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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	COUNCIL DECISION authorising the opening of negotiations on the revision of the Transport Community Treaty

DIRECTIVES FOR THE NEGOTIATION OF AN INTERNATIONAL AGREEMENT

ON THE REVISION OF THE TRANSPORT COMMUNITY TREATY

SCOPE OF THE ENVISAGED AGREEMENT

The Treaty establishing the Transport Community (TCT) furthers the development of the transport network between the EU and the Republic of Albania, Bosnia and Herzegovina, the Republic of North Macedonia, Kosovo*, Montenegro and the Republic of Serbia (hereinafter referred to as the South East European Parties) in the field of road, rail, inland waterway and maritime transport, and is based on the progressive integration of transport markets of the South East European Parties into the EU transport market on the basis of the relevant provisions of the EU *acquis*. The general objective of the envisaged amendments is to support and strengthen the legislative alignment of the South East European Parties, but also to improve and clarify certain operational aspects that have been identified in its application.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence.

The amendments should also enable the full membership of Ukraine and the Republic of Moldova in the TCT. Further, to ensure their full integration in the TCT, the Commission should negotiate annexes on transitional arrangements, as referred to in Article 40 of the TCT, to be applicable to both of these countries upon their accession.

1. NEGOTIATING OBJECTIVES

The Commission should, in the course of the negotiations, aim to achieve the objectives set out in detail below.

- (1) The general objective of the amendments should be to support and strengthen the legislative alignment of all contracting parties with the relevant EU acquis, in view of their respective European perspectives, and also boost the progressive integration of their transport markets into the EU transport market.
- (2) The amendments should also enable the full membership of the observing participants from Ukraine and the Republic of Moldova in the Transport Community Treaty. Further, to ensure their full integration in the TCT, the Commission should negotiate annexes on transitional arrangements, as referred to in Article 40 of the TCT, to be applicable to both of these countries upon their accession. In addition, the Commission should be able to address potential demands as regards the substance of the TCT from Ukraine and the Republic of Moldova.
- (3) In this regard, the amendments might also comprise a review of the provisions that refer specifically to the Western Balkans, so that these provisions also refer, where relevant, to the countries mentioned above, as well as a review of the budgetary burden-sharing formula set out in Annex V to the Treaty to account for the expanded number of contracting parties and ensure a continued equitable distribution of the contributions.
- (4) The amendments aiming to boost legislative alignment should comprise the following additional aspects:
 - (a) reinforce the binding commitments on acquis alignment contained in the TCT by providing for sanctions (such as suspending voting rights) in cases of serious or persistent breaches;

- (b) recognising and institutionalising the current and future TCT action plans on supporting legislative alignment;
 - (c) strengthening and better focusing the role of the Permanent Secretariat under Article 28 to better support the European perspectives of the South East European Parties; and
 - (d) clarifying and developing the rules on time limits to make the relevant provisions of the legislation set out in Annex I to the TCT binding on the South East European Parties, in particular as regards Article 3(2)(b).
- (5) The amendments should ensure that Annex I to the TCT is updated, notably to add EU acquis pre-dating the signature of the TCT and to take account of relevant policy developments. If appropriate, this could involve including new legislation in the field of transport or associated areas mentioned in that Annex.
- (6) The amendments should update, where necessary, the provisions of Articles 8 and 9 concerning the development of the indicative trans-European transport network (TEN-T) extension to the South East European Parties and the corresponding five-year rolling work plan, to account for policy developments in the TEN-T legislative framework.
- (7) The amendments should ensure a less cumbersome way of consulting experts from the South East European Parties concerning the obligations currently set out in point 4 of Annex II to the TCT.
- (8) The amendments should reflect agreements already reached concerning the official denomination of the Republic of North Macedonia.
- (9) The Commission should also explore the need to adapt the currently existing bilateral protocols where relevant, for example with regard to the specific situation of landlocked parties and current provisions on maritime transport.

- (10) The amendments should revisit the rules on the application of the case-law of the Court of Justice, notably to cover also case-law delivered after the date of signature of the TCT.
- (11) The amendments might also include minor technical issues not subsumed within any of the previous negotiating directives (e.g. existing typos, certain incorrect or outdated references).

2. CONDUCT OF THE NEGOTIATIONS

The Commission will conduct the negotiations in pursuance of these directives and will ensure proper coordination with ongoing and future negotiations in other relevant areas.
