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STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with view to the adoption of a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic

= Statement of the Council's reasons
– Adopted by the Council on 17 October 2014

I. INTRODUCTION

On 15 April 2013 the Commission presented to the Council its proposal for a Directive of the European Parliament and of the Council amending Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic.

On 15 April 2014 the European Parliament voted its opinion at first reading.

On 5 June 2014 the Council reached a political agreement on the draft Directive. Following legal/linguistic revision, the Council adopted its position at first reading on 17 October 2014, in accordance with the ordinary legislative procedure laid down in Article 294 of the Treaty on the Functioning of the European Union.

II. ANALYSIS OF THE POSITION AT FIRST READING

1. General

The objective of this legislative initiative is to improve the aerodynamics of vehicles and their energy efficiency while continuing to improve road safety and remaining within the limits imposed by the geometry of road infrastructures.

Furthermore, the intention is to promote the use of alternatively fuelled vehicles, facilitate the development of intermodal transport, confirm that cross-border use of longer vehicles is lawful for journeys that cross only one border, and enable the inspection authorities to better detect infringements.

The Council's approach has been to introduce several amendments to the original proposal. The main provisions of the Directive have been significantly amended. The Council's position at first reading, therefore, amends the original Commission proposal by redrafting it and adding and deleting several provisions of the text. This means that the Council cannot accept the amendments introduced by the European Parliament's opinion at first reading in relation to those provisions.

2. **Key policy issues**

i) **Clarification on the cross-border traffic of longer vehicles (Article 1 - point 2 - points (a) and (b) - Article 4(1) and (4))**

The Commission proposes to modify the Directive 96/53/EC in order to confirm that cross-border use of longer vehicles is lawful for journeys that cross only one border, if the two Member States concerned already allow it and if the conditions for derogations under the Directive are met.

The Council takes the view that Directive 96/53/EC provides the appropriate balance between the right of Member States to explore and determine transport solutions appropriate to their local circumstances, and the need to avoid distortions to the internal market and significant impact on international competition. Council and Parliament have similar views on this issue.

Amendments 21 and 22 were taken on board. Amendment 63 was not retained by the Council.

ii) Alternative fuels (Article 1 - point 2(a); Article 1 - point 8; Article 10b; Article 1 points 9(e) and (f))

In the same spirit of the Commission's proposal, the Council decided on an approach promoting the use of alternatively fuelled vehicles. A definition of alternative fuels has been included in the text. The list of alternative fuels that can already benefit from the additional weight required for the use of alternative fuels (maximum of 1 tonne) may be updated by the Commission taking account of technological progress.

For control purposes, the additional weight required by the alternative fuel technology is to be defined on the basis of the documentation provided by the manufacturer. It is clarified in the text that such extra weight must not be counted at the expense of the effective load of the vehicle.

The European Parliament's approach is similar to the Council's approach on low-carbon technologies. Amendments 18, 19, 42, 43 and 69 are taken on board partially or in spirit.

iii) Combined vs. intermodal transport ((Article 1 - point 1 - Article 2 - subparagraph 1 - indent 16) and (Article 1 - point 10 - Article 11))

The Council shares the view that the use of intermodal transport as proposed in the context of the revision of Directive 96/53/EC will favour transport by short sea shipping, by inland waterways as well as by rail, compared to the use of combined transport as defined in Directive 92/106/EC. In fact, the use of combined transport leads to certain restrictions to transport chains while there are potential comparative advantages with the use of intermodal transport.

Therefore, the Council included a definition of intermodal transport operation in the text for the purposes of this Directive. Moreover, in Article 11 the Commission's approach is kept, providing for a derogation of 15 cm to the maximum length and the maximum distance between the axis of the fifth wheel and the rear of a semi-trailer for vehicles transporting 45-foot containers in the context of an intermodal transport operation.

The European Parliament decided to keep the definition of combined transport throughout the text and called upon the Commission to submit a legislative proposal to amend Directive 92/106/EEC. Given the difference of approaches, the Council did not retain amendments 20, 44 and 45.

iv) Aerodynamic devices at the rear of the vehicle and new cab design (Article 1 - points 6 and 7 - Articles 8b and 9a)

The Council considered Articles 8b and 9a to be the main elements of the Commission's proposal to improve the energy efficiency of vehicles or combinations of vehicles. The Council has worked intensively on the structuring of these Articles.

In order to improve the aerodynamics of vehicles and, consequently, save fuel, the Council's text allows for derogations to the maximum authorised lengths for vehicles or combinations of vehicles provided for in point 1.1 of Annex I, if:

- the vehicle or vehicle combination is equipped with aerodynamic devices at the rear (Article 1 - point 6 - Article 8b); and/or if
- the vehicle or vehicle combination is equipped with a cab that provides improved aerodynamic performance, energy efficiency and improved safety (Article 1 - point 7 - Article 9a).

In Article 8b, the Council clarifies that aerodynamic devices must meet certain requirements, listed in paragraph 3 of Article 8b, to ensure safety in general and safety of intermodal transport operations.

Moreover, these devices must be used in accordance with certain operational requirements that will be adopted by the Commission (implementing acts referred to in paragraph 4 of Article 8b), and must comply with the provisions of the type-approval Directive (Directive 2007/46/EC). The Council's text also clarifies that aerodynamic devices exceeding 50 cm must be type-approved in accordance with Directive 2007/46/EC before being put on the market, after the necessary amendments have been made to that Directive.

In Article 9a, the same reasoning is followed. However, the Council decided to invite the Commission to develop the necessary technical requirements for the type-approval of vehicles equipped with new cabs, under the type-approval Directive (2007/46/EC). Before being put on the market, those vehicles must be approved in accordance with that Directive. In the Council's text, the Commission is also invited to submit, if necessary, a legislative proposal amending Directive 2007/46/EC (ordinary legislative procedure).

In the Council's text, the requirements for vehicles equipped with new cabs are not mandatory. The European Parliament envisages mandatory requirements seven years after the entry into force of this Directive. Therefore, amendments 38 and 40 are not acceptable.

In the Council's approach, the derogation for vehicles equipped with aerodynamic devices at the rear of the vehicle will apply, as appropriate, from:

- the date of transposition of the text amending the type-approval Directive (Directive 2007/46/EC), or
- the date of application of the necessary amendments to the technical requirements under Directive 2007/46/EC,

- and after adoption of the implementing acts containing detailed operational requirements for the use of those devices.

Moreover, the derogation for vehicles equipped with new cabs will apply as from five years after, as appropriate:

- the date of transposition of the text amending the type-approval Directive (Directive 2007/46/EC), or
- the date of application of the implementing acts under Directive 2007/46/EC.

Both in Articles 8b and 9a it is stated that vehicles equipped with aerodynamic devices or with new cabs must be able to turn within a swept circle having an outer radius of 12.50 m and an inner radius of 5.30 m (Annex I, point 1.5). Moreover, the possibility given to exceed the maximum lengths for vehicles must not lead to an increase in the load capacity of those vehicles. Amendment 28 is taken on board in spirit.

The European Parliament maintains the delegation of power to the Commission as envisaged in the Commission's proposal. Since the Council decided on another approach, amendments 30, 31 and 41 were not taken into consideration.

v) Enforcement (Article 1 - points 11 and 12 - (Articles 12 and 13))

According to the Council's position on enforcement, Member States must take specific measures to identify vehicles exceeding the authorised maximum weight six years from the date of entry into force of this Directive. Moreover, the Council's text contains a non-quantitative provision for checking the weight of vehicles. It is also clarified in the text that checks on vehicle weight may be performed with the aid of automatic systems set up on the infrastructure or by means of onboard weighing equipment: the Council assumes a position of technological neutrality.

In addition, it is clearly stated in the Council's text that Member States must not impose the installation of onboard weighing systems in vehicles registered in another Member State. The Council's text envisages implementing acts to develop detailed technical specifications to ensure that onboard weighing systems are accurate, reliable and fully interoperable. The Council did not retain the list of measures proposed by the Commission for overweight vehicles, but kept an obligation for the competent authorities to exchange information on infringements and penalties.

The Council could not follow the Commission's approach in terms of categorisation of the infringements (Article 13). The text was replaced by the obligation for Member States to lay down rules on penalties applicable to the infringements envisaged in the Directive.

The Council is not able to accept amendment 50 whereby all N2 and N3 new vehicles must be fitted with onboard weighing systems five years from the entry into force of this Directive. Moreover, amendments 46, 49, 51, 52, 53, 54, 55, 56, 57, 58 and 59 were not accepted by the Council.

vi) Reporting obligations (Article 1 - point 14 - Article 15)

The Council suggests streamlining the reporting obligations initially proposed by the Commission under Article 15. The Council's approach requests that Member States send the Commission information on the number of checks carried out in the previous two calendar years and the number of overloaded vehicles detected. This information may be sent with the information submitted to the Commission under Regulation 561/2006/EC.

vii) Transposition date (Article 2)

The Council provides for a transitional regime of 36 months; the one initially envisaged by the Commission was 18 months. Moreover, Articles 8b(1) and 9a(1) have specific pre-requisites for their application (see point (ii) on aerodynamic devices at the rear of the vehicle and new cab design).

viii) Structure of the legal act (delegated acts/implementing acts)

The Council considers that the Commission should be empowered to adopt delegated acts to update the list of alternative fuels included in this Directive in order to accommodate fuel technology innovations.

However, the Council decided to modify the delegation of power to the Commission (replacing delegated acts with implementing acts) for rear flaps, new cabin design and establishment of the technical specifications for interoperability. Since the Council proposes a different structure for Articles 8b and 9a, the delegation of power to the Commission was modified (see point (iv)).

III. CONCLUSION

In establishing its position at first reading, the Council has taken full account of the Commission proposal and of the European Parliament's opinion at first reading. With respect to the amendments proposed by the European Parliament, the Council observes that certain amendments have – in spirit, partially or fully – already been included in its position at first reading.
