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From:	General Secretariat of the Council
To:	Working Party on Transport - Intermodal Questions and Networks
N° prev. doc.:	ST 12250/22
Subject:	Proposal for a Regulation of the European Parliament and of the Council on Union guidelines for the development of the trans-European transport network, amending Regulation (EU) 2021/1153 and Regulation (EU) No 913/2010 and repealing Regulation (EU) 1315/2013 - Comments by Belgium on Section 2 (inland waterway infrastructure)

Delegations will find attached written comments by Belgium on Section 2 (inland waterway infrastructure) of the above proposal as presented in ST 12250/22.

Remarks and amendments proposed by Belgium on the section on IWT infrastructure

SECTION 2

INLAND WATERWAYS TRANSPORT INFRASTRUCTURE

Article 20

Infrastructure components

1. Inland waterways infrastructure shall comprise, in particular:

(a) rivers;

(b) canals;

(c) lakes and lagoons;

(d) related infrastructure such as locks, elevators, bridges, reservoirs and associated flood and drought prevention and mitigation measures which may bring positive effects to inland waterway navigation;

(e) access waterways and last mile connections to multimodal freight terminals connected by inland waterways, in particular in inland and maritime ports;

(f) mooring and rest places;

(g) inland ports, including basic port infrastructure in the form of internal basins, quay walls, berths, jetties, docks, dykes, backfills, platforms, land reclamation and the infrastructure necessary for transport operations within the port area and outside the port area;

(h) associated equipment referred to in paragraph 2;

(i) ICT systems for transport, including RIS;

(j) the connections of the inland ports to the other modes in the trans-European transport network;

(k) infrastructure related to facilities for alternative fuels;

(l) infrastructure necessary for zero waste operations and circular economy measures.

2. Equipment associated with inland waterways may include equipment for the loading and unloading of cargos and storage of goods in inland ports. Associated equipment may include, in particular, propulsion and operating systems which reduce pollution, such as water and air pollution, energy consumption and carbon intensity. It may also include waste reception facilities, shore-side electricity power supply and other alternative fuels infrastructure for supply and generation ~~and used oil collection facilities~~, as well as equipment for ice-breaking, hydrological services and dredging of the fairway, port and port approaches to ensure year-round navigability.

Commented [A1]: Used oil is a waste, so mentioning 'used oil collection facilities' and 'waste reception facilities' is a repition. A waste recpection facility may receive and collect used oil.

3. **In order to** ~~An inland port shall~~ be part of the comprehensive network**, an inland port shall meet** ~~where it meets~~ the following conditions:

(a) it has an annual freight transhipment volume exceeding 500,000 tonnes. The total annual freight transhipment volume shall be based on the latest available three-year average, based on the statistics published by Eurostat;

(b) it is located on the inland waterway network of the trans-European transport network.

Article 21

Transport infrastructure requirements for the comprehensive network

1. Member States shall ensure that inland ports on the comprehensive network, by 31 December 2050:

(a) will be connected with the road or rail infrastructure;

(b) offer at least one multimodal freight terminal open to all operators and users in a non-discriminatory way and which shall apply transparent and non-discriminatory charges;

(c) are equipped with facilities to improve the environmental performance of vessels in ports, ~~such as~~ ~~including~~**which may include** waste reception facilities, degassing facilities, noise reduction measures, measures to reduce air and water pollution.

2. Member States shall ensure that alternative fuels infrastructure is deployed in inland ports in ~~compliance~~ **accordance** with ~~the requirements of~~ Regulation (EU) […] [on the deployment of alternative fuels infrastructure].

Article 22

Transport infrastructure requirements for the core network

1. Member States shall ensure that the inland ports of the core network meet the requirements set out in Article 21(1), points (a) and (b), by 31 December 2030 and in Article 21(1), points (c), by 31 December 2040.

2. Member States shall ensure that the inland waterway network, including connections referred to in Article 20(1), point (e), is maintained to enable efficient, reliable and safe navigation for users by ensuring minimum waterway requirements as laid down in paragraph 3, points (a) and minimum levels of service as laid down in paragraph 3, point (b), (c) and (d). ~~-~~Member States shall~~by~~ preventi~~ng~~ the deterioration of these minimum requirements or any of its defined underlying criteria and the status of the inland waterway network which exceeds these minimum requirements at the date of entry into force of this Regulation (Good Navigation Status). Deterioration due to events such as sedimentation in backwater areas of locks may only be allowed if inland waterway transport is not negatively affected.

Commented [A2]: For a univocal interpretation of the terms 'Good Navigation Status', 'minimum waterway requirements' and 'levels of service', it is important that it is explicitly mentioned to what these terms refer.

Commented [A3]: Good Navigation Status should not only cover the obligation to achieve the minimum requirements, it should also oblige Member States that have achieved a status beyond the minimum requirements to safeguard this status and to ensure their inland waterway network does not deteriorate to a lower status.

3. Member States shall by 31 December 2030 in particular ensure that:

(a) Rivers, canals, lakes, lagoons, inland ports and their access routes provide a navigable channel depth of at least 2.5 m and a minimum height under non-openable

bridges of at least 5.25 m at defined reference water levels, which are exceeded at a defined number of days per year on a statistical average.

The reference water levels shall be established on the basis of the number of days per year on which the actual water level exceeded the specified reference water level**. ~~Subject to the~~** consulting **~~approval of~~** the Member States concerned **~~in accordance with Article 172 TFEU~~**, the Commission shall adopt implementing acts, **~~to be elaborated in close cooperation with such Member States~~**, specifying the reference water levels referred to in the previous subparagraph per river basin **~~corridor, per waterway or per waterway section~~**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).After consultation of the Member States, and if applicable river navigation commissions, concerned, the Commission shall adopt implementing acts in accordance with article 54(1) specifying the reference water levels per waterway and where appropriate per waterway section as well as the number of days per year referred to in paragraph 3 (b), except when river navigation commissions are competent to set binding specifications. When specifying the reference water levels as well as the number of days per year referred to in paragraph 3 (b), the requirements which are set out in international conventions and in agreem~~n~~ents concluded between Member States shall be referred to. Rivers, canals, lagoons and lakes meeting the the minimum specifications of paragraph 3(a) are assigned to a European Transport Corridor.

Commented [A4]: The definition and adoption of waterway infrastructure requirements per European Transport Corridor helps to achieve the envisaged corridor logic of the proposed regulation. The work plans of the European Transport Corridors will be an important reference for long-term investment plans in infrastructure and will be adopted as implementing acts. Therefore all TEN-T waterways should be assigned to a European Transport Corridor to which it geographically belongs. Most inland waterways are already part of a European Transport Corridor

When specifying the reference water levels the Commission shall take into account the requirements which are set out in international conventions**,** ~~and~~ in agreements concluded between Member States**, including in the regulations adopted by the river navigation commissions** set up by such conventions and agreements.

(b) Member States shall publish on a website accessible to the public the number of days per year as referred to in the second subparagraph of this point during which the actual water level exceeds or does not achieve the specified reference water level for navigation channel depth as well as the average waiting times at each lock;

(c) operators of locks shall ensure that locks are operated and maintained in such a way that waiting times are minimised;

(d) rivers, canals, lakes and lagoons are equipped with RIS for all services according to Directive 2005/44/EC[1], so as to guarantee real-time information to users across borders.

[1] Directive 2005/44/EC of the European Parliament and of the Council of 7 September 2005 on harmonised river information services (RIS) on inland waterways in the Community (OJ L 255, 30.9.2005, p.152).

4. At the request of a Member State, in duly justified cases, exemptions from the minimum requirements referred to in paragraph (3), points (a) and (b), **shall**~~may~~ be granted by the Commission per waterway and where appropriate per waterway section by means of implementing acts **on the ground of specific geographical, historical or significant physical constraints, or negative socio-economic cost-benefit analysis or potential negative impacts on environment or biodiversity, or on cultural of patrimonial heritage. Any such request shall be substantiated with sufficient elements. The request for exemptions shall be coordinated and agreed with the neighbouring Member State(s) where applicable. A Member State may request the granting of several exemptions in a single request.**

The Commission shall assess the request in view of the elements provided under the first subparagraph.

The Commission shall inform other Member States of the exemptions granted pursuant to this paragraph. ~~Any request for exemption shall be coordinated and agreed with the neighbouring Member State(s) where applicable~~.

~~Any request for exemption shall be based on a socio-economic cost-benefit analysis, the assessment of specific geographic or significant physical constraints and/or of potential negative impacts on environment and biodiversity.~~

Deterioration of the minimum requirements caused by direct human action or by lack of diligence in the maintenance of the inland waterway network shall not be considered as a case justifying the granting of an exemption.

4a. ~~Member States may be granted an exemption in case of force majeure.~~ **I**n case of force majeure~~,~~ Member States shall rehabilitate the navigability conditions to the previous status as soon as the situation allows for it.

~~Any request for exemption shall be coordinated and agreed with the neighbouring Member State(s) where applicable~~.

5. The work plans, according to article 53 may set out out requirements complementing the minimum requirements established in accordance with paragraph (3), point (a) and (b), second subparagraph, per waterway and where appropriate per waterway section. These requirements may be related to:

(a) complementary parameters for waterways specific for free flowing rivers;

(b) specifications for inland waterway infrastructure;

(c) specifications for infrastructure of inland ports;

(d) appropriate mooring places and services for commercial users;

(e) deployment of alternative energy infrastructure to ensure corridor-wide access to alternative fuels;

(f) requirements for digital applications of the network and automation processes;

(g) resilience of the infrastructure to climate change, natural hazards and humanmade disasters or intentional disruptions;

(h) introduction and promotion of new technologies and innovation for zero carbon energy fuels and propulsion systems;

When specifying these requirements, the work plans shall refer where appropriate to international conventions and agreements concluded between Member States.

~~Commission~~ **~~may adopt guidelines~~** **~~ensuring a coherent approach on the application of the good navigation status in the Union. These guidelines may cover in particular:~~** ~~shall adopt implementing acts setting out requirements complementing the minimum requirements established in accordance with paragraph (3), point (a), second subparagraph, per river basin. These requirements may be related in particular to:~~

~~(a) complementary parameters for waterways specific for free flowing rivers;~~

~~(b) specifications for inland waterway infrastructure;~~

~~(c) specifications for infrastructure of inland ports;~~

~~(d) appropriate mooring places and services for commercial users;~~

Commented [A5]: Instead of laying down the complementary requirements into implementing acts, it proposes to set these out in the corridor working plans. This enables a corridor cooperating mechanism between member States on these complementary requirements.

Commented [A6]: See also DE remarks (wk10180-ad10.en22)

~~(e) deployment of alternative energy infrastructure to ensure corridor-wide access to alternative fuels;~~

~~(f) requirements~~ **use of** ~~for digital applications of the network and automation processes;~~

~~(g) resilience of the infrastructure to climate change, natural hazards and human-made disasters or intentional disruptions;~~

~~(h) introduction and promotion of new technologies and innovation for zero-carbon energy fuels and propulsion systems.~~[2]

~~The implementing act referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 59(3) and shall take into account specific charecteristics of each river basin.~~

~~6. The Commission shall ensure a coherent approach on the application of the good navigation status in the Union and may adopt guidelines thereto. When establishing minimum requirements for paragraphs (e) and (f), the Commission shall ensure that the interoperability between river basins is not compromised.~~ The Commission shall ensure a coherent approach on the application of the good navigation status in the Union and may adopt guidelines thereto. When establishing minimum requirements for paragraphs (e) and (f), the Commission shall ensure that the interoperability between ***European Transport Corridors*** is not compromised.

Article 23

Additional priorities for inland waterway infrastructure development

In the promotion of projects of common interest related to inland waterway infrastructures, and in addition to the general priorities set out in Articles 12 and 13, attention shall be given to the following:

~~[2] The question raised in document WK 10180/2022 ADD 10 concerning Article 22(5) is still under consideration by the Council Legal Service.~~

(a) where appropriate, achieving higher standards for modernising existing waterways and for creating new waterways, in order to meet market demands;

(aa) developing and deploying means to monitor fairway conditions

(b) prevention and mitigation measures against flooding and droughts;

(c) improvement of digitalisation and automation processes, in particular in view of an increased safety, security and sustainability in inland waterway transport, including within urban nodes;

(d) modernisation and expansion of the capacity of the infrastructure, including mooring and rest places and their services, necessary for multimodal transport operations within as well as outside the port area and along the waterway;

(e) promoting and developing measures to improve the environmental performance of inland waterway transport and transport infrastructure, including zero and low emission vessels and measures to mitigate impacts on water bodies and water-dependent biodiversity, in accordance with the applicable requirements under Union law or relevant international agreements.

(f) development and use of shallow- draught inland waterway vessels suited for low water levels.

Commented [A7]: To ensure all member states can provide information on the number of days per year during which the actual water level exceeds or does not achieve the specified reference water level for navigable channel depth, it is important that sufficient monitoring means are in place. The information is important for informed policy making and informing users on the fairway conditions.