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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

position of the Council on the adoption of 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

(Text with EEA relevance)

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council 16 April 2013
(document COM(2013) 195 final – 2013/0105 (COD):

Date of the opinion of the European Economic and Social Committee: 11 July 2013

Date of the position of the European Parliament, first reading: 15 April 2014

Date of transmission of the amended proposal: N/A

Date of adoption of the position of the Council: 5 June 2014

2. OBJECTIVES OF THE PROPOSAL FROM THE COMMISSION

Directive 96/53/EC establishes maximum dimensions of heavy goods vehicles (HGVs) and buses in international traffic and their maximum weights in international traffic (Member States are allowed to go beyond these dimensions or weights in national traffic under certain conditions).

The main objective of the amendment is to make HGVs and buses greener and safer by allowing derogations on weights and dimensions in certain cases and under determined conditions, where improvements are currently not feasible with the limitations set out by the Directive. Greener trucks are expected to bring improvements in fuel efficiency of around 7-10%, and a corresponding reduction in emission of CO₂ and GHG. Safer HGVs could save up to 500 lives per year, mainly among vulnerable users like pedestrians and bikers in urban areas.

In particular, the Commission proposal aims to:

- *Facilitate the aerodynamic streamlining of vehicles*: by allowing a length extension to design more aerodynamic cabs. These smart cabs would also increase visibility for the driver and a better energy absorption in case of an accident. The proposal also

authorizes the use of aerodynamic flaps attached to the rear of trailers, semi-trailers or trucks, flaps which are market-ready and increasingly in use, for example in the United States. No increase in loading capacity is provided for by the proposed Directive.

- Allow a weight increase for hybrid or electric propulsion up to 1 ton.
- Introduce provisions related to enforcement, due to worryingly high levels of overweight. The new provisions recommend the use of on-board weight sensors on trucks and the deployment of weigh-in-motion stations on the roads, while obliging Member States to carry out a defined number of checks proportionate to the traffic.
- Introduce joint liability between the shipper and the haulier in case of overweight during road transport (where information provided by the shipper is missing or misleading).
- Facilitate intermodal transport of containers, by providing a derogation of up to 44 tonnes and of 15 additional centimeters on length for the transport of 45-foot containers and swap bodies in intermodal transport.
- Allow 1 additional ton for buses, in order to take into account the increase in the weight of passengers and their luggage.

In addition to the main objectives of the amendment, as set out above, the Commission proposal also reflected the clarification provided by the Commission to the European Parliament¹ on the issue of cross-border traffic of longer vehicles (i.e. existing rules allow crossing one border between two adjacent Member States authorising the use of longer vehicles on their respective territories).

3. COMMENTS ON THE POSITION OF THE COUNCIL

The political agreement adopted by the Transport Council on 5 June 2014 supports the main objectives of the Commission proposal of enabling the design of greener and safer trucks, while deviating on some other aspects, in particular:

- Considerable timeframes are proposed both for the transposition of the new Directive (3 years) and for the implementation of the provisions of its Article 9 on the design of new cabs (5 years after the necessary modification of Directive 2007/46, including its implementing acts), in order to accommodate the capacity of investment of some vehicle manufacturers. In the Commission proposal, a transposition period of 18 months was provided for. The Commission recalls that its proposal is of an enabling nature, meaning that manufacturers would not be obliged to produce such cabs unless they believe that there would be a market for the product. The Commission considers that the proposed long deadlines are unwarranted, as necessary technologies are already available and the Union citizens should be able to benefit from greener and safer trucks as soon as possible.
- The enforcement pillar proposed by the Commission to sanction infringements of overweight (Articles 12 and 13), has largely been rejected by the Council which deleted Article 13 on categorization of infringements and watered down Article 12 on enforcement. For instance, the Council replaced the numerical indicator of preselection checks proposed by the Commission (already applied by some Member

¹ Letter of Vice President Kallas to Brian Simpson, Chairman of the EP TRAN committee dated 13 June 2012.

States) by an "appropriate level" of checks. In reality this would mean no significant change from the current unsatisfactory situation. In addition to accelerated road wear and tear leading to additional cost of maintenance, the Commission considers that the overweight of the vehicles compromises road safety and distorts competition between operators who comply with the rules and those who do not. The lack of harmonisation of enforcement procedures and of the level of penalties between the different Member States sends confusing messages to hauliers and reduces the effectiveness of enforcement. The Council however agreed that Member States have to report to the Commission on the number of checks and infringements.

- The Council invokes Article 5, paragraph 4, second subparagraph, point (b) of Regulation 182/2011 ("no opinion-clause") in Article 10h(5) in its position of first reading. The Commission has made a statement recalling that recourse to this provision must not be made systematically but respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5, paragraph 4, recourse to second subparagraph, point (b) cannot be simply seen as a "discretionary power" of the legislator, but must be interpreted in a restrictive manner and thus must be justified.

On the other hand, the Commission welcomes the following points:

- Articles 8 and 9 on aerodynamic features have kept the drafting proposed by the Commission in terms of both objective and content. Despite the fact that the Council replaces the proposed delegated acts by implementing acts and limits them to Article 8, the Commission can agree to this approach, in view of the work of an expert group the Commission has created, to detail and define the technical content of these acts. The content of the delegated acts provided for in Article 9 could be incorporated in an update of the Regulations on type approval of vehicles under Directive 2007/46/EC. In Articles 8 and 9, the Council has made clearer the role of the type approval legislation (Directive 2007/46/EC, Regulations 661/2009 and 1230/2012).
- The introduction of joint liability between shipper and haulier for the transport of containers.
- The extension of the scope of the proposed additional weight allowance for electric / hybrid vehicles to alternatively fuelled vehicles, to accommodate the extra weight needed for these alternative technologies.
- The Council has adopted a new definition of the intermodal transport operation which appropriately addresses the specificity of waterborne transport. This new definition would be applicable for the derogation of 15 additional centimetres and 44 tonnes for 45-foot containers and swap bodies.
- The Council has increased to 19.5 tonnes the weight allowed for 2-axle buses (500 kg more than the weight set forward in the Commission proposal) to also handle the increase of weight due to mandatory onboard systems (Euro VI class, safety equipment).

With regard to cross-border traffic of longer vehicles, the Commission takes note of the diverging opinions between Member States, and of the decision of the Council not to modify the text of the current Directive. The Commission can accept the compromise to delete the provisions of the corresponding Article, thus maintaining the status quo of the current Directive. The Commission issued a statement confirming its interpretation concerning the

cross border traffic of longer vehicles, as set out already in the abovementioned letter of VP Kallas to Mr Simpson.

4. CONCLUSION

The Commission considers that an update of the legislation on weights and dimensions of heavy goods vehicles and buses is crucial for the realization of the objectives of reducing emissions of greenhouse gases. Not only will new cabs be more aerodynamic, but enlarged cabs will also allow introducing in the future vehicles with new equipment improving fuel efficiency. Similarly, the Commission believes that the new designs will allow the introduction of safer trucks, helping to save lives in urban areas in low-speed accidents involving heavy vehicles. For these reasons, the Commission considers that it would be contrary to the interests of the Union citizens to wait for a number of years before manufacturers introduce the new designs, which are, to a large extent, ready for deployment. The Commission is of the view that those issues deserve to be addressed during the negotiations between the co-legislators.