

Szabolcs Schmidt
Head of Unit Land transport policy
DG Energy and Transport
European Commission
1049 Brussels

Brussels, 16 July 2009

Dear Mr. Schmidt,

We feel the urgency to raise our concern regarding the transport bans imposed by the Tyrol local authorities on the A12 motorway on the lower Inn Valley between Kufstein (km 6) and Zirl (km 90) for vehicles over 7.5 tones. Both driving bans: sectoral and night bans are unjustified and have disastrous consequences for companies operating in this geographical area.

The Finished Vehicle Logistics sector directly employs around 66,000 people in Europe with 167,000 indirect and induced employees. In 2008, it contributed to the European GDP with 16 billion euro of direct turnover and generated a global turnover in excess of 40 billion euro. Many companies in the vehicle logistics sector, mainly small and medium sized enterprises, are currently struggling for survival and a substantial number has already gone out of business. For many of our 90 European members, the A12 motorway is an important international route they use frequently and for the Austrian and Italian members this is their domestic market. The driving bans in the Tyrol area add an additional burden to the already struggling industry.

Sectoral ban

The first sectoral ban has been imposed on the 2 of May 2008 and restricts the circulation of trucks which transport waste, stones, soil and spoil. From 1 January 2009 the sectoral ban extended towards goods products such as log, wood, and cork and directly relevant for us motor vehicles and trailers. Despite the opposition of the European Commission and the judgment delivered by the Court of Justice in 2005 for a similar measure, which concluded that sectoral bans are in breach of the principle of free movement of goods enshrined in the EU Treaty, the Tyrol government continues with the bans and at the end of June this year issued a new decree (Verordnung vom 23. Juni 2009, LGBI. Nr. 49/2009) which bans from 1 of July the transport of further product groups. The final ban is envisaged for 1 of July 2010.

The sector ban not only breaches the principle of free movement of goods, but also is completely illogical and unjustified, because it applies to the heavy duty vehicles carrying the mentioned goods, irrespective of the trucks' emissions levels. We find it

very difficult to understand how the type of good carried can influence the level of air quality.

Night ban

The sector is faced with night bans already since 2003. The first night ban on A12 was imposed in winter 2003 (from 1.01 to 31.03.2003) as a result of the exceeding of the allowed air pollution levels in the measure point Vomp/Raststätte A12. The most recent night ban dates from October 2008 and in our view is completely unjustifiable.

The allowed air pollution level, referred to by Tyrol government, is established according to the Air Emissions Protection law (Immissionsschutzgesetz-Luft (IG-L)) which transposes EU Directive on air monitoring. The level of air pollution is measured during half an hour intervals each day. The first figure in the table below shows how many times during each year, the allowed level of air pollution in the air was exceeded as a result of half an hour intervals measures each day. The second figure in the table below shows the maximum values of air pollution in the air registered. The legally allowed value for air pollution during the half an hour interval is 200 µg/m³.

Year	Number of times	Highest value
1999	1	
2000	0	
2001	0	
2002	0	
2003	4	
2004	3	
2005	33	232
2006	167+6	268
2007	1	202
2008	2	220 (the second value was 201 only slightly exceeding the limit)

Source: Reports on air quality 1999-2008, <http://www.tirol.gv.at/themen/umwelt/luft/luft-jahresberichte>

The figures above show that since year 2007 the allowed nitrogen oxide limit in the air was exceeded only once or twice within the recent years (2007 and 2008) and therefore this calls not for further restrictions, but rather relaxation of driving bans as compared with the previous years.

Additionally, although not quoted here, the mentioned report shows also that the allowed level of air pollution within the half hours intervals took place either during the morning or evening hours. In order to reduce the amount of air pollution in the air, the driving ban can only be effective if it takes place either before or during the half an hour interval during which the higher level of air pollution was recorded. Therefore if the level has been reduced in the early hours of afternoon from 15.00 to 15.30, the driving ban would only make sense if it was introduced before or during this time.

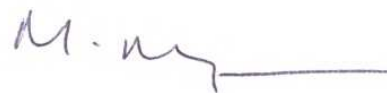
In this context the argument of the Tyrol government that driving bans should be introduced at night when the times that the allowed values were exceeded were either in the morning or evening does not make sense and the effectiveness of such bans is questionable.

In conclusion we find it unacceptable that Community rules are in such an open and consistent way violated and appeal to the European Commission to exert its authority over the Tyrol government. The imposed bans are disproportionate measures with a limited effect on the air quality and they need to be stopped. For the finished vehicle logistics sector which currently struggles to survive, the current bans are very burdensome and if no action is taken may be a proverbial straw that broke the camel's back.

Yours faithfully,



Costantino Baldissara
President



Mark Morgan
Executive Director

Copy sent to: Joanna Szychowska, Member of Vice-President Gunter Verheugen's
Cabinet
Florian Schmidt, DG Enterprise, Unit Regulatory Policy, Application of articles 28-30