define the road sections and time periods referred to in paragraph 1 on the basis of objective criteria related to the level of exposure of the roads and their vicinities to congestion, such as average delays or queue lengths.
3. A congestion charge imposed on any section of the road network shall apply in a non-discriminatory manner to all vehicle categories, in accordance with the standard equivalence factors set out in Annex V. **Member States may exempt, partially or fully, minibuses, coaches and buses from congestion charge.**
4. The congestion charge shall reflect the costs imposed by a vehicle on other road users, and indirectly on society, ~~but and shall not exceed the maximum levels~~ **respect the reference values** set out in Annex VI for any given road type **and shall be set in accordance with the minimum requirements referred to in Annex V. Where a Member State intends to apply congestion charges higher than the reference values set out in Annex VI, it shall notify the Commission according to the requirements referred to in Annex V.**
5. Member States shall put in place adequate mechanisms for monitoring the impact of congestion charges and for reviewing the level thereof. They shall review the level of charges regularly, at least every three years, to ensure that they are not higher than the cost of congestion occurring in that Member State and generated on those road sections, which are subject to the congestion charge.";

(6a) Paragraph 1 of Article 7e is replaced by the following:

"1. Member States shall calculate the maximum level of infrastructure charge **for heavy duty vehicles** using a methodology based on the core calculation principles set out in Annex III."

(7) Articles 7f and 7g are replaced by the following:

"Article 7f

1. After informing the Commission, a Member State may add a mark-up to the infrastructure charge levied on specific road sections which are regularly congested, or the use of which by vehicles causes significant environmental damage, where the following conditions are met:
 - (a) the revenue generated from the mark-up is invested in financing **the development of transport services, or in the construction or maintainance** of transport infrastructure of the core network identified in accordance with Chapter III of Regulation (EU) No 1315/2013, which contribute directly to the alleviation of the congestion or environmental damage and which are located in the same corridor as the road section on which the mark-up is applied;
 - (b) the mark-up does not exceed 15% of the weighted average infrastructure charge calculated in accordance with Article 7b(1) and Article 7e, except where the revenue generated is invested in cross-border sections of core network corridors, in which case the mark-up may not exceed 25%. **Where two or more Member State apply a mark-up in the same corridor, the mark-up may not exceed 50%;**
 - (c) the application of the mark-up does not result in unfair treatment of commercial traffic compared to other road users;

- (d) a description of the exact location of the mark-up and proof of a decision to finance the construction of core network corridors referred to in point (a) are submitted to the Commission in advance of the application of the mark-up;
 - (e) 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 for the projects co-financed with the revenue from the mark-up.
- 1a. In case of new cross-border projects, mark-ups may only be added if all Member States involved in such project agree.
 2. A mark-up may be applied to an infrastructure charge which has been varied in accordance with Article 7g, **7g-a** or 7ga.
 3. After receiving the required information from a Member State intending to apply a mark-up, the Commission shall make that information available to the members of the Committee referred to in Article 9c. Where the Commission considers that the planned mark-up does not meet the conditions set out in paragraph 1, or where it considers that the planned mark-up will have significant adverse effects on the economic development of peripheral regions, it may, by means of implementing acts, reject or request amendment of the plans for charges submitted by the Member State concerned. Those implementing acts shall be adopted in accordance with the **advisory examination** procedure referred to in Article 9c(2 3).
 - ~~4. The amount of the mark-up shall be deducted from the amount of the external cost charge calculated in accordance with Article 7c, except for vehicles of EURO emission classes 0, I and II from 15 October 2011, III and IV from 1 January 2015, V from 1 January 2019, and VI from January 2023 onwards. All revenues generated by the simultaneous application of the mark-up and the external cost charges shall be invested in financing the construction of core network corridors listed in Part I of Annex I to Regulation (EU) No 1316/2013.~~
 5. A mark-up may not be applied on road sections where a congestion charge is applied.

Article 7g

1. ~~Until [31 December 2021],~~ The infrastructure charge may be varied for the purpose of reducing congestion, minimising infrastructure damage and optimising the use of the infrastructure concerned or promoting road safety, where the following conditions are met:
- (a) the variation is transparent, made public and available to all users on equal terms;
 - (b) the variation is applied according to the time of day, type of day or season;
 - (c) no infrastructure charge is more than 175% above the maximum level of the weighted average infrastructure charge as referred to in Article 7b;
 - (d) the peak periods during which the higher infrastructure charges are levied for the purpose of reducing congestion do not exceed five hours per day;
 - (e) the variation is devised and applied in a transparent and revenue-neutral way on a road section affected by congestion by offering reduced toll rates for ~~hauliers~~ **road users** who travel during off-peak periods and increased toll rates for ~~hauliers~~ **road users** who travel during peak hours on the same road section;
 - (f) no congestion charge is levied on the road section concerned.**

A Member State wishing to introduce such variation or changing an existing one informs the Commission thereof and provides it with the information necessary to assess whether the conditions are fulfilled.

2. Until ~~31 December 2020~~ **the variation of infrastructure charges and user charges referred to in Article 7g-a is applied**, in respect of heavy duty vehicles, Member States shall vary the infrastructure charge according to the EURO emission class of the vehicle in such a way that no infrastructure charge is more than 100% above the same charge for equivalent vehicles meeting the strictest emission standards. **[Once infrastructure charges and user charges are varied pursuant to Article 7g-a, Member States shall discontinue the variation according to the EURO emission class.]** ~~Existing concession contracts may be exempted from this requirement until the contract is renewed.~~

Member States may apply a reduction up to 50% for zero-emission vehicles compared to the charge for the strictest emission standards from [OJ: add the date of entry into force of this amending Directive].

A Member State may nevertheless derogate from the requirement of varying the infrastructure charge where any of the following applies:

- (i) it would seriously undermine the coherence of the tolling systems in its territory;
- (ii) it would not be technically practicable to introduce such differentiation in the tolling system concerned;
- (iii) it would lead to diversion of the most polluting vehicles with negative impacts on road safety and public health;
- (iv) the toll includes an external-cost charge.

Any such derogations or exemptions shall be notified to the Commission.

3. Where, in the event of a check, a driver or, if appropriate, the transport operator, is unable to produce the vehicle documents necessary to ascertain the emission class of the vehicle for the purposes of paragraph 2, **and where the European Electronic Toll Service (EETS) provider, where appropriate, is unable to provide this information**, Member States may apply tolls up to the highest level chargeable.

(7a) the following Article 7g-a is inserted:

"Article 7g-a

- 1. For the heavy-duty vehicles referred to in points (a) to (d) of Article 2(1) of Regulation (EU) 2019/1242, the reference set of CO₂ emissions of a vehicle sub-group is, for the purposes of this Directive, the set of specific CO₂ emissions, which are averaged for determining the reference CO₂ emissions of this vehicle sub-group according to Article 3(1) of Regulation (EU) 2019/1242 or the adjusted values, as referred to in Article 11(2) of that Regulation, where appropriate.**
- 2. For the other types of heavy duty vehicles and for vehicles of categories O₃ and O₄, the Commission shall adopt implementing acts, in accordance with Article 9c(3), to specify the reference set of CO₂ emissions, at the latest by [OJ: add the date of entry into force + XX months].**
- 3. Within two years from the entry into force of the set of CO₂ emissions referred to in paragraph 1 or of a new reference set of CO₂ emissions in the sense of paragraph 2 of this Article, Member States shall vary the infrastructure charge and user charge of heavy duty vehicles taking into account the reference set of CO₂ emission and the relevant vehicle sub-group.**
- 4. The Commission shall adopt delegated acts, in accordance with Article 9e, to adapt, for the vehicles referred to in paragraph 1, the reference set of CO₂ emissions and the percentile values used in Articles 2(30) and 2(31), for separating the CO₂ emission classes referred to in the paragraph 7 by 31 December 2024, and thereafter every five years.**

- 5. The Commission shall adopt implementing acts, in accordance with Article 9c(3), to adapt, for the vehicles referred to in paragraph 2, the reference set of CO₂ emissions and the percentile values used in Articles 2(30) and 2(31), for separating the CO₂ emission classes referred to in the paragraph 7 by 31 December 2024, and thereafter every five years.**
- 6. The adaptation referred to in paragraphs 4 and 5 shall be based on the progress made in CO₂ emission reduction as published in accordance with Article 11(1)(f) of Regulation (EU) 2019/1242, and may not exceed [+10%]. The adapted values shall apply from 12 months after the publication of each delegated and implementing act referred to in paragraphs 4 and 5.**
- 7. Where reference CO₂ emission values are available, for each vehicle category, based on the number of axles or the maximum permissible gross laden weight, or both, [as applied by the Member State,] the following CO₂ emission classes shall be established:**
- (a) CO₂ emission class 1 - vehicles that do not belong to any of the CO₂ emission classes referred to under points (b) to (e);**
 - (b) CO₂ emission class 2 - vehicles with CO₂ emissions less than or equal to the second reference value of their specific vehicle sub-group but not belonging to any of the CO₂ emission classes referred to under points (c) to (e);**
 - (c) CO₂ emission class 3 - vehicles with CO₂ emissions less than or equal to the first reference value of their specific vehicle sub-group but not belonging to any of the CO₂ emission classes referred to under points (d) to (e);**
 - (d) CO₂ emission class 4 - low-emission heavy duty vehicles, as defined in Article 3(12) of Regulation (EU) 2019/1242;**
 - (e) CO₂ emission class 5 - zero-emission vehicles.**

8. The highest level of infrastructure charge or user charge, within a given vehicle category, shall apply to vehicles falling in CO₂ emission class 1. Reduced charges shall apply to vehicles in CO₂ emission classes 2, 3, and 4 and 5 as follows:

- CO₂ emission class 2 - 5% to 15% reduction compared to the charge applicable for CO₂ emission class 1;**
- CO₂ emission class 3 - 15% to 30% reduction compared to the charge applicable for CO₂ emission class 1;**
- CO₂ emission class 4 - 30% to 50% reduction compared to the charge applicable for CO₂ emission class 1;**
- CO₂ emission class 5 - 50% to 75% reduction compared to the charge applicable for CO₂ emission class 1.**

9. A Member State may derogate from the requirement of varying the infrastructure charge according to paragraph 3, where an external cost charge for CO₂ is levied and varied according to the [reference] values of the external cost charge for CO₂ emissions [and the relevant vehicle categorisation], as provided in Annex IIIc.

For buses and coaches, Member States may choose to apply the same or lower values than those set out in Annex IIIc.

Within one year after the reference CO₂ emission data of all new vehicles in a subgroup as defined in Article 3(8) of Regulation (EU) 2019/1242 are published for the first time by the Commission pursuant to Article 11(1) of Regulation (EU) 2019/1242, the Commission shall adopt implementing acts, in accordance with Article 9c(3), to set the reference values of the external cost charge for CO₂ emissions for the vehicles belonging to CO₂ emission class 2 and 3 referred to in paragraph 5, and to revise those values for low-emission vehicles.

Member States may apply higher external cost charges for CO₂ emissions than the reference values set out in Annex IIIc, on condition that such an external cost charge is applied in a proportionate and non-discriminatory manner to all vehicles, including to passenger cars."

(8) the following Article 7ga is inserted:

"Article 7ga

1. For light duty vehicles, Member States may differentiate tolls and user charges according to the environmental performance of the vehicle, as defined by the specific CO₂ emissions combined, or weighted combined, recorded in entry 49 of the certificate of conformity of the vehicle, and by the Euro emission performance.

The lower rates of tolls and user charges shall apply for passenger cars and light commercial vehicles that meet both of the following conditions:

(a) their specific CO₂ emissions, determined in accordance with Commission Regulation (EU) 2017/1151⁷, shall be zero or below the following levels:

⁷ Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008

- (i) for the period 2021 to 2024, the average, weighted on the number of newly registered passenger cars or light commercial vehicles in that year, of the specific emissions targets determined for each individual manufacturer in accordance with point 4 of the respective Part A and B of Annex I to Regulation (EU) 2019/631 of the European Parliament and of the Council⁸;
- (ii) for the period 2025 to 2029, the EU fleet wide targets determined in accordance with points 6.1.1. of the respective Parts A and B of Annex I to that Regulation;
- (iii) For the period 2030 onwards, the EU fleet wide targets determined in accordance with points 6.1.2 of Parts A and B of Annex I to that Regulation.

(b) their pollutant emissions, determined in accordance with Commission Regulation (EU) 2017/1151, shall be as specified in the table of Annex VII to this Directive.

3. Where, in the event of a check, a driver or, if appropriate, the transport operator, **or the European Electronic Toll Service (EETS) provider, where appropriate, are unable to ascertain the emission levels of the vehicle, Member States may apply tolls or annual user charges up to the highest level chargeable.**"

(9) Article 7h is amended as follows:

(a) in paragraph 1, the introductory wording is replaced by the following:

"At least six months before the implementation of a new or substantially amended infrastructure charge tolling arrangement, Member States shall send to the Commission:";

⁸ Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO₂ emission performance standards for new passenger cars and new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011

(aa) paragraph 1a is inserted as follows:

“1a. When sending information to the Commission in accordance with paragraph 1, Member State may foresee or include more than one amendment of infrastructure charge tolling arrangement. Implementation of such foreseen amendment, of which the Commission has already been informed, shall not be subject to the provisions of paragraph 1.”

(b) paragraph 3 is replaced by the following:

"3. Before the implementation of a new or substantially amended external-cost charge tolling arrangement, Member States shall inform the Commission about the network concerned, the foreseen rates per vehicle category and emission class and, where applicable, notify the Commission in accordance with point (2) of Annex IIIa, or point (2) of Annex V.";

(c) paragraph 4 is deleted;

(10) Article 7i is amended as follows:

(a) in paragraph 2, point (b) and (c) are replaced by the following:

"(b) such discounts or reductions reflect actual savings in administrative costs of the treatment of frequent users compared to occasional users;

(c) such discounts or reductions do not exceed 13% of the infrastructure charge paid by equivalent vehicles not eligible for the discount or reduction.";

(b) paragraph 3 is amended as follows:

"3. Subject to the conditions provided for in Article 7g(1)(b) and ~~7g-a(5)~~, toll rates may for specific projects of high European interest identified in Annex I to Regulation (EU) No 1315/2013, be subject to other forms of variation in order to secure the commercial viability of such projects where they are exposed to direct competition with other modes of transport. The resulting charging structure shall be linear, proportionate, made public, and 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.";

(11) Article 7j is amended as follows:

(a) in paragraph 1, the second sentence is replaced by the following:

"To that end, Member States shall cooperate in establishing methods for enabling road users to pay tolls and user charges 24 hours a day, at least **electronically or** at major sales outlets, using common means of payment, inside and outside the Member States in which they are applied. **Member States are not obliged to provide physical points of payment.**";

(b) paragraph 3 is replaced by the following:

"3. Where a Member State levies a toll on a vehicle, the total amount of the toll, the amount of the infrastructure charge, the amount of the external-cost charge, and the amount of the congestion charge, where applied, shall be indicated in a receipt provided to the road user, where possible by electronic means. **The road user may agree not to be provided with the receipt.**";

(c) in paragraph 4, the first sentence is replaced by the following:

"Where economically feasible, Member States shall levy and collect external-cost charges and congestion charges by means of an electronic **road toll** system which complies with the ~~requirements~~ **provisions** of Article ~~2(4)~~ **3(1)** of Directive ~~2004/52/EC~~ **(EU) 2019/520.**";

(12) Article 7k is replaced by the following:

"Article 7k

Without prejudice to Articles 107 and 108 of the Treaty on the Functioning of the European Union, this Directive does not affect the freedom of Member States which introduce a system of tolls to provide for appropriate compensation.";

(13) in Article 8, **points (a) and (b) of paragraph 2** ~~is amended as follows~~ **are replaced by the following:**

~~(a) in point (a) the reference to "Article 7(7)" is replaced by a reference to "Article 7a";~~

~~(b) in point (b), the words "and (2)" are inserted after "Article 7(1)";~~

"(a) 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) and (2);

(b) 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 7a;"

(14) Article 9 is amended as follows:

(a) in paragraph 2, the second sub-paragraph is deleted;

~~(b) the following paragraph 3 is added⁹:~~

~~"3. Revenues generated from congestion charges, or the equivalent in financial value of these revenues, shall be used to address the problem of congestion, in particular by:~~

~~(a) supporting collective transport infrastructure and services;~~

~~(b) eliminating bottlenecks on the trans-European transport network;~~

~~(c) developing alternative infrastructure for transport users.";~~

⁹ ~~*This bullet point could be transformed into a recital encouraging using the revenues for pertinent transport services.*~~

(14a) In Article 9c, the following paragraph 3 is added:

"3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply."

(15) Articles 9d and 9e are replaced by the following:

"Article 9d

The Commission is empowered to adopt delegated acts in accordance with Article 9e to amend Annex 0, **the formulas in sections 4.1 and 4.2 of Annex IIIa and** the amounts in Tables 1 ~~and 2~~ in Annex IIIb, ~~and the formulas in sections 4.1 and 4.2 of Annex IIIa~~ in order to adapt them to scientific and technical progress.

Article 9e

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in ~~Article 7g(4), Article 7ga(4) and Article 7g-a and~~ Article 9d shall be conferred on the Commission for an ~~indeterminate period of time~~ **a period of five years** from [*OJ: add the date of entry into force of this Directive*]. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**

3. The delegation of power referred to in ~~Article 7g(4), Article 7ga(4) and~~ Article 9d may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
 6. A delegated act adopted pursuant to ~~Article 7g(4), Article 7ga(4) and~~ Article 9d shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.";
- (16) Articles 9f and 9g are deleted;
- (17) Article 10a is replaced by the following:
- "1. The amounts in euro as laid down in Annex II and the amounts in cent as laid down in Tables 1 ~~and 2~~ in Annex IIIb shall be adapted every two years in order to take account of changes in the EU-wide Harmonised Index of Consumer Prices excluding energy and unprocessed food, as published by the Commission (Eurostat). The first adaptation shall take place by 31 March [*OJ: add the year following the two years after the entry into force of this Directive*].

The amounts shall be adapted automatically, by ~~increasing~~ **adapting** the base amount in euro or cent by the percentage change in that index. The resulting amounts shall be rounded up to the nearest euro with regard to Annex II, rounded up to the nearest tenth of a cent with regard to Annex IIIb. **The automatic adaptation shall not lead to an increase of more than [10%].**

2. The Commission shall publish in the Official Journal of the European Union the adapted amounts referred to in paragraph 1 by 31 March of the year following the end of two calendar years referred to in paragraph 1. Those adapted amounts shall enter into force on the first day of the month following publication.";

(18) Article 11 is replaced by the following:

"Article 11

1. **Every four years** ~~Each year~~, Member States shall make public in aggregate form a report on tolls and user charges levied on their territory, ~~including information on the use of revenues and the quality of roads where tolls or user charges are applied, as specified in paragraphs 2 and 3.~~
2. The report made public pursuant to paragraph 1 shall include information on:
 - (a) the external-cost charge levied for each combination of class of vehicle, type of road and period of time;
 - (b) the variation of infrastructure charges according to **the category of vehicle and the type of heavy duty vehicles**;
 - (c) the weighted average infrastructure ~~cost~~ charge and total revenue raised through the infrastructure charge, ~~specifying any possible deviation compared to actual infrastructure costs stemming from the variation of the infrastructure charge~~;
 - (d) the total revenue raised through external-cost charges;
 - (e) the total revenue raised through congestion charges;

- (f) the total revenues raised through tolls and/or user charges;
- (g) information on the use of revenues generated by applying this Directive, and how this use has allowed the Member State to meet the goals referred to in Article 9(2) and (3);
- ~~(h) an evaluation, based on objective criteria, of the state of maintenance of the road infrastructure on the territory of the Member State, and its evolution since the last report;~~
- ~~(i) an evaluation of the level of congestion on the tolled network in peak hours, based on real life traffic observations performed of a representative number of congested road stretches of the concerned network, and its evolution since the last report.~~

~~3. For the evaluation of the quality of the parts of the road network on which tolls or user charges are applied, Member States shall use key performance indicators. As a minimum, the indicators shall relate to:~~

- ~~(a) the quality of road surface;~~
- ~~(b) road safety;~~
- ~~(c) the level of congestion.~~

~~4. Within three years after [the entry into force of the revised Directive], the Commission shall adopt an implementing act in accordance with the advisory procedure referred to in Article 9c(2), to define a harmonised set of indicators.~~

~~5. Within six years after [the entry into force of the revised Directive], the Commission shall publish a report based on the application by Member States of the indicators referred to paragraph 4.";~~

(1819) The Annexes are amended as follows:

- (a) Annexes 0, IIIa, IIIb and IV are amended as set out in the Annex to this Directive.
- (b) Annexes **IIIc**, V, VI and VII are added as set out in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [*OJ: add the date of entry into force plus [x] years*] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

(1) Annexes 0, III, IIIa, IIIb and IV are amended as follows:

(a) in Annex 0, Section 3 is amended as follows:

~~(i) the heading is replaced by the following:~~

~~3. 'EURO III'/'EURO IV'/'EURO V' vehicles';~~

~~(ii) in the table, the line concerning 'EEV' vehicle' is deleted;~~

(iii) the following is added:

'Euro VI Emission Limits

	Limit values							
	CO (mg/kWh)	THC (mg/kWh)	NMHC (mg/kWh)	CH ₄ (mg/kWh)	NO _x ⁽¹⁾ (mg/kWh)	NH ₃ (ppm)	PM mass (mg/kWh)	PM number (#/kWh)
WHSC (CI)	1500	130			400	10	10	8,0 x 10 ¹¹
WHTC (CI)	4000	160			460	10	10	6,0 x 10 ¹¹
WHTC (PI)	4000		160	500	460	10	10	6,0 x 10 ¹¹

Note:

PI = Positive Ignition.

CI = Compression Ignition.

(1) The admissible level of NO₂ component in the NO_x limit value may be defined at a later stage.;

(b) Annex III is amended as follows:

(i) Section 2 is amended as follows:

- in point 2.1., the sixth indent is replaced by the following:

'- Costs shall be apportioned to heavy duty vehicles on an objective and transparent basis taking account of the proportion of heavy duty vehicle traffic to be carried on the network and the associated costs. The vehicle kilometres travelled by heavy duty vehicles may for this purpose be adjusted by objectively justified 'equivalence factors' such as those set out in point 4¹⁰.';

- in point 2.2., the second indent is replaced by the following:

'- Such costs shall be apportioned between heavy duty vehicles 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.';

(ii) in Section 4, the heading and the first indent are replaced by the following:

'4. SHARE OF HEAVY DUTY VEHICLE TRAFFIC, EQUIVALENCE FACTORS AND CORRECTION MECHANISM

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

¹⁰ 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

(c) Annex IIIa is replaced by the following:

'ANNEX IIIa

MINIMUM REQUIREMENTS FOR LEVYING AN EXTERNAL-COST CHARGE

This Annex sets out the minimum requirements for levying an external-cost charge and, where applicable, for calculating the maximum external-cost charge.

1. The parts of the road network concerned

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

Where a Member State intends to levy an external-cost charge on only a part or parts of the road network composed of its share in the trans-European network and of its motorways, the part or parts shall be chosen after an assessment establishing that:

- vehicles' use of the roads where the external-cost charge is applied generates environmental damage higher than that generated on average assessed in accordance with air quality reporting, national emissions inventories, traffic volumes and, for noise, in accordance with Directive 2002/49/EC, or
- the imposition of an external-cost charge on other parts of the road network thus composed might have adverse effects on the environment or road safety, or levying and collecting an external-cost charge on them would entail disproportionate cost.

2. The vehicles, roads and time period covered

Where a Member State intends to apply higher external-cost charges than the reference values specified in Annex IIIb, it shall notify the Commission of the classification of vehicles according to which the external-cost charge shall vary. It shall also notify the Commission of the location of roads subject to higher external-cost charges (called hereafter ‘suburban roads (including motorways)’), and of roads subject to lower external-cost charges (called hereafter ‘interurban roads (including motorways)’).

Where applicable, it shall also notify the Commission of the exact time periods corresponding to the night period during which a higher external noise-cost charge may be imposed to reflect greater noise nuisances.

The classification of roads as suburban roads (including motorways) and interurban roads (including motorways), and the definition of time periods shall be based on objective criteria related to the level of exposure of the roads and their vicinities to pollution such as population density, the annual mean air pollution (in particular for PM₁₀ and NO₂) and the number of days (for PM₁₀) and hours (NO₂) on which limit values established under Directive 2008/50/EC are exceeded. The criteria used shall be included in the notification.

3. Amount of the charge

This section shall apply where a Member State intends to apply higher external cost charges than the reference values specified in Annex IIIb.

For each vehicle class, type of road and time period, the Member State or, where appropriate, an independent authority shall determine a single specific amount. The resulting charging structure shall be transparent, made public and available to all users on equal terms. The publication should occur in a timely manner before implementation. All parameters, data and other information necessary to understand how the various external-cost elements are calculated shall be made public.

When setting the charges, the Member State or, where appropriate, an independent authority shall be guided by the principle of efficient pricing that is a price close to the social marginal cost of the usage of the vehicle charged.

The charge shall be set after having considered the risk of traffic diversion together with any adverse effects on road safety, the environment and congestion, and any solutions to mitigate these risks.

The Member State or, where appropriate, an independent authority, shall monitor the effectiveness of the charging scheme in reducing environmental damage arising from road transport. It shall every two years adjust, where appropriate, the charging structure and the specific amount of the charge set for a given class of vehicle, type of road and period of time to the changes in transport supply and demand.

4. External-cost elements

4.1. Cost of traffic-based air pollution

Where a Member State intends to apply higher external-cost charges than the reference values specified in Annex IIIb, that Member State or, where appropriate, an independent authority shall calculate the chargeable cost of traffic-based air pollution by applying the following formula:

$$PCV_{ij} = \sum_k EF_{ik} \times PC_{jk}$$

where:

- PCV_{ij} = air pollution cost of vehicle class i on road type j
(euro/vehicle.kilometre)
- EF_{ik} = emission factor of pollutant k and vehicle class i
(gram/vehicle.kilometre)
- PC_{jk} = monetary cost of pollutant k for type of road j (euro/gram)

The emission factors shall be the same as those used by the Member State to establish the national emissions inventories provided for in Directive (EU) 2016/2284 of the European Parliament and of the Council of on the reduction of national emissions of certain atmospheric pollutants¹¹ (which requires use of the EMEP/EEA air pollutant Emission Inventory Guidebook¹²). The monetary cost of pollutants shall be estimated by the Member State or, where appropriate, the independent authority referred to in Article 7c(4), using scientifically proven methods.

The Member State or, where appropriate, an independent authority may apply scientifically proven alternative methods to calculate the value of air pollution costs using data from air pollutant measurement and the local value of the monetary cost of air pollutants.

4.2. Cost of traffic-based noise pollution

Where a Member State intends to apply higher external-cost charges than the reference values specified in Annex IIIb, the Member State or, where appropriate, an independent authority shall calculate the chargeable cost of traffic-based noise pollution by applying the following formulae:

$$NCV_j \text{ (daily)} = e \times \sum_k NC_{jk} \times POP_k / WADT$$

$$NCV_j \text{ (day)} = a \times NCV_j$$

$$NCV_j \text{ (night)} = b \times NCV_j$$

¹¹ Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1)

¹² Methodology of the European Environmental Agency:
<http://www.eea.europa.eu/publications/emep-eea-guidebook-2016>

where:

—	$NCV_j =$		noise cost of one heavy goods vehicle on road type j (euro/vehicle.kilometre)
—	$NC_{jk} =$		noise cost per person exposed on road type j to noise level k (euro/person)
—	$POP_k =$		population exposed to daily noise level k per kilometre (person/kilometre)
—	$WADT =$		weighted average daily traffic (passenger car equivalent)
—	a and b		are weighting factors determined by the Member State in such a way that the resulting weighted average noise charge per vehicle kilometre corresponds to NCV_j (daily).

The traffic-based noise pollution relates to the impact of noise on health of citizens around the road.

The population exposed to noise level k shall be taken from the strategic noise maps drafted under Article 7 of Directive 2002/49/EC of the European Parliament and the Council¹³.

The cost per person exposed to noise level k shall be estimated by the Member State or, where appropriate, an independent authority, using scientifically proven methods.

¹³ Directive 2002/49/EC of the European Parliament and the Council of 25 June 2002 relating to the assessment and management of environmental noise (OJ L 189, 18.7.2002, p. 12).

The weighted average daily traffic shall assume an equivalence factor ‘e’ between heavy goods vehicles and passenger cars derived on the basis of the noise emission levels of the average car and of the average heavy goods vehicle and considering the Regulation (EU) No 540/2014 of the European Parliament and of the Council of 16 April 2014 on the sound level of motor vehicles and of replacement silencing systems, and amending Directive 2007/46/EC and repealing Directive 70/157/EEC.

The Member State or, where appropriate, an independent authority, may establish differentiated noise charges to reward the use of quieter vehicles provided it does not result in discrimination against foreign vehicles.";

(d) Annex IIIb is replaced by the following:

'ANNEX IIIb

REFERENCE VALUES OF THE EXTERNAL-COST CHARGE

This Annex sets out reference values of the external-cost charge, including the cost of air pollution and noise.

Table 1: reference values of the external-cost charge for heavy goods vehicles

Vehicle class	cent/vehicle-kilometre	Suburban⁽¹⁾	Interurban⁽²⁾
Heavy goods vehicle having a maximum permissible gross laden weight of less than 44 12 tonnes or having two axles	EURO 0	13,3 18,6	8,3 9,9
	EURO I	9,1 12,6	5,4 6,4
	EURO II	8,8 12,5	5,4 6,3
	EURO III	7,7 9,6	4,3 4,8
	EURO IV	5,9 7,3	3,1 3,4
	EURO V	5,7 4,4	1,9 1,8
	EURO VI	3,2 2,3	0,6 0,5
	Less polluting than EURO VI, including zero-emission vehicles	2,5 2,0	0,3
Heavy goods vehicle having a maximum permissible gross laden weight between 44 12 and 28	EURO 0	23,3 24,6	15,1 13,7
	EURO I	16,4 15,8	10,1 8,4
	EURO II	15,7 15,8	10,0 8,4
	EURO III	13,5 12,5	8,2 6,6

18 tonnes or having three axles	EURO IV	9,5 9,2	5,7 4,5
	EURO V	8,9 5,6	3,7 2,7
	EURO VI	3,6 2,8	0,8 0,7
	Less polluting than EURO VI, including zero-emission vehicles	2,5 2,3	0,3
Heavy goods vehicle having a maximum permissible gross laden weight between 28 18 and 40 32 tonnes or having four axles	EURO 0	30,4 27,8	19,7 15,8
	EURO I	22,6 20,4	13,9 11,3
	EURO II	21,3 20,4	13,9 11,2
	EURO III	17,8 16,3	11,2 8,9
	EURO IV	12,2 11,8	7,7 6,0
	EURO V	9,2 6,6	4,0 3,4
	EURO VI	3,5 3,1	0,8
	Less polluting than EURO VI, including zero-emission vehicles	2,5	0,3
Heavy goods vehicle having a maximum permissible gross laden weight above 40 32 tonnes or having 5 or more	EURO 0	43,0 33,5	28,6 19,4
	EURO I	31,5 25,0	19,8 14,1
	EURO II	29,2 24,9	19,4 13,9
	EURO III	24,0 20,1	15,6 11,1
	EURO IV	16,2 14,2	10,6 7,5

axles	EURO V	9,8 7,6	4,7 3,8
	EURO VI	3,6 3,4	1,0 0,8
	Less polluting than EURO VI, including zero-emission vehicles	2,5 2,8	0,3

- (1) 'Suburban' means areas with a population density between 150 and 900 inhabitants/km² (median population density of 300 inhabitants/km²).
- (2) 'Interurban' means areas with a population density below 150 inhabitants/km².

[Table deleted]

The values of ~~Tables 1 and 2~~ may be multiplied by a factor of up to 2 in mountain areas and around agglomerations to the extent that it is justified by lower dispersion, the gradient of roads, altitude or temperature inversions.;

(da) New Annex IIIc is inserted as follows:

ANNEX IIIc

REFERENCE VALUES OF THE EXTERNAL-COST CHARGE FOR CO₂ EMISSIONS

This Annex sets out reference values of the external-cost charge taking into account the cost of CO₂ emissions.

Table 1: reference values of the external-cost charge for CO₂ emissions for heavy goods vehicles

Vehicle class	cent/vehicle-kilometre	Interurban roads (including motorways)
Heavy goods vehicle having a maximum permissible gross laden weight of less than 12 tonnes or having two axles	EURO 0	4,5
	EURO I	4,0
	EURO II	4,0
	EURO III	4,0
	EURO IV	4,0
	EURO V	4,0
	EURO VI	4,0
	Low-emission vehicle	2,0
	Zero-emission vehicle	0
Heavy goods vehicle having a maximum permissible gross laden weight	EURO 0	6,0
	EURO I	5,2
	EURO II	5,2

between 12 and 18 tonnes or having three axles	EURO III	5,2
	EURO IV	5,0
	EURO V	5,0
	EURO VI	5,0
	Low-emission vehicle	2,5
	Zero-emission vehicle	0

Vehicle class	cent/vehicle-kilometre	Interurban roads (including motorways)
Heavy goods vehicle having a maximum permissible gross laden weight between 18 and 32 tonnes or having four axles	EURO 0	7,9
	EURO I	6,9
	EURO II	6,9
	EURO III	6,9
	EURO IV	6,7
	EURO V	6,7
	EURO VI	6,7
	Low-emission vehicle	3,4
	Zero-emission vehicle	0
Heavy goods vehicle having a maximum permissible gross laden weight	EURO 0	9,1
	EURO I	8,1
	EURO II	8,1

above 32 tonnes or having 5 or more axles	EURO III	8,1
	EURO IV	8,0
	EURO V	8,0
	EURO VI	8,0
	Low-emission vehicle	4,0
	Zero-emission vehicle	0

- (e) in Annex IV, the table with the heading 'Vehicle combinations (articulated vehicles and road trains)' is replaced by the following:

'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	
<i>2 + 1 axles</i>				
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	
<i>2 + 2 axles</i>				
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	
33	36	33	36	III
36	38			

<i>2 + 3 axles</i>				II
36	38	36	38	
38	40			
		38	40	III
<i>2 + 4 axles</i>				II
36	38	36	38	
38	40			
		38	40	III
<i>3 + 1 axles</i>				II
30	30	30	32	
32	35			
		32	35	III
<i>3 + 2 axles</i>				II
36	38	36	38	
38	40			
		38	40	III
		40	44	
40	44			

<i>3 + 3 axles</i>				
36	38	36	38	I
38	40			
		38	40	II
40	44	40	44	
<i>7 axles</i>				
40	50	40	50	II
50	60	50	60	III
60		60		
<i>At least 8 or 9 axles</i>				
40	50	40	50	I
50	60	50	60	II
60		60		III';

- (2) the following Annexes V, VI and VII are added:

'ANNEX V

MINIMUM REQUIREMENTS FOR LEVYING A CONGESTION CHARGE

This Annex sets out the minimum requirements for levying a congestion charge.

1. The parts of the network subject to congestion charging, vehicles and time periods covered

Member States shall specify precisely:

- (a) the part or parts of their network composed of their share in the trans-European road network and their motorways referred to in Article 7(1), which are to be subject to a congestion charge, in accordance with Article 7da(1) and (3).
- (b) the classification of sections of the network which are subject to the congestion charge as "metropolitan" and "non-metropolitan". Member States shall use the criteria set out in Table 1 for the purposes of determining the classification of each road segment. Table 1: Criteria for classifying roads on the network referred to in points (a) as 'metropolitan' and 'non-metropolitan'

Road category	Classification criterion
'metropolitan'	Sections of the network running inside agglomerations with a population of 250,000 inhabitants or more
'non-metropolitan'	Sections of the network which are not qualified as 'metropolitan'

- (c) the periods during which the charge applies, for each individual segment. Where different charge levels apply throughout the charging period, Member States shall clearly specify the beginning and the end of each period during which a specific charge is applied.

Member States shall use the equivalence factors provided in Table 2 for the purpose of establishing the proportion between charge levels for different vehicle categories:

Table 2: Equivalence factors for establishing the proportion between congestion charge levels for different vehicle categories

Vehicle category	Equivalence factor
Light duty vehicles	1
Rigid heavy goods vehicles	1.9
Coaches and buses	2.5
Articulated heavy goods vehicles	2.9

2. Amount of the charge

For each vehicle category, road segment and time period, the Member State or, where appropriate, an independent authority shall determine a single specific amount, set in accordance with the provisions of Section 1 of this Annex, taking into account the corresponding ~~maximum~~ **reference** value set out in the table in Annex VI. The resulting charging structure shall be transparent, made public and available to all users on equal terms.

The Member State shall publish all of the following in a timely manner before implementing a congestion charge:

- (a) all parameters, data and other information necessary to understand how the classification of roads and vehicles and determination of periods of application of the charge are established;
- (b) the complete description of congestion charges applying to each vehicle category on each road segment and for each time period.

Member States shall make available to the Commission all information to be published pursuant to points (a) and (b).

The charge shall be set only after having considered the risk of traffic diversion together with any adverse effects on road safety, the environment and congestion, and any solutions to mitigate these risks.

Where a Member State intends to apply higher congestion charges than the reference values specified in Annex VI, it shall notify the Commission of

- (i) the location of roads subject to congestions charges;**

- (ii) the classification of roads as ‘metropolitan’ and ‘non-metropolitan’, as specified under point (b) of section 1;
- (iii) the periods during which the charge applies, as specified under point (c) of section 1;
- (iv) any partial or full exemption applied to minibuses, buses and coaches.

3. Monitoring

The Member State or, where appropriate, an independent authority, shall monitor the effectiveness of the charging scheme in reducing congestion. It shall adjust every **three** years, where appropriate, the charging structure, charging period(s) and the specific amount of the charge set for each given category of vehicle, type of road and period to the changes in transport supply and demand.

ANNEX VI

~~MAXIMUM LEVEL~~ REFERENCE VALUES OF CONGESTION CHARGE

This Annex sets out the ~~maximum level~~ **reference values** of congestion charge.

The ~~maximum levels~~ **reference values** provided for in the table below shall be applied to light duty vehicles. Charges for other vehicle categories shall be established by multiplying the charge applied to light duty vehicles by the equivalence factors provided in the table in Annex V.

Table: ~~Maximum level~~ **Reference values** of congestion charge for light duty vehicles

cent/vehicle-kilometre	Metropolitan	Non-metropolitan
Motorways	67 25,9	34 23,7
Main roads	198 61,0	66 41,5

ANNEX VII

EMISSION PERFORMANCE

This Annex specifies the emission performance for pollutants according to which tolls and user charges shall be differentiated in accordance with Article 7ga (b).

Table: emission performance criteria for pollutants for light duty vehicles

Toll and user charge	[10%] below highest rate	[20%] below highest rate	[30%] below highest rate	75% below highest rate
Emission performance	Euro-6d-temp-x[#]	Euro-6d-x[#]	Declared maximum RDE values for pollutant emissions ^{##} < 80% of the applicable emission limits	Zero-emission vehicles

[#] where x may be empty or be one of the following (EVAP, EVAP-ISC, ISC or ISC-FCM)

^{##} for either NO_x and PN as reported in point 48.2 of the Certificate of Conformity, in Annex IX to Directive 2007/46/EC,