



Brussels, 11 July 2022
(OR. en)

10998/22

LIMITE

TRANS 469
COWEB 66
ELARG 56

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	EU-Western Balkans Transport Community: Revision of Annex I to the Transport Community Treaty - Consultation by the Commission = Draft response

Through a letter received 10 June 2022¹, the European Commission services are consulting the Council on the planned second² revision of Annex I to the Transport Community Treaty (TCT). The prior consultation by the Council regarding merely the updating of Union acts follows the procedure set out in Article 2(2) of Council Decision (EU) 2019/32.³ The Commission would later take a Union position in the TCT's Regional Steering Committee, which can update the Union *acquis* listed in the TCT as a reference for the partners' alignment process.

The Commission presented the request in the meeting of the Working Group on Transport - Intermodal Questions and Networks on 22 June 2022. Delegations were invited to send written comments by 30 June 2022.

Based on interventions in the Working Group and delegations' written comments⁴, please find attached a draft response to the consultation, to be examined in the meeting of the Working Group on 15 July 2022 (Annex I). For ease of reference, Annex II contains the Commission's summary document on planned changes. The draft response will be submitted to Coreper and Council for approval, after agreement in the Working Group.

¹ See ST 10173, Annex I.

² First revision: see CM 2693/21.

³ Council Decision (EU) 2019/32 on the Conclusion of the Treaty Establishing the Transport Community, Article 2(2): consultation of the Council by means of a written document.

⁴ See WK 9111/2022 + ADD1 and ADD2.

**Draft Council suggestions regarding the second update of Annex I to the
Transport Community Treaty (Union *acquis*)**

General

From a general point of view, the current Annex I to the TCT contains, on the one hand, a dynamic reference to the latest version of a legislative act, while, on the other hand, in several instances amending legal acts are expressly mentioned. This practice should be harmonised.

ANNEX I.2 - RULES APPLICABLE TO RAIL TRANSPORT**Interoperability**

In this segment of the *acquis*, several acts amending Regulation 1305/2014 are mentioned. In case that this approach will be followed for the update of Annex I, the following act is missing:

Commission Implementing Regulation (EU) 2021/541 of 26 March 2021 amending Regulation (EU) No 1305/2014 as regard the simplification and improvement of data calculation and exchange and the update of the Change Control Management process (OJ L 108, 29.3.2021, p. 19).

ANNEX I.3 - RULES APPLICABLE TO ROAD TRANSPORT**Admission to the occupation of road haulage operator**

Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020 amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012

The text in brackets “(See however Article 4 of Regulation (EU) 2020/1055 on the date of entry into force or application)” may be deleted, as the amending Regulation has in the meantime entered into force.

Tachograph

Council Regulation (EEC) No 3821/85 on recording equipment in road transport:

This Regulation continues to apply, partly, only for certain older equipment, which might be added as information in a footnote.

Enforcement of social legislation

1) Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities

The table refers also to legislation that amends Directive 2006/22/EC. In case this approach is maintained for the update of Annex I, the following Delegated Regulation replacing Annex III on serious infringements should be considered for addition: Commission Regulation (EU) 2016/403 of 18 March 2016 supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator, and amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council (OJ L 74, 19.3.2016, p. 8)

2) Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 ... amending Directive 2006/22/EC as regards enforcement requirements:

The text in brackets “(See however Article 9 of Directive (EU) 2020/1057 on transposition)” may be deleted, as the time for transposition has elapsed.

3) Implementing Regulation 2021/2179 on functionalities of the public interface connected to the Internal Market Information System for posting drivers in the road transport sector:

This Implementing Regulation specifies the functionalities of the public interface connected to the Internal Market Information System (‘IMI’) for the purposes of Article 1(11) of Directive (EU) 2020/1057. Article 1 of Directive (EU) 2020/1057 establishes specific rules as regards certain aspects of Directive 96/71/EC relating to the posting of drivers in the road transport sector and of Directive 2014/67/EU relating to administrative requirements and control measures for the posting of those drivers. Article 1(11) of Directive (EU) 2020/1057 lays down a derogation from the rules contained in Article 9 of Directive 2014/67/EU, aiming at a specific control system for posted drivers.

Annex I to the TCT does not include acts that belong to the Union rules on posting of workers. Therefore, Implementing Regulation 2021/2179 should not be listed.

Roadworthiness/ Roadside inspection

Commission Delegated Directive (EU) 2021/1717 of 9 July 2021 amending Directive 2014/45/EU of the European Parliament and of the Council as regards the updating of certain vehicle category designations and the addition of eCall to the list of test items, methods, reasons for failure and assessment of deficiencies in Annex I and Annex III to that Directive:

In view of ongoing transposition time, the following could be added at the two instances where this Delegated Directive is mentioned: “(See however Article 2 of Commission Delegated Directive (EU) 2021/1717 on Transposition)”

ANNEX I.5 (RULES APPLICABLE TO INLAND WATERWAY TRANSPORT):

Access to the market / access to the profession

Council Directive No 87/540/EEC of 9 November 1987 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation:

This Directive should be maintained in the section „Access to the profession” and not moved to “Access to the market”.

Boatmasters’ certificates

Council Directive 91/672/EEC of 16 December 1991 on the reciprocal recognition of national boatmasters’ certificates for the carriage of goods and passengers by inland waterways:

This Directive was repealed, with effect from 18 January 2022, by Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC; therefore, it should be removed from the section „Boatmasters’ certificates”, and this section may be deleted.

COMMISSION'S NOTE TO THE FILE

N.B. No amendment has been made to the maps of the indicative TEN-T extension to the Western Balkans

List of changes to Annex I to the Treaty establishing the Transport Community**ANNEX I.1 - RULES APPLICABLE TO TRANSPORT INFRASTRUCTURE**

Legal act of the EU	Comment
No further changes to be reflected.	

ANNEX I.2 - RULES APPLICABLE TO RAIL TRANSPORT

Legal act of the EU	Comment
Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (OJ L 172, 17.5.2021, p. 1–52), applicable as of 7 June 2023.	New legal act added to annex I.2
Regulation (EU) 2020/1530 of the European Parliament and of the Council of 21 October 2020 amending Directive (EU) 2016/798, as regards the application of railway safety and interoperability rules within the Channel Fixed Link (OJ L 352, 22.10.2020, p. 1)	New legal act added to annex I.2 amending Directive (EU) 2016/798

Commission Implementing Regulation (EU) 2021/1903 of 29 October 2021 amending Implementing Regulation (EU) 2018/764 on the fees and charges payable to the European Union Agency for Railways and their conditions of payment (OJ L 387, 3.11.2021, p. 126)	New legal act added to annex I.2 amending Commission Implementing Regulation (EU) 2018/764
Commission Implementing Regulation (EU) 2021/2238 of 15 December 2021 amending Implementing Regulation (EU) 2019/773 as regards the phasing out of specific cases for rear end signal (OJ L 450, 16.12.2021, p. 57)	New legal act added to annex I.2 amending Commission Implementing Regulation (EU) 2019/773

ANNEX I.3 - RULES APPLICABLE TO ROAD TRANSPORT

Legal act of the EU	Comment
Decision (EU) 2019/984 of the European Parliament and of the Council of 5 June 2019 amending Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum length for cabs delivering improved aerodynamic performance, energy efficiency and safety performance (OJ L 164, 20.6.2019, p. 30–31).	New legal act added to annex I.3 amending Council Directive 96/53/EC
Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO2 emission performance standards for new heavy-duty vehicles and amending Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC (OJ L 198, 25.7.2019, p. 202–24).(as regards the amendment of Council Directive 96/53/EC only)	New legal act added to annex I.3 amending Council Directive 96/53/EC

Commission Delegated Regulation (EU) 2020/203 of 28 November 2019 on classification of vehicles, obligations of European Electronic Toll Service users, requirements for interoperability constituents and minimum eligibility criteria for notified bodies (OJ L 43, 17.2.2020, p. 41–48)	New legal act added to annex I.3
Commission Implementing Regulation (EU) 2020/204 of 28 November 2019 on detailed obligations of European Electronic Toll Service providers, minimum content of the European Electronic Toll Service domain statement, electronic interfaces, requirements for interoperability constituents and repealing Decision 2009/750/EC (OJ L 43, 17.2.2020, p. 49–62)	New legal act added to annex I.3
Commission Implementing Regulation (EU) 2021/1228 of 16 July 2021 amending Implementing Regulation (EU) 2016/799 as regards the requirements for the construction, testing, installation, operation and repair of smart tachographs and their components (OJ L 273, 30.7.2021, p. 1–140)	New legal act added to annex I.3 amending Commission Implementing Regulation (EU) 2016/799
Commission Implementing Regulation (EU) 2021/2179 of 9 December 2021 on the functionalities of the public interface connected to the Internal Market Information System for posting drivers in the road transport sector (OJ L 443, 10.12.2021, p. 68–72)	New legal act added to annex I.3
Commission Delegated Directive (EU) 2021/1717 of 9 July 2021 amending Directive 2014/45/EU of the European Parliament and of the Council as regards the updating of certain vehicle category designations	New legal act added to annex I.3 amending Directive 2014/45/EU

and the addition of eCall to the list of test items, methods, reasons for failure and assessment of deficiencies in Annex I and Annex III to that Directive (OJ L 342, 27.9.2021, p. 48–51)	
Commission Implementing Regulation (EU) 2019/621 of 17 April 2019 on the technical information necessary for roadworthiness testing of the items to be tested, on the use of the recommended test methods, and establishing detailed rules concerning the data format and the procedures for accessing the relevant technical information (OJ L 108, 23.4.2019, p. 5–28)	New legal act added to annex I.3
Commission Delegated Directive (EU) 2021/1716 of 29 June 2021 amending Directive 2014/47/EU of the European Parliament and of the Council as regards modifications to the vehicle category designations stemming from amendments to the type-approval legislation (OJ L 342, 27.9.2021, p. 45–47)	New legal act added to annex I.3 amending Directive 2014/47/EU
Commission Implementing Regulation (EU) 2017/2205 of 29 November 2017 on detailed rules concerning the procedures for the notification of commercial vehicles with major or dangerous deficiencies identified during a technical roadside inspection (OJ L 314, 30.11.2017, p. 3–11)	New legal act added to annex I.3

ANNEX I.4 - RULES APPLICABLE TO MARITIME TRANSPORT

Legal act of the EU	Comment
No further changes to be reflected.	

ANNEX I.5 - RULES APPLICABLE TO INLAND WATERWAY TRANSPORT

Legal act of the EU	Comment
Council Directive No 87/540/EEC of 9 November 1987 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation (OJ L 322, 12.11.1987, p. 20).	Moved to category access to the market.
Directive (EU) 2021/1233 of the European Parliament and of the Council of 14 July 2021 amending Directive (EU) 2017/2397 as regards the transitional measures for the recognition of third-country certificates (OJ L 274, 30.7.2021, p. 52–54)	New legal act added to annex I.5 amending Directive (EU) 2017/2397
Commission Delegated Regulation (EU) 2022/184 of 22 November 2021 amending Annex IV to Directive (EU) 2017/2397 of the European Parliament and of the Council (OJ L 30, 11.2.2022, p. 3–4)	New legal act added to annex I.5 amending Directive (EU) 2017/2397
Council Directive 91/672/EEC of 16 December 1991 on the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterways (OJ L 373, 31.12.1991, p. 29).	

Council Directive (EC) 96/50 of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community (OJ L 235, 17.9.1996, p. 31).	Repealed by Directive (EU) 2017/2397
Commission Delegated Regulation (EU) 2021/1308 of 28 April 2021 amending Annexes I and II to Directive (EU) 2016/1629 of the European Parliament and of the Council as regards modifying the list of Union inland waterways and the minimum technical requirements applicable to craft C/2021/2853 (OJ L 284, 9.8.2021, p. 1–13)	New legal act added to annex I.5 amending Directive (EU) 2016/1629
Commission Delegated Regulation (EU) 2019/1668 of 26 June 2019 amending Directive (EU) 2016/1629 of the European Parliament and of the Council laying down technical requirements for inland waterway vessels (OJ L 256, 7.10.2019, p. 1).	Repealed by Commission Delegated Regulation (EU) 2021/1308.

ANNEX I.6 - ENVIRONMENT RULES APPLICABLE TO TRANSPORT SECTOR

Legal act of the EU	Comment
Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, (OJ L 20, 26. 1.2010, p. 7).	Change to reflect the fact that Directive 79/409/EEC has been repealed by Directive 2009/147/EC (and not amended, as previously stated).

ANNEX I.7 - PUBLIC PROCUREMENT RULES APPLICABLE TO TRANSPORT SECTOR

Legal act of the EU	Comment
No further changes to be reflected.	