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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Transport - Intermodal Questions and Networks
N° prev. doc.:	14156/1/22 REV 1
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

Delegations will find attached a Presidency compromise on Articles 47, 63 and 65 of the above proposal to be discussed at the intermodal transport Working Party on 16 November 2022.

Article 47

1. Member States shall make all possible efforts to ensure that the trans-European transport network is protected against potential risks to security or public order arising from participations of or contributions of any kind by a natural person of a third country or an undertaking of a third country in a project of common interest
2. Without prejudice to ~~Article 6(1) of Regulation (EU) 2019/452~~, **to each Member State having sole responsibility for its national security, as provided for in Article 4(2) TFEU and to the right of each Member State to protect its essential security interests in accordance with Article 346 TFEU**, whenever a Member State considers that the participation of or contribution of any kind by a natural person of a third country or an undertaking of a third country is likely to affect infrastructure on the trans-European transport network on grounds of security or public order, the Member State shall **inform the Commission of any adopted appropriate measures adopted** to mitigate such risk ~~and inform the European Commission~~

Article 63

The provisions relating to railways, and in particular any requirement to connect airports and ports to railways as well as the provisions related to ~~safe and secure parking and~~ multimodal freight terminals shall not apply to Cyprus, Malta and outermost regions for as long as no railway system is established within their territory. **The provisions relating to safe and secure parking shall not apply to those Member States and regions.**

The provisions related to European standard nominal track gauge for rail in Article 16a shall not apply to islands and outermost regions.

Article 65

‘Article 12a

Operational requirements for the Rail Freight Corridors

1. ~~Member States~~ **The management executive board** shall make all the possible efforts to ensure that, by 31 December 2030, the quality of services provided by infrastructure managers to railway undertakings and technical and operational requirements for infrastructure use do not prevent the operational performance of rail freight services along the freight corridors from meeting the following target values:
 - (a) for each internal Union cross-border section, ~~except the ones where a change of track gauge takes place~~, the dwelling time of all freight trains crossing the border does not exceed ~~20~~ 30 minutes on average, **except at the sections where a change of track gauge takes place or where the checks carried out at an internal border where the controls have not yet been lifted on trains in application of point 1.2 of Annex VI of Regulation (EU) 2016/399 do not allow for this time-limit to be complied with.** Dwelling time of a train on a cross-border section means the total additional transit time that can be attributed to the existence of the border crossing, irrespective of procedures or considerations of infrastructural, operational, technical and administrative nature. Dwelling time does not include the time that cannot be attributed to the border crossing, such as operational procedures carried out in facilities located in the proximity of the border crossing but not intrinsically related to it;
 - (b) at least 75% of the freight trains crossing at least one border of a freight corridor arrive at their destination, or at the external Union border if their destination is outside the Union, at

their scheduled time or with a delay of less than 30 minutes by reasons that are attributable to the infrastructure manager(s).

2. Deleted.

Corresponding recital - new recital 30a:

(30a) New operational requirements for the rail freight corridors should apply to ensure a high quality of services. In particular, Member States should make all possible efforts to ensure that the dwelling time of freight trains crossing EU internal borders does not exceed 20 minutes on average and that most trains crossing at least one border of a freight corridor arrive at their destination or at the external Union border at their scheduled time or with a delay of less than 30 minutes. The time-limit for dwelling time should not apply where a change of track gauge takes place. It should not apply either at internal borders where the controls in application of Regulation (EU) 2016/399¹, which imposes in particular to carry out checks on train passengers and on railway staff on passenger and goods trains crossing external borders, have not yet been lifted and where the checks carried on trains in application of that Regulation do not allow for this time-limit to be complied with. Those changes of track gauge and checks on trains may lead to congestion and longer waiting time at the border.

¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) OJ L 77, 23.3.2016, p. 1–52.