



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 6 June 2008

10257/08

**Interinstitutional File:
2005/0283 (COD)**

**TRANS 187
ENT 118
ENV 347
MAP 15
CODEC 710**

REPORT

from : Presidency
to : COUNCIL

No. prev. doc.: 10071/08 TRANS 176 ENT 111 ENV 331 MAP 13 CODEC 682 + COR 1

No. Cion prop.: 5113/08 TRANS 2 ENT 2 ENV 5 MAP 4 CODEC 12

Subject : Revised proposal for a Directive of the European Parliament and of the Council
on the promotion of clean and energy efficient road transport vehicles
- General approach

Introduction

1. On 15 January 2008, the Commission submitted its revised proposal for a Directive on the promotion of clean and energy-efficient road transport vehicles (document 5113/08). In accordance with the commitment undertaken by the European Council at its meeting on 8-9 March 2007, the proposal aims at contributing to the transformation of the EU into a highly energy-efficient and low greenhouse-gas-emitting economy.

Commission proposal

2. The objective of the Commission proposal is to promote the market introduction of clean and energy efficient vehicles. The Directive applies to purchases of road transport vehicles by authorities and entities exercising certain public services. Through these purchases the Commission aims at creating incentives for manufacturers to bring to the market cleaner and more energy efficient vehicles. A higher market share of these vehicles would contribute thereby to:
 - energy efficiency in transport by reducing fuel consumption,
 - climate protection by reducing CO₂ emissions, and
 - improvement of air quality by reducing certain pollutant emissions (NO_x, NMHC, Particulate matter).

With a view to achieving this objective, the Commission proposes a methodology for calculating the operational lifetime costs of energy consumption, CO₂ emissions and certain other pollutant emissions. Contracting authorities, contracting entities and operators performing public passenger transport services must apply this methodology when purchasing road transport vehicles.

3. The Commission proposal revises the proposal for a Directive on the promotion of clean road transport vehicles which the Commission submitted on 9 January 2006 (5130/06). This initial proposal, focussing on heavy duty vehicles only, required that a certain quota (25%) in the procurement of these vehicles for public transport service would comply with the existing Enhanced Environmentally friendly Vehicle (EEV) standard. At that time Council and Parliament, although supporting the objectives, expressed doubts about the means proposed to achieve these objectives.

Main issues

4. As a result of the examination by Council's preparatory bodies, some important changes have been made to the Commission proposal. The draft Directive submitted for adoption of a general approach appears in the Annex.

Subject matter and aim (Article 1)

5. The Commission proposal requires lifetime costs to be calculated, according to a method which is harmonised at Community level, when vehicles are purchased. However, the final decision on which vehicle to purchase is left to the discretion of the individual authorities and operators. Choosing a different approach, the working party seeks to steer that final decision in a way to introduce a more binding element in the purchasing decision for vehicles that are clean and energy efficient. In that light, Council's preparatory bodies suggest to introduce a provision in the draft Directive requiring contracting authorities, contracting entities and operators to take lifetime energy and environmental impacts into account. As in the Commission proposal, these impacts must at least include fuel consumption, CO₂ emissions and NO_x, NMHC and particulate matter.

Scope (Article 2)

6. Council's preparatory bodies suggest to modify the scope of the draft Directive on the promotion of clean and efficient road transport vehicles as it appears in the Commission proposal with a view to achieving coherence between this draft Directive, on the one hand, and the Public Procurement Directives 2004/17/EC and 2004/18/EC and the Public Service Obligations Regulation (EC) 1370/2007, on the other hand. In case of contracting authorities and contracting entities under the obligations of the public procurement directives, the thresholds contained in these directives also apply in the framework of this draft Directive. In case of operators performing passenger transport under a public service contract, Member States may set thresholds provided they do not exceed the thresholds of the relevant Public Procurement Directive. As a result, unnecessary administrative burden for the contracting authorities, contracting entities and operators is avoided and effective enforcement of the Directive on clean and efficient vehicles is assured.
7. BE holds a scrutiny reservation (*footnote 3, page 8*).

Options to fulfil the requirement to take energy and environment impacts into account (Article 4)

8. While formulating a more stringent aim, Council's preparatory bodies suggest to allow for greater flexibility than the one provided for in the Commission proposal as to the question how contracting authorities, contracting entities and operators can fulfil the requirement to take energy and environmental impacts into account. More flexibility will make it possible to reflect the diversity of local environmental issues and priorities thereby recognising existing initiatives across the Community.

The draft Directive provides for two options through which the requirement to take energy and environmental impacts into account can be fulfilled, provided these impacts include at least the energy consumption, the CO₂ emissions and the pollutant emissions of a road transport vehicle:

- a) by setting technical specifications for energy and environmental performance in the documentation for the purchase of road transport vehicles;
- b) by including energy and environmental impacts in the purchasing decision - allowing the purchasers to determine the weight to be given to these impacts - whereby:
 - in cases where a procurement procedure is applied, this shall be done by using these impacts as award criteria; and
 - in cases where these impacts are monetised for inclusion in the purchasing decision, a harmonised methodology as set out in the draft Directive shall be used.

Methodology calculation lifetime costs (Article 5)

9. If contracting authorities, contracting entities and operators choose to use the option of monetising the energy and environmental impacts, they are obliged to use the methodology as set out in the Directive. When calculating the lifetime costs, the draft Directive provides for the possibility to choose costs of CO₂ and of pollutant emissions within a range between the EU averaged values for these costs and the double value of these costs. Such a range seeks a balance between, on the one hand, appropriate flexibility for contracting authorities, contracting entities and operators to take account of their local situation, and, on the other hand, a certain degree of harmonisation. The latter is important to exercise pressure on the manufacturing industry to respond with the production of cleaner and more energy efficient vehicles.

Other issues

10. The DE delegation proposes the following new Recital (15 bis) in relation to Article 9.

"The method of calculating operational lifetime costs for pollutant emissions for the purpose of vehicle procurement decisions does not preclude other Community legislation addressing external costs. The regular review and revision of the calculation method and the numerical values defined in this Directive, however, shall aim at consistency between the different relevant legislative measures."

11. FI holds a general scrutiny reservation on the draft Directive.
12. DK, FR, MT and UK hold parliamentary scrutiny reservations.

Conclusion

13. Important progress has been achieved towards a text for a Directive on the promotion of clean and energy-efficient road transport vehicles which achieves general support. Council is invited to examine the final outstanding issues with a view to adopting a general approach on the Directive.¹
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¹ As the legislative text has been modified considerably compared to the Commission proposal, recitals have not yet been examined by Council bodies. Only recitals on which the Council agrees - and which are mentioned in the footnotes - will form part of the general approach.

Revised proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the promotion of clean and energy efficient road transport vehicles

(Text with EEA relevance)

Article 1

Subject matter and aim

This Directive requires contracting authorities, contracting entities as well as certain operators, to take into account lifetime energy and environmental impacts, including energy consumption and emissions of CO₂ and of certain pollutants, when purchasing road transport vehicles, with the aim to promote the market for clean and energy efficient vehicles and to improve the contribution of the transport sector to the environment, climate and energy policies of the European Union.

Article 2^{2 3}
Scope

This Directive shall apply to contracts for the purchase of road transport vehicles by:

- a) contracting authorities or contracting entities insofar as they are under an obligation to apply the procurement procedures as set out in Directives 2004/17/EC⁴ and 2004/18/EC⁵;
- b) operators for the discharge of public service obligations under a public service contract within the meaning of the Regulation (EC) N°1370/2007⁶ in excess of a threshold which shall be defined by Member States not exceeding the threshold values as set out in Directives 2004/17/EC and 2004/18/EC.

² The following recital will be inserted:
"In line with the scope of the Directives 2004/17/EC or 2004/18/EC and in full respect of the implementation in national law of these directives, this Directive should cover road transport vehicles purchased by contracting authorities and contracting entities, irrespective whether these are public or private. Furthermore, this Directive should cover the purchase of road transport vehicles used for performing public passenger transport services under a public service contract, leaving the freedom to Member States to exclude minor purchases with a view to avoiding unnecessary administrative burden."

³ Scrutiny reservation: BE.

⁴ OJ L 134, 30.4.2004, p.1.

⁵ OJ L 134, 30.4.2004, 114.

⁶ OJ L 315, 3.12.2007, p.1.

Article 3
Definitions

For the purpose of this Directive:

'Contracting authorities' means contracting authorities as defined in Article 2 paragraph 1 of Directive 2004/17/EC and in Article 1 paragraph 9 of Directive 2004/18/EC;

'Contracting entities' means contracting entities as referred to in Article 2 paragraph 2 of Directive 2004/17/EC;

'Road transport vehicle' means a vehicle covered by the vehicle categories listed in Table 3 of the Annex.

Article 4
Purchase of clean and energy efficient vehicles

1. Member States shall ensure that, no later than from the date referred to in Article 10(1), all contracting authorities, contracting entities and operators referred to in Article 2, when purchasing road transport vehicles, take into account the operational lifetime energy and environmental impacts as set out in paragraph 2 and apply at least one of the options set out in paragraph 3.
2. The energy and environmental impacts to be considered shall include at least the following:
 - a. Energy consumption;
 - b. Emissions of CO₂;
 - c. Emissions of pollutants, including NO_x, NMHC, and particulate matter.

In addition to the energy and environmental impacts mentioned in the first subparagraph, contracting authorities, contracting entities and operators may also consider including other environmental impacts.

3. The requirements of paragraph 1 and 2 shall be fulfilled according to the following options :
 - a. by setting technical specifications for energy and environmental performance in the documentation for the purchase of road transport vehicles on each of the impacts considered, as well as any additional environmental impacts^{7 8}; or
 - b. by including energy and environmental impacts in the purchasing decision, whereby:
 - in cases where a procurement procedure is applied, this shall be done by using these impacts as award criteria; and
 - in cases where these impacts are monetised for inclusion in the purchasing decision, the methodology as set out in Article 5 shall be used.

Article 5
Methodology for the calculation of operational lifetime costs

1. For the purposes of Article 4 (3)(b) second indent, operational lifetime costs for energy consumption, CO₂ emissions and pollutant emissions **as listed in Table 2 of the Annex which are** linked to the operation of the vehicles under purchase shall be monetised and calculated following the methodology set out in points (a), (b) and (c).

⁷ Recital 17 will be amended as follows: "This Directive should not prevent contracting authorities and contracting entities from giving preference to the latest Euro pollutant emission standards in the procurement of vehicles for public transport services before these standards become obligatory. It shall also not prevent contracting authorities and contracting entities from giving preference to alternative fuels, provided the lifetime energy and environmental impacts are taken into account".

⁸ The following new recital will be inserted:
"When fulfilling the requirement to take energy and environmental impacts into account by setting technical specifications, contracting authorities, contracting entities and operators are encouraged to set specifications of a higher level of energy and environmental performance than laid down in European legislation, considering for example EURO standards which are already adopted but have not yet entered into force."

- (a) The lifetime cost of the energy consumption for the operation of a vehicle shall be calculated using the following methodology:
- the fuel consumption per kilometre of a vehicle according to paragraph 2 of his Article shall be converted into energy consumption per kilometre, using the conversion factors of Table 1 in the Annex for the energy content of the different fuels;
 - a single monetary value per unit of energy shall be used. This single value shall be the lower of the cost per unit of energy of petrol or diesel before tax when used as a transport fuel;
 - lifetime cost of the energy consumption for the operation of a vehicle shall be calculated by multiplying the lifetime mileage, where needed, taking into account the mileage already performed, according to paragraph 3 by the energy consumption per kilometre according to the first indent of this paragraph, and by the cost per unit of energy according to the second indent of this paragraph.
- (b) The lifetime cost for the CO₂ emissions of the operation of a vehicle shall be calculated by multiplying the lifetime mileage, where needed, taking into account the mileage already performed, according to paragraph 3 by the CO₂ emissions in kilograms per kilometre according to paragraph 2, and by the cost per kilogram taken from Table 2 in the Annex. Contracting authorities, contracting entities and operators referred to in Article 2 may apply a higher cost provided this cost does not exceed the value in Table 2 multiplied by a factor 2.⁹

⁹ The following recital will be inserted: "This Directive should define a range for the costs of CO₂ and pollutant emissions which, on the one hand, enables flexibility for contracting authorities, contracting entities and operators to take account of their local situation, and, on the other hand, assures an appropriate degree of harmonisation. The Commission should, assisted by a Committee, be able to adapt these minimum and maximum values to inflation and technical progress of the data for the calculation."

- (c) The lifetime cost for the pollutant emissions **as listed in Table 2 of the Annex** of the operation of a vehicle shall be calculated by adding up the lifetime costs for emissions of oxides of nitrogen, non-methane hydrocarbons, and particulate matter. The lifetime cost for each pollutant shall be calculated by multiplying the lifetime mileage, where needed, taking into account the mileage already performed, according to paragraph 3 by the emissions in grams per kilometre according to paragraph 2, and by the respective cost per gram. The cost be taken from the EU-averaged values in Table 2 of the Annex. Contracting authorities, contracting entities and operators referred to in Article 2 may apply higher costs provided these costs do not exceed the relevant values in Table 2 multiplied by a factor 2.
2. Fuel consumption, CO₂ emissions and pollutant emissions **as listed in Table 2 of the Annex** per kilometre for vehicle operation shall be based on standardised EU test procedures for the vehicles for which such test procedures are defined in EU type approval legislation. For vehicles not covered by standardised EU test procedures, comparability between different offers shall be ensured by using widely recognised test procedures, or the results of tests for the authority, or information supplied by the manufacturer.
3. Total lifetime mileage of a vehicle, if not otherwise specified, shall be taken from Table 3 in the Annex.

Article 6
Adaptations to technical progress

The adaptations to inflation and to technical progress of the data for the calculation of the operational lifetime costs of road transport vehicles as set out in the Annex, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 8(2).

Article 7
Best practice exchange

The Commission shall facilitate and structure the exchange of knowledge and best practices between Member States on practices for promoting the purchase of clean and energy-efficient vehicles by contracting authorities, contracting entities and operators referred to in Article 2.

Article 8
Committee

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 5a(1) to (4) and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 9
Reporting and review

1. Every two years, with effect from the date referred to in Article 10, the Commission shall prepare a report on the application of this Directive and on the actions taken by individual Member States to promote the purchase of clean and energy efficient road transport vehicles.
2. The report shall assess the effects of this Directive and the need for further action, and include proposals as appropriate.
3. No later than the date of the first report the Commission shall present an evaluation of the methodology in Article 5, examining all options, and propose appropriate adjustments if necessary¹⁰.

¹⁰ The following new recital (17 a) will be inserted: "Standardised EU test procedures should be developed for additional vehicle categories in order to improve comparability and transparency of manufacturer data".

Article 10
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 24 months from the date in Article 11 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt these measures, they shall contain a reference to this Directive, or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.¹¹

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 11
Entry into force

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

Article 12
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

¹¹ Recital 20 will be amended as follows: "In accordance with point 34 of the Interinstitutional Agreement on better law-making, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and make them public."

**Data for the calculation of external lifetime costs of road transport vehicles for the purpose of
this Directive**Table 1: Energy content of motor fuels

Fuel	Energy content
Diesel	36 MJ/litre
Petrol	32 MJ/litre
Natural Gas/Biogas	33 - 38 MJ/Nm ³
LPG (liquefied petroleum gas)	24 MJ/litre
Ethanol	21 MJ/litre
Biodiesel	33 MJ/litre
Emulsion fuel	32 MJ/litre
Hydrogen	11 MJ/Nm ³

Table 2: Cost for emissions in road transport (in 2007 prices):

CO₂	NO_x	NMHC	Particulate Matter
2 €cents/kg	0.44 €cents/g	0.1 €cents/g	8.7 €cents/g

Table 3: Lifetime mileage of road transport vehicles

Vehicle category (M and N categories as defined in Directive 2007/46/EC)	Lifetime mileage
Passenger cars (M1)	200 000 km
Light commercial vehicles (N1)	250 000 km
Heavy goods vehicles (N2, N3)	1 000 000 km
Buses (M2, M3)	800 000 km