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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	10998/22
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Subject:	Consultation of the Council by the European Commission on the EU position regarding the second revision by the Regional Steering Committee of Annex I to the Treaty establishing the Transport Community - Approval

1. Through a letter received 10 June 2022, the European Commission services consulted the Council on a draft Commission decision on a position to be taken by the European Union in the Regional Steering Committee of the Transport Community concerning the adoption of a decision of a second revision of Annex I to the Treaty establishing the Transport Community. That Annex contains the "Rules applicable to the transport sector and related issues". The Commission launched this consultation in accordance with Article 2 (2) of Council Decision (EU) 2019/392¹, allowing for a simplified EU procedure to prepare decisions within the Transport Community that merely update the *acquis*.
2. Based on that consultation, the Commission would later establish the Union position in the Regional Steering Committee concerning the subject matter, with a view to updating Annex I to the Transport Community Treaty ('TCT') by decision of that Committee.

¹ Council Decision (EU) 2019/392 of 4 March 2019 on the conclusion, on behalf of the European Union, of the Treaty establishing the Transport Community, OJ L 71, 13.3.2019, p. 1.

3. The Working Group on transport - intermodal questions and networks examined the draft Commission decision between 22 June and 15 July 2022. Based on the comments in the working group meeting and on written comments by delegations, a synthesis note containing the elements of a draft Council response was discussed on 15 July 2022.² The Commission representative showed openness towards most of the elements of a draft Council response. He held the view that the old tachograph Regulation (Regulation (EEC) No 3821/85) should be maintained in the list of legislation, although it was repealed in 2014, because it is relevant still for old vehicles. He was reticent to add an information line on transitional rules concerning certain rules pertaining to roadworthiness and roadside inspection, on which one delegation insisted.

4. Another delegation supported the initial intentions of the Commission to include into the list, concerning enforcement of social legislation in road transport, 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. However, as regards this act, it was explained in the group that it implements legislation on posting drivers, and posting rules in general were deliberately not made part of the *acquis* listed in Annex I to the TCT. Therefore, adding posting rules to Annex I to the TCT would require establishing a Union position in Council upon a Commission proposal, rather than applying the simplified procedure under Article 2(2) of Council Decision (EU) 2019/392.

5. The Presidency concluded, reflecting on the explanations given and on the interventions made, that the elements of a draft Council response should be submitted for approval.

6. In view the foregoing, and subject to endorsement by the Permanent Representatives Committee, the Council is invited to approve the consultation document set out in the Annex to this note.

² See doc. ST 10998/22.

**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 TRANSPORTInteroperability

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 TRANSPORTAdmission 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 added to the list as long as the Commission consults Council on a procedure to merely update that Annex.

Roadworthiness

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: “(See however Article 2 of Commission Delegated Directive (EU) 2021/1717 on Transposition)”

Roadside inspection

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

In view of ongoing transposition time, the following could be added: “(See however Article 2 of Commission Delegated Directive (EU) 2021/1716 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.
