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From:	General Secretariat of the Council
To:	Working Party on Shipping
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Subject:	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2005/44/EC on harmonized river information services (RIS) on inland waterways in the Community. - Comments by Austria

Delegations will find attached comments by **Austria** on the above proposal.

Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directive 2005/44/EC on harmonised river information services (RIS) on
inland waterways in the Community

Austrian comments to Doc. ST 6008/24 (COM(2024) 33 final), taking into account
the Presidency Compromise 7938/24

We would like to thank the EC for the initiative and the Presidency for taking up so many points of the first Austrian comments.

However, Austria submits a few more proposals for consequential amendments based on the compromise and would like to remind of some of the remaining points/questions.:

	<p><i>"Port Community System" or "Port Management System"?</i> <i>Article 3 (hf) defines the term "Port Community System". It is unclear whether two different systems are meant. If there are indeed two different systems a definition of "Port Management System" has to be added. If not "Port Management System" has to be replaced with "Port Community System".</i></p>
<p>Article 2</p>	<p>If the compromise proposed by the Presidency is not accepted, we propose to add the following sentence: "For inland waterways and inland ports that are only connected by maritime routes to other inland waterways the Member States can decide whether River Information Services in accordance with this Directive or maritime information services are implemented."</p> <p><i>Explanation:</i> <i>We do not see a necessity to extend the geographical scope to inland waterways and inland ports that are only connected by sea to other inland waterways. Even if e.g. an Austrian company would like to use those waterways, it would need vessels in conformance with the maritime regulations. If the maritime information systems are available on those inland waterways, the vessels could also use those. With regard to proportionality, it would be justified to allow the Member States to decide whether they implement the Maritime Information Services or the River Information Services on those waterways and in those ports.</i> <i>With regard to barely frequented or seasonally accessible waterways, a disproportionate burden could be avoided with an exemption clause.</i></p>
<p>Article 4 par 1</p>	<p>Add "The Commission shall ensure the availability of funding for areas that have been outside of the scope of Directive 2005/44."</p> <p><i>Explanation:</i> <i>Funding should be ensured, so that the inland ports can join, in particular regarding the RIS relevant data provision (data for all terminals including dynamic data for voyage planning) and RIS can be implemented on additional inland waterways of the TEN-T network.</i></p>
<p>Article 4 par 3 (c)</p>	<p>Replace with "enable the competent authorities to receive electronic ship reports of all data that is required by national regulations of Member States of the EU or of third countries connected to the inland waterway network of the EU or by international regulations. In cross-border transport, this data shall be transmitted in full to the</p>

	<p>competent authorities of the neighbouring State and any such transmission shall be completed before arrival of the vessels at the border;”</p> <p><i>Explanation:</i> <i>Experience with the current RIS Directive has shown that some MS do not store reported data that is not required by national law due to Data Protection Regulations. Without storing and forwarding of all received data reporting only once is not possible. Even if the remaining dataset is forwarded to the neighbouring state it does no longer meet the reporting requirements in that State and the skipper has to report again. The RIS Directive has to provide a legal basis for the storing and forwarding of all data that is required by any reporting requirement along the route. See also proposal for a new par 10 in Article 4.</i></p>
Article 4 par 3 (e)	<p>Delete (e) and rename the new (ea) as (e).</p> <p><i>Explanation:</i> <i>According to the amended definition of the ERDMS in Article 3 (he) ERDMS does not contain network data. The obligation of the member states to supply reference data to the ERDMS has therefore to be deleted. ERDMS will only contain real reference data like code lists defined in ES-RIS, HS Codes, UN numbers of dangerous goods and so on. An obligation for each MS to supply the data would mean that the same information has to be provided several times.</i> <i>The supply of network data is already covered by the new (ea) in the Presidency Compromise. (ea) should replace (e).</i></p>
Article 4 par 3 (g)	<p>Delete.</p> <p><i>Explanation:</i> <i>The changes proposed by the Presidency create new problems:</i></p> <ul style="list-style-type: none"> - <i>what does “facilitate that data shall be made available” really mean? It is unclear whether it is still an obligation to make the data available or just a facilitation.</i> - <i>the eFTI platforms have to be provided by the users. Does the obligation to facilitate mean that MS have to provide eFTI platforms?</i> - <i>The consequence of “as soon as these eFTI platforms are operational” is also unclear. Does it mean that there is no obligation for the MS if the eFTI platforms are not operational?</i> - <i>there won’t be ONE eFTI platform, but there can be hundreds of eFTI platforms. When is the condition “as soon as these eFTI platforms are operational” fulfilled? As soon as there is one platform in Europe, one platform in the respective MS or only when every possible user has an operational platform?</i> <p><i>In addition, AT has still serious doubts the eFTI is covered by the scope of the RIS directive and is therefore in favour of deleting (g) completely.</i></p>
Article 4 par 6	<p>To be clarified</p> <p><i>Explanation:</i> <i>Although Austria in principle supports the proposal of the EC to establish an EU legal basis for the European RIS Environment (EuRIS), Paragraph 6 raises concerns. A joint initiative by Member States and Third Countries has established the current European RIS Environment (EuRIS) which is governed by the ECMA (agreement under private law). There is a need to</i></p>

	<p><i>clarify if the Commission can interfere with the operation of EuRIS without joining the ECMA.</i></p> <p><i>It should also be clarified whether the operation of EuRIS is falling under the exclusive jurisdiction of the EU because of the principle of subsidiarity.</i></p> <p><i>What would be the consequences for the Member States if the implementing act identifies e.g. a new operating entity, which is much more expensive than the existing one?</i></p> <p><i>In addition, the proposal includes an obligation for all MS with TEN-T inland waterways or ports to participate in a common European RIS Environment. As the Directive does not state that the European RIS Environment is financed by the EC, it has to be assumed that it will have to be financed by the MS (and third countries) in the future, too.</i></p> <p><i>The European Corridor Management Agreement (ECMA) defines the distribution of costs and of voting rights. Does that mean that MS who are currently no members of the ECMA are obliged to become ECMA members and to accept the current cost distribution keys and voting right keys? Or does it mean that the current ECMA partners will have to pay for the European RIS Environment, but the European RIS Environment has to be open for MS that do not contribute to the costs?</i></p>
Article 4 par 8	<p>Consider to mention carriage requirements for RIS equipment and obligations for landside AIS infrastructure.</p> <p><i>Explanation:</i> <i>Consideration point 7 stipulates that MS "should be aware of the position of all inland waterway vessels including through the use of automatic identification systems ('AIS') data". To be able to meet this goal the MS need to have a coverage of all TEN-T waterways with AIS base stations and a carriage requirement for AIS.</i></p>
Article 5 par 1 (h) and (i)	<p>(h) is now containing "interface for with". Either "for" or "with" has to be deleted. The same word should then be used in (i).</p>
Article 8a	<p>AT supports the Presidency Compromise, but par. 2 has to be improved grammatically.</p>
Article 9	<p><i>ITU prohibits the forwarding of received broadcasted data (AIS position reports). Everybody knows that it is not possible for the Member States to stop the operation of a website from a country outside of the EU that is publishing AIS data and that it is not possible to find and shut down the receiving stations in the EU. This Article would introduce an obligation that MS cannot fulfil.</i></p>
Article 10 par 1	<p><i>Austria is not convinced that the possibility to amend Annex I by a delegated act should be deleted. Any amendment of annex I would require a new directive in that case.</i></p>
Article 11 par 2	<p>"paragraph" has to be replaced by "article".</p> <p><i>Explanation:</i> <i>Par. 2 of Article 11 is: "2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply." This is completely meaningless, because there is no reason to refer to this paragraph. We suppose that references to Article 11 par. 1 are meant.</i></p>
Article 12	<p>Reintroduce a transitional period for MS to ensure that their RIS complies with a new edition of ES-RIS. A period of 24 months is proposed.</p> <p>Introduce deadlines for the inclusion of the new elements in the technical specifications</p>

	<p>(ES-RIS, Annex III).</p> <p><i>Explanation:</i> <i>The deletion of paragraphs 2 and 3 of Article 12 would mean that the River information Services of the Member States have to comply with the latest edition of ES-RIS (Annex III) immediately after entry into force. This is not realistic. A period of 24 months would be appropriate.</i></p> <p><i>Annex III makes ES-RIS 2023 mandatory. But ES-RIS 2023 does not contain all the specifications required by Annex II especially topics (f) – (j). ES-RIS 2025 will also not be in line with Annex II. The Directive should contain deadlines until when the new elements in Annex II have to be reflected in ES-RIS, when they will enter into force and when the services of the Member States will have to comply with them.</i></p> <p><i>Provisions from page 8 on the evaluation of the Directive have to be taken into account: "Given that the initiative is reliant on the application of secondary legislation (technical standards), it is important to allow for a sufficient timeframe for the development and introduction of this secondary legislation."</i></p> <p><i>DG MOVE should already consider now, how and what to include into the new CESNI/TI work program (2025 – 2027). Otherwise, the new points can only be taken into account for ES-RIS 2031.</i></p>
Article 12a	<p>Replace "5 years after the date of entry into force" with "7 years after the end of the implementation date."</p> <p><i>Explanation:</i> <i>Provisions from page 8 on the evaluation of the Directive have to be taken into account: "Therefore, 7 years after the end of the implementation date of the legislation, the Commission should carry out an evaluation to verify to what extent the objectives of the initiative have been reached."</i></p>
Annex II (9)	<p>Add a new letter (aa) under 9.(b): "(aa) data on the European waterway network required for navigation and voyage planning and covering at least the minimum requirements contained in Annex I.</p> <p><i>Explanation:</i> <i>An important deficiency of the current RIS Directive is the missing legal basis for a technical specification of the format in which the network data listed in Annex I has to be made available. Article 4 par. 3 (a) of the Presidency Compromise is now stating that the network data, as defined in Annex I, shall be in the format in accordance with annex III. As a consequential amendment the network data listed in Annex I should also be mentioned in Annex II.</i></p>
	<p>Timely updating of Annex III</p> <p><i>Consideration point 19 refers to the timely manner of the updates of the annex of the Directive (EU) 2016/1629 via ES-TRIN. The approach is similar to that of Directive 2008/68. In both cases another organization adopts a document (in case of 2008/68 the ADN Contracting Parties adopt the ADN, in case of 2016/1629 CESNI adopts ES-TRIN), in both cases a coordination procedure has to take place and, in both cases, the external document is made mandatory by the EU.</i></p> <p><i>In case of ADN the working group discusses the changes in the last week of January, the Administrative Committee decides on these changes on the following day and the secretariat distributes the finalised documents on 1st of July. They enter into force 6 months</i></p>

later. The coordination procedure and the publication of the EU take place in the same period.

In case of CESNI the discussion on technical level has to be finalised two and a half years before it enters into force. The example of ADN shows that a much quicker procedure within the external organization and within the EU is possible. If the Regulations of the EU for alternative fuels (Directive 2016/1629) and automation (RIS Directive) want to keep pace with the fast development in those areas, which is absolutely necessary to meet the goals of greening, it will be necessary to speed up the processes for amendments of the annexes of the Directives.

A practical example regarding ES-RIS:

According to the current procedures of CESNI, the Temporary Working Groups have to finalise a proposal for ES-RIS in June of an odd numbered year (e.g. 2025) to become part of the ES-RIS edition of the next odd numbered year (e.g. ES-RIS 2027), which would enter into force via the delegated act on 1st January of the following even year (01.01.2028).

CESNI is currently working on the work program for 2025-2027. If this work program does not include the new points contained in this proposal, CESNI could only start to work on them in 2028. The TWG would have to finalise the drafts for the technical specifications in June 2029. They would be integrated in ES-RIS 2031 and enter into force on 01.01.2032. It really does not qualify as a "timely updating", if we have to wait until 2032 for the implementation of the technical specifications introduced in this proposal.

Even if the new points are taken into account in the working program 2025-2027, June 2025 would be the first occasion to deal with the new topics on technical level. It is not possible to develop e.g. technical specifications for the RIS platform or technical specifications for the exchange of data with other digital systems or platforms within one three-hour meeting. They will therefore only become part of ES-RIS 2029, which will enter into force in 2030. Six years is still far away from a "timely updating".

The goal can only be reached if the procedures within CESNI are simplified and sped up and the EC speeds up the process for the coordination procedure and the delegated acts as it has already done for the Dangerous Goods Directive.