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12 July 2001

## **\*\*\*I** **REPORT**

on the proposal for a European Parliament and Council regulation amending Protocol No 9 to the Act of Accession of Austria, Finland and Sweden as regards the system of ecopoints for heavy goods vehicles transiting through Austria  
(COM(2000) 862 – C5-0769/2000 – 2000/0361(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Hannes Swoboda

Draftsman of the opinion(\*)  
Hans Kronberger, Committee on the Environment, Public Health and Consumer Policy  
(\*) Hughes procedure

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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(\*) Hughes procedure

## PROCEDURAL PAGE

By letter of 29 December 2000 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 71 of the EC Treaty, the proposal for a European Parliament and Council regulation amending Protocol No 9 to the Act of Accession of Austria, Finland and Sweden as regards the system of ecopoints for heavy goods vehicles transiting through Austria (COM(2000) 862 - 2000/0361 (COD)).

At the sitting of 15 March 2001 the President of Parliament announced that she had referred the proposal to the Committee on Regional Policy, Transport and Tourism as the committee responsible and the Committee on the Environment, Public Health and Consumer Policy for its opinion (C5-0769/2000), and that the Committee on the Environment, Public Health and Consumer Policy, which had been asked for its opinion, would be involved in drawing up the report, under the Hughes procedure.

The Committee on Regional Policy, Transport and Tourism appointed Hannes Swoboda rapporteur at its meeting of 20 March 2001.

It considered the Commission proposal and draft report at its meeting of 20 June and 10 July 2001.

At the latter meeting it adopted the draft legislative resolution by 28 votes to 26, with no abstentions.

The following were present for the vote: Konstantinos Hatzidakis , chairman; Emmanouil Mastorakis, Rijk van Dam and Helmuth Markov, vice-chairmen; Hannes Swoboda, rapporteur; Sir Robert Atkins, Emmanouil Bakopoulos, Carlos Bautista Ojeda (for Camilo Nogueira Román pursuant to Rule 153(2)), Rolf Berend, Theodorus J.J. Bouwman, Philip Charles Bradbourn, Felipe Camisón Asensio, Carmen Cerdeira Morterero, Luigi Cesaro, Luigi Cocilovo (for Francis Decourrière), Danielle Darras, Garrelt Duin, Alain Esclopé, Giovanni Claudio Fava, Markus Ferber (for Dana Rosemary Scallon), Jacqueline Foster, Mathieu J.H. Grosch, Ewa Hedkvist Petersen, Mary Honeyball, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Dieter-Lebrecht Koch, Giorgio Lisi, Sérgio Marques, Erik Meijer, Rosa Miguélez Ramos, Francesco Musotto, Juan Ojeda Sanz, Josu Ortuondo Larrea, Karla M.H. Peijs, Wilhelm Ernst Piecyk, Giovanni Pittella (for John Hume), Samuli Pohjamo, Adriana Poli Bortone, Alonso José Puerta, Reinhard Rack, Carlos Ripoll i Martínez Bedoya, Isidoro Sánchez García, Gilles Savary, Ingo Schmitt, Elisabeth Schroedter (for Reinhold Messner), Brian Simpson, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Margie Sudre, Ari Vatanen, Demetrio Volcic and Mark Francis Watts.

The opinion of the Committee on the Environment, Public Health and Consumer Policy is attached.

The report was tabled on 12 July 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## LEGISLATIVE PROPOSAL

**Proposal for a European Parliament and Council regulation amending Protocol No 9 to the Act of Accession of Austria, Finland and Sweden as regards the system of ecopoints for heavy goods vehicles transiting through Austria (COM(2000) 862 – C5-0769/2000 – 2000/0361(COD))**

The proposal is rejected.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the proposal for a European Parliament and Council regulation amending Protocol No 9 to the Act of Accession of Austria, Finland and Sweden as regards the system of ecopoints for heavy goods vehicles transiting through Austria (COM(2000) 862 – C5-0769/2000 – 2000/0361(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2000) 862)<sup>1</sup>,
  - having regard to Article 251(2) and Article 71 of the EC Treaty, and also the Act of Accession of Austria, Finland and Sweden<sup>2</sup>, and in particular Article 11(4) of Protocol No 9 thereto, pursuant to which the Commission submitted the proposal to Parliament (C5-0769/2000),
  - having regard to Rule 67 of its Rules of Procedure
  - having regard to the report of the Committee on Regional Policy, Transport and Tourism and the opinions of the Committee on the Environment, Public Health and Consumer Policy (A5-0266/2000),
1. Rejects the Commission proposal;
  2. Calls on the Commission to withdraw its proposal;
- 2a. Asks the Commission to assess the impact of the ecopoints system on competition between Member States.
  - 2b. Calls on the Commission to put forward even now a coherent transport strategy for the whole Alpine region from 2004 onwards which will give due consideration not only to the transport requirements but also to the environmental requirements of the Alpine region;

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<sup>1</sup> OJ C 120, 24.4.2001, p. 283

<sup>2</sup> OJ C 241, 29.8.1994, p. 1

- 2c. Calls on the Commission to retain an upper ceiling on the number of journeys until the ecopoints system expires at the end of 2003, but at the same time to ensure that the number of journeys is calculated correctly, and to make provision for a more appropriate system of sanctions than the existing one for cases where the upper ceiling is exceeded;
3. Instructs its President to forward its position to the Council and Commission.

## EXPLANATORY STATEMENT

### I. Background

By reason of its geographical situation, Austria finds itself on a main North-South, and also increasingly on an East-West, transit route. That, together with its internal Alpine geography, which means that transit traffic must partly be routed through narrow alpine valleys with negative effects on the environment, remains the background for the creation of the ecopoints system set out in Protocol No 9 on road and rail transport and on combined transport in Austria. This protocol expires at the end of 2003.

Under the ecopoints system, a given number of ecopoints has to be 'paid' in respect of every transit journey by a heavy goods vehicle through Austria, with each ecopoint corresponding to the vehicle's emission of 1 g of NO<sub>x</sub> per kWh. For example a lorry emitting 8 g of NO<sub>x</sub> per kWh on a transit journey through Austria would be charged 8 points.

The ecopoints are allocated to the Member States on a fixed scale set out in Regulation 3637/92, since amended by Regulation 3298/94.

Until April 1998 the system was based entirely on paper ecopoints. Since 1 April 1998 a telematics-based electronic system has been in use, though paper ecopoints are still used to a small extent.

### II. Commission proposal

Article 11 of the Protocol states that a scientific study must be carried out by 1 January 2001 to ascertain the extent to which the aim of the ecopoints system, namely a 60% reduction in total NO<sub>x</sub> emissions from heavy vehicles in transit through Austria, has been achieved. If the objective had been achieved, the ecopoints system would have ceased to apply on 1 January 2001.

The Commission report, drawn up in cooperation with the European Environment Agency, has come to the following conclusions:

The objective of a 60% reduction in total NO<sub>x</sub> emissions in heavy vehicle transit through Austria since 1 January 1992 has not yet quite been attained. However, in the Commission's view the ecopoints system 'has had a very positive effect on encouraging road hauliers with lorries registered in the EU to use environmentally friendly lorries to transit Austria'. On the basis of this positive experience the Commission will examine, on the expiry of the ecopoints system, how the environmental improvements resulting from the application of the system can be made permanent.

The Commission further criticises the fact that the ecopoint system contains some inconsistencies, though these were already known about when Protocol No 9 was concluded, and calls for the upper ceiling on the number of lorry journeys (the '108% clause') to be dropped.

### III. Rapporteur's view

Alongside the reduction of NO<sub>x</sub> emissions, Protocol No 9 (the accession protocol) also had the objective of imposing a quantitative ceiling of lorry transit traffic, since, as this Commission report stresses, certain environmental impacts such as noise pollution are dependent on the number of journeys. This is particularly important given that 'the means of reducing the noise of the motor and drive train of lorries are now largely exhausted'. The Commission report also highlights particular pollution-amplifying effects of alpine valleys.

These facts, which the Commission itself notes, are contradicted by its call for the dropping of the 108% clause as a quantitative ceiling on transit journeys. The 108% clause was from the outset an essential part of the ecopoints system, and sought to restrict certain environmental impact factors over and above NO<sub>x</sub> emissions, such as noise, road safety risks etc.

Accordingly the European Court of Justice found on 23 February 2001 [Case C-445/00R1] that Protocol No 9 (the accession protocol) is also intended to achieve a limitation on the number of transit journeys, and that an increase in such journeys should be regarded as a disturbance to be avoided.

The Commission has already attempted to evade the provisions of Protocol No 9 by spreading out the reduction of the total number of ecopoints over three years, and is now seeking to do away with the 108% clause in the protocol altogether. Unlike in the case of Article 11(4), the Commission is not offering any alternative of equal value, and a substantial part of Protocol No 9 is thus being unilaterally repealed.

There are also some legal objections to the Commission proposal, since it is based on Article 11(4) of the Protocol, even though that paragraph targeted Council decisions aimed at a lasting solution to the environmental problems caused by transit journeys.

In view of the statement in this Commission report to the effect that the objectives of Protocol No 9 have not yet been achieved, and of the environmentally sensitive situation in many areas of Austria where the trend is towards more transit journeys, the Commission should – as was originally provided - submit proposals, before the expiry of the provisions of the accession protocol, for improved and comprehensive traffic solutions in the interest of the environment in the Alps and neighbouring regions. The system of rules of Protocol No 9, which is indeed incomplete and only partially effective, will not be improved by the deletion of individual provisions, but only made more unsatisfactory.

The proposal to do away with a significant component of the law as it stands, which is in any case only in force until 31 December 2003, is rejected on grounds of substance and form.



20 June 2001

## **OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY**

for the Committee on Regional Policy, Transport and Tourism

on the proposal for a Regulation of the European Parliament and the Council amending Protocol No 9 to the Act of Accession of Austria, Finland and Sweden as regards the system of ecopoints for heavy goods vehicles transiting through Austria (COM(2000) 862 – C5-0769/2000 – 2000/0361 (COD))

Draftsman: Hans Kronberger\*

(\* ) Hughes procedure

### **PROCEDURE**

The Committee on the Environment, Public Health and Consumer Policy appointed Hans Kronberger draftsman at its meeting of 11 April 2001.

It considered the draft opinion at its meeting of 18 June 2001.

At the latter/last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Caroline F. Jackson, chairman; Alexander de Roo, vice-chairman; Hans Kronberger, draftsman; Hans Blokland, David Robert Bowe, Carlo Fatuzzo (for Per-Arne Arvidsson), Jim Fitzsimons, Marialiese Flemming, Anneli Hulthén, Christa Klaß, Giorgio Lisi (for María del Pilar Ayuso González), Minerva Melpomeni Malliori, Rosemarie Müller, Riitta Myller, Karin Scheele, Horst Schnellhardt, Robert William Sturdy (for John Bowis), Charles Tannock (for Martin Callanan) and Phillip Whitehead.

## SHORT JUSTIFICATION

Protocol No 9 of the Act of Accession, which covers road, rail and combined transport operation in Austria, was signed by the European Union and Austria on 2 May 1992 and entered into force on 1 January 1995 and is thus part of the *acquis communautaire*. The objective of the ecopoint system laid down in Protocol No 9 is to reduce by 60% the total of NO<sub>x</sub> emissions from heavy goods vehicles crossing Austria between 1 January 1992 and 31 December 2003. Article 6 of the Treaty establishing the European Communities stipulates that environmental protection requirements must be integrated into the definition and implementation of Community policies and measures. As a large proportion of the traffic transiting Austria crosses the ecologically particularly sensitive Alpine region and the levels of pollution and noise to which the local environment and population are subjected have extremely negative consequences owing to morphological and meteorological conditions, it is important to reduce pollution from HGVs on transit trips. In addition, there is likely to be a huge increase in transit traffic in the Danube corridor as a result of the forthcoming enlargement of the European Union. The Commission proposal notes that the objective of reducing pollution from HGVs transiting Austria on a sustainable basis, as laid down in Protocol No 9, has not yet been achieved. In actual fact, NO<sub>x</sub> emissions from HGVs transiting the country on the main transit route, the Inn Valley-Brenner route, increased by 16% between 1993 and 2000, as shown in Tables 13 and 14 of the Commission proposal. At the measuring station at Vomp on the A12 motorway, the EU limit value for NO<sub>2</sub> of 40 µg/m<sup>3</sup> air, including the tolerance margin, is continuously exceeded, and there is a consistent increase in NO<sub>2</sub> concentrations. No other measuring stations on the Brenner route record reductions in NO<sub>x</sub> concentrations, either. In the Inn Valley, it is even likely that the proportion of NO<sub>x</sub> emissions attributable to transit traffic will gradually rise to 40% by the end of the decade, whilst in the Wipp Valley (which the proposal wrongly refers to as the Brenner Valley), transit traffic is responsible for two thirds of NO<sub>x</sub> emissions, as confirmed in the proposal. As Tables 14 and 15 indicate, NO<sub>x</sub> emissions in the Inn Valley are not increasing because HGVs on trips within Austria, and not using the ecopoint scheme, emit more NO<sub>x</sub> than HGVs in transit. Moreover, the number of transit trips through Austria increased year by year between the introduction of the ecopoint system in 1993 and 2000, by a total of 580 188<sup>1</sup>. This 52% increase has meant that, despite technical improvements to individual vehicles, the desired reduction in overall pollution has not been achieved. The 55.7% improvement in emissions cited by the Commission during the lifetime of the ecopoint system is based only on average values and not the actual trends in pollution along transit routes. Incorrect base figures are also responsible for the fact that the reduction in ecopoints provided for in the Protocol does not correspond to any equivalent reduction in NO<sub>x</sub> emissions. As the increase in goods traffic is a key contributory factor in the increase in greenhouse gases, a quantitative limit on transit trips by HGVs is needed, at the same time as technical improvements, in order to achieve the objective of reducing pollution on a sustainable basis. The 108% clause contained in Protocol No 9 provides for a quantitative limit on the number of transit trips through Austria and is a *sine qua non* for achieving the objective. Deleting the 108% clause without replacing it with something else would lead to a lifting of the limit on the number of transit trips laid down in Protocol No 9 and hence clearly contravene the primary law objectives of the Transit Protocol. Attention should be drawn here to the decision of the President of the European Court of Justice of 23 February 2001 concerning suspension of the application of the Council

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<sup>1</sup> Transit trips by lorries using ecopoints 1993: 1 116 566; transit trips by lorries using ecopoints 2000: 1 696 754.

Regulation amending the system of ecopoints for heavy goods vehicles transiting through Austria<sup>1</sup>. Revocation of the 108% clause does not offer an incentive to develop HGVs with the lowest possible exhaust emissions, nor does it ensure equivalent protection for people and the environment within the meaning of Article 11(4) of the Transit Protocol. The Commission proposal is therefore rejected. The Commission should present a new proposal to Parliament and the Council which is aimed at finding a pan-European solution, on a sustainable basis, to the problems of transit traffic, enters into force before the transit treaty expires in 2003 and is capable of ensuring, in a sustainable manner, at least the level of reduction in pollution envisaged by the ecopoint scheme.

## CONCLUSIONS

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following amendment in its report:

**Proposal for a Regulation of the European Parliament and the Council amending Protocol No 9 to the Act of Accession of Austria, Finland and Sweden as regards the system of ecopoints for heavy goods vehicles transiting through Austria**

**COM(2000) 862 – C5-0769/2000 – 2000/0361 (COD)**

The proposal is rejected.

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<sup>1</sup> C-445/00