Regulation (EC) No 2327/2003 of the European Parliament and of the Council of 22 December 2003 establishing a transitional points system applicable to heavy goods vehicles travelling through Austria for 2004 within the framework of a sustainable transport policy

REGULATION (EC) No 2327/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1) thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the opinion of the European Economic and Social Committee[(2)],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(3)], in the light of the joint text approved by the Conciliation Committee on 25 November 2003,

Whereas:

(1) Article 11(2)(a) of Protocol 9 to the 1994 Act of Accession[(4)] stipulates that the ecopoint system will lapse on 31 December 2003.

(2) Paragraph 58 of the conclusions of the Laeken European Council of 14 and 15 December 2001 requested that the ecopoint system be extended as a temporary solution. This extension is in keeping with policy on environmental protection in vulnerable areas such as the Alpine region. Paragraph 35 of the conclusions of the Copenhagen European Council of 12 and 13 December 2002 requested the Council to adopt, before the end of 2002, a Regulation on the interim solution for the transit of heavy goods vehicles through Austria 2004 to 2006.

(3) This measure is required pending adoption of the framework proposal on charging for the use of infrastructure, as set out in the White Paper on European transport policy for 2010 which the Commission has declared it intends to present in 2003.

(4) This measure is also justified by the need to protect the environment from the consequences of pollution caused by the transit of very high numbers of heavy goods vehicles.

(5) The European Environment Agency notes that enlargement of the European Union is likely to result in a huge increase in transit traffic. The transitional points system

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applicable to heavy goods vehicles travelling through Austria should therefore be extended with a view to enlargement to include the acceding countries.

(6) The Convention on the protection of the Alps (Alpine Convention), signed and approved by the European Community[(5)], lays down various rules to reduce heavy goods traffic in the Alpine area. In particular, it provides that the volume of and dangers posed by intra-Alpine and transalpine traffic are to be reduced to a level which is not harmful to humans, animals and plants and their habitats, by switching more traffic, in particular freight traffic, to the railways in particular by providing appropriate infrastructure and incentives complying with market principles, without discrimination on grounds of nationality.

(7) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(6)].

(8) It is essential to find non-discriminatory solutions to reconcile the obligations deriving from the Treaty (including Articles 6, 51(1) and 71), for instance as regards free movement of services and goods and protection of the environment.

(9) A transitional points system should therefore be established for the year 2004,

HAVE ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation the following definitions shall apply:

(a) 'vehicle' means vehicle as defined in Article 2 of Council Regulation (EEC) No 881/92 of 26 March 1992 on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States[(7)];

(b) 'international carriage' means international carriage as defined in Article 2 of Regulation (EEC) No 881/92;

(c) 'transit traffic through Austria' means traffic through Austrian territory from a point of departure to a point of arrival, both of which lie outside Austria;

(d) 'heavy goods vehicle' means all motor vehicles with a maximum authorised weight of more than 7,5 tonnes registered in a Member State and designed for the transport of freight and all trailer or semi-trailer combinations with a maximum authorised weight of more than 7,5 tonnes drawn by a motor vehicle with a maximum authorised vehicle weight not exceeding 7,5 tonnes registered in a Member State;

(e) 'transit of goods by road through Austria' means transit traffic of heavy goods vehicles through Austria, whether such vehicles are loaded or empty;

(f) 'bilateral journeys' means international journeys on routes carried out by a given vehicle where the point of departure or point of arrival is located in Austria and the respective point of arrival or point of departure is located in another Member State and where unloaded journeys are carried out in conjunction with these journeys.

Article 2

This Regulation shall apply to the international carriage of goods by road on journeys carried out within the territory of the Community. The transitional points system implies no direct limitation in the number of transits through Austria.

Article 3

1 For journeys which involve transit of goods by road through Austria, the regime established for journeys on own account and for journeys for hire or reward under the First Council Directive on the establishment of common rules for certain types of carriage of goods by road of 23 July 1962[8] and Regulation (EEC) No 881/92 shall apply subject to the provisions of this Article.

2 From 1 January 2004 to 31 December 2004, in order to encourage the use of environment-friendly heavy goods vehicles for transit traffic through Austria the following provisions shall apply:

a the transit of heavy goods vehicles which, otherwise, would use five points or less shall not be subject to the transitional points system;

b the transit of heavy goods vehicles using six, seven or eight points shall be subject to the transitional points system[9];

c the transit of heavy goods vehicles using more than eight points shall be prohibited, with the exception of the transit of such heavy goods vehicles registered in Greece and of the transit of certain highly specialised vehicles of high cost and with a long economic lifespan;

d the total NO_x emissions from heavy goods vehicles crossing Austria in transit shall be set according to the values given for the year concerned in Annex I;

e the value of the total NO_x emissions attributable to heavy goods vehicles shall be determined on the basis of the former ecopoint system as laid down in Protocol 9 to the 1994 Act of Accession. Under that system, any heavy goods vehicle crossing Austria in transit shall require a number of points equivalent to its NO_x emissions (authorised under the conformity of production (COP) value or type-approval value). The method of calculation and administration of such points is described in Annex II;

f Austria shall issue and make available in good time the points required for the administration of the transitional points system, pursuant to Annex II, for heavy goods vehicles crossing Austria in transit;

g the annual total quota for NO_x emissions is given in Annex I and shall be managed and distributed among Member States by the Commission in accordance with the same principles as those applicable to the ecopoint system in 2003, pursuant to the provisions of Commission Regulation (EC) No 3298/94[10];

h the reallocation of points of the Community reserve shall be weighted according to the criteria set out in Article 8(2) of Regulation (EC) 3298/94 and, more particularly, according to the actual use made of the points allocated to Member States as well as to the specific needs of hauliers transiting through Austria on the route Lindau-Bregenz-St. Margrethen (Hörbranz-Transit).

3 If the 'Eurovignette' proposal on charging for the use of infrastructure is not adopted by 31 December 2004, all terms of paragraph 2 shall be extended for one further year, and, if that proposal is not adopted by 31 December 2005, for a second year at the most[11]. After 2006, no transitional points system shall be applied.

4 The Commission shall manage the transitional points system in accordance with the applicable provisions of Regulation (EC) No 3298/94. The Commission, acting in accordance

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with the procedure referred to in Article 5(2), shall adopt, if necessary, further measures concerning the procedures relating to the transitional points system, the distribution of points and technical issues concerning the application of this Article.

Article 4

1 As long as the provisions of Article 3(2) and, when appropriate, of Article 3(3) apply, the Member States, under their mutual cooperation arrangements, shall take any necessary measures compatible with the Treaty against misuse of the transitional points system.

2 The decisions of the Commission adopted pursuant to Article 5 shall be consistent with a sustainable transport policy devised for the Alpine region as a whole.

3 Hauliers with a Community authorisation issued by the competent authorities in Austria shall not be entitled to carry goods on international journeys where neither loading nor unloading takes place in Austria. All such journeys involving transit through Austria shall, however, be subject to the provisions of Article 3.

4 To the extent necessary, any monitoring methods including electronic systems relating to the implementation of Article 3 shall be decided in accordance with the procedure referred to in Article 5(2).

Article 5

1 The Commission shall be assisted by a committee.

2 Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3 The Committee shall adopt its Rules of Procedure.

Article 6

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.