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NOTE

From:	General Secretariat of the Council
To:	Working Party on Transport - Intermodal Questions and Networks
N° Cion doc.:	9075/18 + ADD 1 - ADD 3
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 delegations

Delegations will find attached written comments by Ireland on the above proposal.

Ireland: Written observations on Smart TEN-T streamlining proposal

21 September 2018

Ireland has concerns that the rationale for EU involvement in this area at individual Member State level is not fully convincing and seeks to impose requirements in some cases on Member States that already broadly achieve the stated objective of the proposal through alternative procedures. Ireland has concerns regarding the mandatory nature of the proposal and also the scope of the TEN-T proposals for all projects on the network.

The proposal, while similar in nature to Regulation (EU) No 347/2013 in relation to trans-European energy infrastructure, goes beyond the Energy Regulation by proposing a single permit granting authority which shall be responsible for making the comprehensive permitting decision in respect of a project encompassing a number of relevant permits.

The requirement in this proposal for Member States to designate a “single competent authority” would require significant legislative amendment and change to Irish law combined with revised administrative structures with little apparent benefit. This approach is accordingly not considered to be justified or proportionate in an Irish context. In this regard, significant improvements have been made in recent years in Ireland in relation to the streamlining of our planning processes and these continue to evolve at a national level. Under Ireland’s Planning and Development Act 2000, as amended, An Bord Pleanála (our Planning Appeals Board) is already the designated planning authority for Ireland’s strategic infrastructure developments which include Ireland’s motorways and railways on the core TEN-T network. Applications for planning permission in respect of such developments can already avail of a fast-track planning process involving direct application to the Board and broadly similar pre-application and decision procedures to those set out in Article 6 of the proposed TEN-T Regulation, but supplemented with tighter decision timelines.

It is our view that the Regulation should not apply to Member States whose planning procedures already generally deliver final decisions in respect of TEN-T projects within the overall 3 year 5 month project determination timeline set out in Article 6 of the proposal.

Therefore the imposition of alternative administrative and legislative procedures to those agreed by the Oireachtas (Irish Parliament) would be disproportionate to the limited, if any, benefits arising. As such, the requirements in the proposed Regulation go beyond those necessary to achieve the stated objectives.

It is in this context that Ireland agrees with the proposed amendments by Poland to Article 1:

- The insertion in Article 1 of the words ‘may be’ to read “The Regulation sets out the requirements which *may be* applicable

- The insertion of a new Article 1(2) to read “*Measures streamlining investment processes already in force in Member States shall be considered as fulfilling the requirements of this Regulation*”.

In relation to Article 3 – ‘Priority status of projects of common interest’ – Ireland already has (as outlined above) special fast-track streamlined procedures in place for its strategic infrastructure projects. These projects have special status and are prioritised by one designated authority, having regard to their strategic national or regional importance from an economic or social perspective.

In addition to its principle concerns above, Ireland is of the view that the scope of the proposal is too wide and leaves no discretion to Member States, in that it would require the proposed administrative procedures to be followed by the competent authorities of Member States in relation to all projects of common interest located on the core TEN-T network. The proposal provides no recognition as to the scale of the project. Ireland therefore proposes the deletion of the word “all” in Article 1. Furthermore, the subject matter and scope should be specified (for example, projects should be pre-defined, or of a certain scale).

Arising from our reservations in relation to Article 1, Ireland has similar concerns in relation to Article 3.1 in providing that “each project of common interest on the TEN-T network shall be subject to an integrated permit granting procedure managed by a single competent authority”.

In the context of the UK’s exit from the EU, the proposal does not refer to cross-border projects involving an EU Member State and a third country, and Ireland would welcome clarification on this point.

ENDS