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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Transport - Intermodal Questions and Networks
N° prev. doc.:	6454/19
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on streamlining measures for advancing the realisation of the trans-European transport network - Comments by Germany

Delegations will find attached written comments by Germany on the above-mentioned proposal.

**Comments provided by the Federal Government of Germany
on ST 6454/19 of 20 February 2019**

**“Proposal for a Regulation of the European Parliament and of the Council on streamlining
measures for advancing the realisation of the transeuropean transport network”**

General comment:

We would like to thank the Presidency for drafting a compromise proposal. Unfortunately, we cannot support its present wording. Above all, we consider the transfer of rules from Regulation EU No. 347/2013 (TEN Energy) to be not fit for purpose, as the energy sector is structured in a way that is completely different from the transport sector.

Further objections concern the chosen legal form, the scope, a redevelopment of administrative structures requiring efforts and costs, the proposed rules on the prioritisation of projects of common interest and the mandatory time limits. Costs caused by additional monitoring and additional reporting obligations must be avoided.

In several Member States the issue affects different ministries and administrative levels. Thus, this draft, which has encountered very strong reservations in the Member States, cannot be negotiated under a disproportionate pressure of time.

In detail:

Legal form: In the Council Working Party on Intermodal Questions on 15 March 2019, all but one of the Member States that participated in the debate seconded the idea that the draft should have the legal form of a Directive. We strongly support that idea because a Directive would give the Member States the opportunity to more flexibly adapt their own tried and tested rules or to maintain well-functioning systems.

Scope (Art. 1):

In Article 1, the scope is explained in too little detail. Uncertainties with regard to the scope of the Regulation would lead to court cases having to clarify such uncertainties. In addition, it should be

made clear that, as is usually the case for major projects, partial sections (integral components) will be considered independent procedures. *(This clarification could also be included in Article 2 (b)(i).)*

Prioritisation (Art. 3):

Responsibility for prioritisation lies with the Member States. We reject a prioritisation resulting only from the allocation to a TEN core network corridor, as important criteria such as economic viability, the level of traffic-related significance, impacts on the environment or synergies between maintenance planning and expansion planning would not be taken into account. Hence, paragraphs 2 and 3, which constitute encroachments on statutory powers of the Member States, have to be deleted.

Procedure (Art. 5)

Instead of transferring the procedures from Regulation EU No. 347/2013, the chosen wording should allow the Member States to shape their own permit granting procedures within the framework of a Directive.

Permit granting procedure and deadlines (Art. 6)

The permit granting procedures of the authorities have to be clearly separated from the preparation of the application documents by the project promoter. Deadlines for the preparation of applications are dispensable as the project promoters themselves are very interested in quickly starting the planning stage. Preliminary coordination with the authorities is also dispensable (notification, acknowledgement), as project opponents could additionally consider this a predetermination and bias of the authorities.

The authorities' core functions include enabling participation of the public (authorities, affected citizens, stakeholders) and granting all necessary permits. Deadlines set for the authorities are only useful if they are appropriate and flexible in the event of unforeseen incidents. The environmental impact assessment plays a special role in the permit granting procedure because its scope and duration often cannot be predicted in advance. It therefore needs to be appropriately considered in the draft.