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NOTE

From:	General Secretariat of the Council
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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 France on the above proposal.

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 France

<i>Commission proposal</i>	<i>Amendments by France</i>	<i>Comments by France</i>
Observations préliminaires : La France confirme la position exprimée en juin 2018 : l’objectif d’accélération de réalisation du RTE–T est tout à fait partagé. Il faut en revanche souligner que la France ne partage pas l’analyse qui a été produite dans le cadre de l’étude d’impact sur les causes des difficultés constatées et donc sur les orientations pour y remédier. La complexité des procédures n’est pas liée à l’inscription d’un projet sur le RTE-T mais plutôt à la taille du projet, son impact environnemental et la densité de population de la zone concernée. La durée des procédures et les risques sous-jacents dépendent quant à eux fortement de l’acceptabilité du projet, mais rarement de son caractère européen. La maîtrise des délais de réalisation des projets est conditionnée au-delà du délai des procédures d’autorisation par de nombreux paramètres dont les financements disponibles, les moyens des porteurs de projets, les conditions de participation du public. Les autorités françaises considèrent qu’un tel projet de règlement n’est pas souhaitable. En effet, le caractère hétérogène des projets de transports ne permet pas un traitement standardisé tel que cela est envisagé. Il est également difficilement concevable d’envisager un cadre d’exception pour une typologie de projets sans remettre en question les règles et procédures générales en la matière. Les autorités françaises rappellent en effet que chaque projet est unique, avec un contexte particulier, et nécessite un traitement ad hoc. Si d’une manière générale, toute mesure permettant d’améliorer, clarifier et simplifier les procédures est appréciable, il est avant tout essentiel de stabiliser le cadre juridique (et notamment celui des directives relatives à la protection de l’environnement – directive 2011/92/UE modifiée (2014/52/UE) EIA en premier lieu, transposée en droit français le 17 mai 2017). Ainsi, le projet de règlement doit s’attacher au seul objectif de la simplification des procédures d’autorisation au sein des Etats membres. Par ailleurs, la diversité des procédures et des organisations en place dans les États membres, la nécessité de laisser aux porteurs de projet la responsabilité du pilotage de ce dernier dans un cadre souple confirment que le choix d’un règlement n’apparaît pas comme une solution naturellement adaptée et que sa rédaction devra veiller : • à privilégier une optimisation des systèmes nationaux en place : à ce titre, il importe que le règlement puisse proposer plusieurs cadres apportant <i>in fine</i> des garanties similaires ; • à laisser aux porteurs de projets les souplesses nécessaires à la conduite des procédures. Il convient notamment à ce titre de ne pas contraindre inutilement en délai le porteur du projet lorsque la procédure justifie des compléments d’étude ou d’évaluation environnementale ou d’association du public et des acteurs locaux. <i>France confirms its position expressed in June 2018: the objective of accelerating the achievement of the TEN-T is completely shared. However, it should be noted that France does</i>		

not share the analysis of the impact assessment on the causes of the difficulties identified and therefore on the guidelines for addressing them. The complexity of the procedures is not related to the inscription of a project on the TEN-T but rather to the size of the project, its environmental impact and the population density of the area concerned. The duration of the procedures and the underlying risks depend, for their part, on the social acceptability of the project, and more rarely on its European dimension.

French authorities emphasize that each project is unique, with a particular context, and requires a standardised handling. In general, any measure to improve, clarify and simplify procedures is appreciable. However, it is above all essential to stabilize the legal framework (and in particular that of Directives on the protection of the environment – Directive (EU) 2011/92 amended (EU) 2014/52, implemented in France on 17 May 2017).

The monitoring of the deadlines for the achievement of the projects is conditioned not only by the deadline of the authorising procedure but also by many other parameters such as the available funding, the project promoters' resources and the conditions of public participation.

French authorities consider that such a draft regulation is not recommended. Indeed, the heterogeneous nature of transport projects does not make possible to have a standardized handling as stated. Furthermore, the implementation of a specific exemption for a typology of projects questions the general rules and procedures in this area.

Thus, the draft regulation should focus on the sole objective of simplifying authorisation procedures in the Member States.

Furthermore, the diversity of procedures and organisations in place in the Member States but also the need for project promoters to handle the project management within a flexible framework, confirm that the choice of a regulation is not suited. At least, its drafting shall:

- focus on an optimisation of national systems in place: as such, it is important that the regulation proposes several frameworks providing similar guarantees in the end;*
- leave to the project promoters the necessary flexibility to conduct the procedures. In this respect, it is particularly important to avoid as far as possible to set a time limit to the project promoter when the procedure justifies further studies or environmental assessments or public and local stakeholder involvement.*

1	(1) Regulation (EU) No 1315/2013 of the European Parliament and of the Council ²² sets out a common framework for the creation of state-of-the-art, interoperable networks for the development of the internal market. The trans-European transport networks (TEN-T) have a dual layer structure: the comprehensive network ensures connectivity of all regions of the Union whereas the core network consists of those elements of the network which are of the highest strategic importance for the Union. Regulation (EU) No 1315/2013 defines binding completion targets for implementation, with the core network to be completed by 2030 and the comprehensive network by 2050.		
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2	(2) Notwithstanding the necessity and binding timelines, experience has shown that many investments aiming to complete the TEN-T are confronted with complex permit granting procedures, cross-border procurement procedures and other procedures. This situation jeopardises the on time implementation of projects and in many cases results in significant delays and increased costs. In order to address these issues and make synchronised TEN-T completion possible, harmonised action is necessary at Union level.	La rédaction laisse entendre que les difficultés de procédures sont seules responsables du décalage du RTE-T : une rédaction indiquant qu'elles y contribuent serait suffisante. <i>The wording suggests that permit granting procedures are the only causes of the TEN-T delays: a wording indicating that they contribute to it would be sufficient.</i>
3	(3) In the legal frameworks of many Member States priority treatment is given to certain project categories based on their strategic importance for the economy. Priority treatment is characterised by shorter timelines, simultaneous procedures or limited timeframes for appeals while ensuring that the objectives of other horizontal policies are also reached. When such a framework exists within a national legal framework, it should automatically apply to Union projects recognised as projects of common interest under Regulation (EU) No 1315/2013.	Les dispositions dites d'urgence du code des marchés pourraient-elles s'appliquer à un projet sous prétexte qu'il serait identifié comme étant prioritaire (ex Gênes versus un autre projet) ? <i>Could emergency provisions from Regulation on public procurement apply to a project on the grounds that it would be identified as a priority?</i>
4	(4) In order to improve the effectiveness of the environmental assessments and streamline the decision-making process, where the obligation to carry out assessments related to environmental issues of core network projects arises simultaneously from Directive 2011/92/EU, as amended by Directive 2014/52/EU, and from other Union legislation such as Directive 92/43/EEC, Directive 2009/147/EC, Directive 2000/60/EC, Directive 2008/98/EC, Directive 2010/75/EU, Directive 2012/18/EU and Directive 2011/42/EC, Member States should ensure that a joint procedure fulfilling the requirements of these Directives is provided.	

5	(5) Core network projects should be supported by integrated permit granting procedures to make clear management of the overall procedure possible and to provide a single entry point for investors. Member States should designate a competent authority in accordance with their national legal frameworks and administrative set-ups.	(5) Core network projects should be supported by integrated permit granting procedures to make clear management of the overall procedure possible and to provide a single entry point for project promoters investors. Member States should designate a competent authority in accordance with their national legal frameworks and administrative set-ups.	Préciser que les projets sont ceux correspondant à des améliorations de capacités de trafic sur les seules sections à modifier ou à créer du seul réseau central RTE-T. La notion « d'investisseur » n'est pas adéquate : à remplacer par « porteur de projet » <i>Specify that the projects are only those corresponding to traffic capacity improvements on the sections of the TEN-T core network identified as planned or to be upgraded on the TEN-T regulation. The notion of "investor" is inadequate: to be replaced by "project promoters".</i>
6	(6) The establishment of a single competent authority at national level integrating all permit granting procedures (one-stop shop) should reduce the complexity, improve the efficiency and increase the transparency of the procedures. It should also enhance the cooperation between Member States where appropriate. The procedures should promote a real cooperation between investors and the single competent authority and should therefore allow for the scoping in the pre-application phase of the permit granting procedure. Such scoping should be integrated in the detailed application outline and follow the procedure set out in Article 5(2) of 2011/92/EU, as amended by Directive 2014/52/EU.	(6) The establishment of a single competent authority at national level integrating all permit granting procedures (one-stop shop) should reduce the complexity, improve the efficiency and increase the transparency of the procedures. It should also enhance the cooperation between Member States where appropriate. The procedures should promote a real cooperation between investors project promoters and the single competent authority and should therefore allow for the scoping in the pre-application phase of the permit granting procedure. Such scoping should be integrated in the detailed application outline and follow the procedure set out in Article 5(2) of 2011/92/EU, as amended by Directive 2014/52/EU.	Contester l'unicité d'une autorité nationale : avoir une autorité par projet et ou typologie de projets devrait être suffisante, à charge pour chaque EM de la définir. Il convient de noter que pour les grands projets, la DUP et l'autorisation environnementale sont prises en France par deux autorités différentes (DUP signée au niveau ministériel et autorisation environnementale signée par le Préfet de département). La notion de « coopération » entre un demandeur et une autorité décisionnaire n'est pas appropriée. Il conviendrait plutôt, par exemple, d'évoquer l'action facilitatrice de l'autorité. <i>Question the uniqueness of a national competent authority: having one authority by project and/or classification of projects should be sufficient, each MS should define it. It should be noted that for major projects in France, the Declaration of Public Utility (DUP) and the environmental authorisation are taken by two different authorities (the DUP is signed by the Minister and the environmental authorization by the departmental prefect).</i> <i>The notion of "cooperation" between an applicant and a decision-making authority is inappropriate. It would be better, for example, to mention the "enabling action" of the authority.</i>

7	(7) The procedure set out by this Regulation should be without prejudice to the fulfilment of the requirements defined in the international and Union law, including provisions to protect the environment and human health.		
8	(8) Given the urgency to complete the TEN-T core network, the simplification of permit granting procedures should be accompanied by a time limit within which competent authorities responsible should make a comprehensive decision regarding the construction of the project. This time limit should stimulate a more efficient handling of procedures and should, under no circumstances, compromise the Union's high standards for environmental protection and public participation.		Considérant contestable : il est nécessaire de pouvoir disposer, à la demande du porteur de projet, de plusieurs décisions successives, seul le délai cumulé serait encadré. <i>Questionable recital: it is necessary to be able to have, at the request of the project promoter, several successive decisions. Only the cumulated time limit shall be defined.</i>
9	(9) Member States should endeavour to ensure that appeals challenging the substantive or procedural legality of a comprehensive decision are handled in the most efficient way possible.		Ne pas évoquer de décision globale. <i>Do not mention a "comprehensive" decision.</i>
10	(10) Cross-border TEN-T infrastructure projects face particular challenges as regards the coordination of permit granting procedures. The European Coordinators should be empowered to monitor these procedures and facilitate their synchronisation and completion.	(10) Cross-border TEN-T infrastructure projects face particular challenges as regards the coordination of permit granting procedures. According to the directive 2011/92/EU, appropriate consultations should be carried out if necessary. The European Coordinators should be granted facilitated access to information regarding be empowered to monitor these procedures and facilitate their synchronisation and completion.	Pour les projets transfrontaliers, le coordinateur européen participe en tant qu'observateur dans le cadre de Commissions Intergouvernementales ou de Conseils d'Administration de sociétés de projet comme dans le cas du Lyon-Turin. C'est dans ce cadre, soumis à des accords bilatéraux, que son action peut s'exercer. Les autorités françaises sont toutefois favorables à ce que les coordinateurs soient systématiquement associés dans les instances de gouvernance des projets transfrontaliers du RTE-T. Il convient de rappeler que les obligations de consultations transfrontalières sur les projets et les plans programmes découlent de la convention d'Espoo ratifiée le 24 juin 1997 par l'Union européenne et transposée dans le droit européen par le biais de la directive 2011/92/UE. La transposition de la convention d'Espoo en droit français intègre les consultations transfrontalières au processus d'évaluation environnementale évitant ainsi d'allonger les délais de conduite du projet. La consultation transfrontière doit ainsi être lancée au plus tard au moment de l'organisation de l'enquête

		publique en France. <i>For cross-border projects, the European Coordinator participates as an observer within the intergovernmental commissions or governing board of project companies, as in the case of Lyon-Turin. It is within this framework, subject to bilateral agreements, that its action can be exercised. However, French authorities are in favour of coordinators being systematically included in governing bodies of the cross-border TEN-T projects.</i> <i>It should be recalled that the cross-border consultations requirements on projects and programme plans stem from the directive 2011/92/EU. The transposition of this directive into French law integrates cross-border consultations into the environmental assessment procedure, thus avoiding delays for the project management. In that respect, the cross-border consultation must be launched in France at the latest at the time of the organisation of the public inquiry.</i>
11	(11) Public procurement in cross-border projects of common interest should be conducted in accordance with the Treaty and Directives 2014/25/EU and/or 2014/24/EU. In order to ensure the efficient completion of the cross-border core network projects of common interest, public procurement carried out by a joint entity should be subject to a single national legislation. By way of derogation from the Union public procurement legislation, the applicable national rules should in principle be those of the Member State where the joint entity has its registered office. It should remain possible to define the applicable legislation in an intergovernmental agreement.	
12	(12) The Commission is not systematically involved in the authorisation of individual projects. However, in some cases, certain aspects of the project preparation are subject to clearance at Union level. Where the Commission is involved in the procedures, it will give priority treatment to the Union projects of common interest and ensure certainty for project promoters. In some cases State aid approval might be required. In line	

	with the Best Practice Code for the conduct of State aid control procedures, Member States may ask the Commission to deal with projects of common interest on the core network of the TEN-T they consider to be of priority with more predictable timelines under the case portfolio approach or the mutually agreed planning.		
13	(13) The implementation of infrastructure projects on the TEN-T core network should be also supported by Commission guidelines that bring more clarity as regards the implementation of certain types of projects while respecting the Union acquis. For example the Action Plan for nature, people and the economy foresees such guidance to bring more clarity in view of respecting the Birds and Habitats Directives. Direct support related to public procurement should be made available for projects of common interests to ensure the best value for public money. Additionally, appropriate technical assistance should be made available under the mechanisms developed for the Multi-Annual Financial Framework 2021-2027, with the aim of providing financial support for TEN-T projects of common interest.		
14	(14) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore, by reason of the need for coordination of those objectives, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	(14) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore, by reason of the need for coordination of those objectives, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	En attente des analyses juridiques sur le respect des principes de subsidiarité et de proportionnalité (sachant que plusieurs délégations ont soulevé des difficultés dans l'application de ces deux principes). <i>Pending on the legal analysis on the compliance with the principles of subsidiarity and proportionality (several delegations have raised difficulties in the application of these two principles).</i>

15	(15) For reasons of legal certainty, the administrative procedures which started prior to the entry into force of this Regulation should not be subject to the provisions of this Regulation.		
16	CHAPTER I GENERAL PROVISIONS		
17	<i>Article 1</i>		
18	<i>Subject matter and scope</i>		
19	This Regulation sets out requirements applicable to the administrative procedures followed by the competent authorities of Member States in relation to the authorisation and implementation of all projects of common interest on the core network of the trans-European transport network.	This Regulation sets out requirements applicable to the administrative procedures followed by the competent authorities of Member States in relation to the authorisation and implementation of all cross-border projects, of common interest or integral components, or separate sections of cross-border projects on the core network of the trans-European transport network TEN-T identified as planned or to be upgraded on the TEN-T regulation and that lead to improvement of traffic capacity of the infrastructure.	L'efficacité du dispositif envisagé nécessite de le réserver aux projets réellement prioritaires. Le champ d'application devrait être revu afin de le restreindre aux seuls projets transfrontaliers des itinéraires déjà identifiés comme à moderniser ou planifiés dans le règlement (UE) No 1315/ 2013 et qui apportent une amélioration significative de la capacité d'écoulement des trafics des infrastructures concernées. La formulation « tous les projets d'intérêt communs » ne devrait pas être maintenue, les termes étant trop flous (même au regard de la définition du règlement RTE-T). En effet, à la différence du RTE-E, pour lequel il existe une liste ciblant spécifiquement un nombre restreint de PIC, il n'y a pas de liste similaire au titre du RTE-T. FR soutient la proposition DE d'introduire la possibilité de solliciter une autorisation pour une section de projet compte-tenu des caractéristiques des projets d'infrastructures linéaires de transport. Lorsqu'un pétitionnaire envisage de réaliser son projet, au sens de l'article L. 122-1, en plusieurs tranches, simultanées ou successives, il peut solliciter des autorisations environnementales distinctes pour celles des tranches qui les nécessitent. <i>The efficiency of the procedure envisaged needs to be restricted to truly high-priority projects. The scope should be reviewed in order to restrict it to cross-border projects or integral components, or separate sections of cross-border projects on the core network of the TEN-T identified as planned or to be upgraded on the TEN-T</i>

			regulation and that lead to improvement of traffic capacity of the infrastructure. The wording "all projects of common interest" should not be maintained, as the terms are too vague (even under the TEN-T Regulation definition). Indeed, unlike the TEN-E for which there is a list of a small number of PCIs, there is no similar list under the TEN-T. FR supports DE proposal to introduce the possibility to apply for authorisation for a project section given the characteristics of transport infrastructure linear projects. When a project promoter intends to carry out his project, under the article L. 122-1, in several simultaneous or successive components, he may apply for separate environmental authorisations for the components that require them.
20	Article 2		
21	Definitions		
22	For the purposes of this Regulation, the definitions set out in Regulation (EU) No 1315/2013 shall apply. The following definitions shall also apply:		
23	(a) "comprehensive decision" means the decision or set of decisions taken by a Member State authority or authorities not including courts or tribunals that determines whether or not a project promoter is to be granted authorisation to build the transport infrastructure needed to complete a project without prejudice to any decision taken in the context of an administrative appeal procedure;	(a) "comprehensive—authorising decision(s)" means the decision or set of decisions simultaneous or successive taken by a Member State authority or authorities not including courts or tribunals that determines whether or not a project promoter is to be granted authorisation to build the transport infrastructure needed to complete a project without prejudice to any decision taken in the context of an administrative appeal procedure;	La notion « d'ensemble de décisions prises » est fondamentale et doit permettre des décisions successives : la conduite des grands projets d'infrastructure représentant parfois des linéaires de plusieurs kilomètres nécessitent en effet des approches itératives dont les étapes peuvent être actées par des autorisations. En France, la possibilité, pour le maître d'ouvrage de demander plusieurs décisions successives est ainsi actée (DUP puis autorisation environnementale). <i>The notion of "authorising decisions" is fundamental and should allow successive decisions: the conduct of major infrastructure projects which sometimes include several linear kilometres require iterative approaches whose steps can be recorded by decisions.</i>

			<i>In France, the possibility for the project owner to ask for several successive decisions is regulated as such (DUP then environmental authorization).</i>
24	(b) "permit granting procedures" means every procedure that has to be followed or step that has to be taken before the authorities of a Member State, under Union or national law, before the project promoter can implement the project;	(b) "permit granting procedures" means every procedure that has to be followed or step that has to be taken before the authorities of a Member State, under Union or national law, before the project promoter can implement the project not including procedures for the expropriation of property and procedures for the award of public procurements.	Le règlement doit se concentrer sur l'instruction des autorisations délivrées à un porteur de projet en excluant clairement les phases : • d'élaboration du projet, en ce compris les études exploratoires et les participations du public organisées afin de déterminer le meilleur parti d'aménagement ; • de réalisation du projet, et notamment les procédures d'acquisition des emprises et d'expropriation et les procédures de passation des contrats d'études ou de travaux liés à la réalisation du projet ; • d'exploitation en ce compris les autorisations liées notamment aux dispositions de sécurité de cette dernière. <i>The regulation must focus on the examination of the decisions issued to a project promoter while excluding the following phases:</i> • <i>project development, including exploratory studies and public participation organised in order to determine the best development;</i> • <i>project implementation, including acquisition and expropriation procedures and the procurement procedure of studies' or works' contracts related to the implementation of the project;</i> • <i>operations, including authorising decisions related to the safety instructions in particular.</i>
25	(c) "Project promoter" means the applicant for authorisation for a private project or the public authority which initiates a project";	(c) "Project promoter" means the private project promoter which applies for authorisation applicant for authorisation for a private project or the public authority which initiates a project";	La notion de projet privé est à supprimer : à remplacer par le porteur privé ou public du projet de transport. <i>The notion of "the applicant for authorisation for a private project" is to be deleted and replaced by the following terms: "private project promoter which applies for authorisation".</i>

26	(d) "single competent authority" means the authority which the Member State designates as responsible for performing the duties arising from this Regulation;	(d) " single competent authority" means the authority which as a one stop shop is the Member State designates as responsible for performing the duties arising from this Regulation;	Cf. préambule : l'efficacité des systèmes en place s'oppose à l'idée d'une seule autorité unique pour l'ensemble des projets. Cf. proposition allemande d'une autorité unique par projet ou d'une manière plus pragmatique, la demande d'une autorité unique par typologie de projets (pouvant intégrer une typologie géographique). <i>See preliminary remarks: the efficiency of the current procedure is the opposite of the idea of a single national competent authority for the projects as a whole.</i> <i>See DE proposal of having authority by project and/or by classification of projects (including geographical classification).</i>
27	(e) "Cross-border project of common interest" means a project of common interest according to Article 7 of Regulation (EU) No 1315/2013 covering a cross-border section as defined in point (m) Article 3 of that Regulation which is implemented by a joint entity.		Voir la nécessité de cette définition si comme préconisé, la portée du règlement est limitée aux projets transfrontaliers améliorant la capacité trafic des itinéraires indiqués comme à moderniser ou planifiés dans le règlement RTE -T. <i>See the need for this definition if, as recommended, the scope of this regulation is restricted to cross-border projects on the core network of the TEN-T identified as planned or to be upgraded on the TEN-T regulation and that lead to improvement of traffic capacity of the infrastructure.</i>
28	CHAPTER II – PERMIT GRANTING		
29	<i>Article 3</i>		
30	'Priority status' of projects of common interest	'Priority status' of cross-border projects of common interest	
31	1. Each project of common interest on the TEN-T core network shall be subject to an integrated permit granting procedure managed by a single competent authority designated by each Member State in accordance with Articles 5 and 6.	1. Each project, of common interest integral component, or separate sections of cross-border projects on the core network of the TEN-T identified as planned or to be upgraded on the TEN-T regulation and that lead to improvement of traffic capacity of the infrastructure shall be subject to an integrated permit granting procedure managed by a single competent authority designated by each Member State in accordance with Articles 5 and 6.	Limiter à la notion de projets transfrontaliers améliorant la capacité trafic des itinéraires indiqués comme à moderniser ou planifiés dans le règlement RTE -T. <i>Limit to cross-border projects on the core network of the TEN-T identified as planned or to be upgraded on the TEN-T regulation and that lead to improvement of traffic capacity of the infrastructure.</i>

32	2. Where priority status exists under national law, projects of common interest shall be granted the status with the highest national significance possible, and be treated as such in permit granting procedures, where and in the manner such treatment is provided for in national legislation applicable to the corresponding types of transport infrastructure.	2. Where priority status exists under national law, cross-border projects of common interest shall be granted the status with the highest national significance possible, and be treated as such in permit granting procedures, where and in the manner such treatment is provided for in national legislation applicable to the corresponding types of transport infrastructure.	
33	3. To ensure efficient administrative procedures related to projects of common interest, project promoters and all authorities concerned shall ensure that the most rapid treatment legally possible is given to these projects, including as regards the resources allocated.	3. To ensure efficient administrative procedures related to cross-border projects of common interest , project promoters and all authorities concerned shall ensure that the most rapid treatment legally possible is given to these projects, including as regards the resources allocated.	
34	<i>Article 4</i>		
35	<i>Integration of permit granting procedures</i>		
36	1. In order to meet the time limits set out in Article 6 and reduce the administrative burden related to the completion of projects of common interest, all the administrative procedures resulting from the applicable law, both national and of the Union, shall be integrated and result in only one comprehensive decision.	1. In order to meet the time limits set out in Article 6 and reduce the administrative burden related to the completion of cross-border projects of common interest , all the administrative procedures resulting from the applicable law, both national and of the Union, shall be integrated as much as possible in order to respect the time limits set out in Article 6 and result in only one comprehensive decision.	Veiller à ce que la décision globale puisse bien être un ensemble de décisions éventuellement successives (article 2 a). <i>Ensure that the authorising decision can be a set of decisions and if necessary successive (see article 2 a).</i>
37	2. In the case of projects of common interest for which the obligation to carry out assessments of the effects on the environment arises simultaneously from Directive 2011/92/EU of the European Parliament and of the Council and other Union law, Member States shall ensure that joint procedures within the meaning of Article 2(3) of Directive 2011/92/EU are provided for.	2. In the case of projects of common interest for which the obligation to carry out assessments of the effects on the environment arises simultaneously from Directive 2011/92/EU of the European Parliament and of the Council and other Union law, Member States shall ensure that joint procedures within the meaning of Article 2(3) of Directive 2011/92/EU are provided for.	

38	Article 5		
39	Single competent permit granting authority		
40	1. By ... (OP please insert the date one year of the entry into force of this Regulation), each Member State shall designate one single competent authority which shall be responsible for facilitating the permit granting process including for making the comprehensive decision.	1. By ... (OP please insert the date one year of the entry into force of this Regulation), each Member State shall designate a one single competent authority by types of projects and/or geographical areas which shall be responsible for facilitating the permit granting process including for making the comprehensive decision.	L'efficacité du dispositif envisagé par le règlement nécessite que l'autorité décisionnaire soit clairement identifiée pour chaque projet du RTE-T identifié comme devant suivre ce dispositif. Elle n'impose pas <i>a contrario</i> la création d'une entité unique qui outre le coût humain et financier qu'entraînerait sa création générerait des difficultés diverses. D'une part, il existe déjà pour chaque type de projet des autorités, souvent spécialisées, dont le personnel est rodé à l'instruction des dossiers ; d'autre part, il reste à démonter l'efficacité du transfert de cette compétence à une autorité unique chargée in fine d'instruire un nombre plus réduit de dossiers par ailleurs plus complexes. Le principe d'une autorité unique peut se heurter à des difficultés en matière de compétence, par exemple lorsque plusieurs ministères et/ou plusieurs niveaux de décisions à l'échelle locale ou nationale sont concernés. Si cette autorité doit coordonner et réguler différentes entités avec des pouvoirs de décision, cela peut en fait s'avérer superflu voire contre-productif. Par ailleurs, la France pointe une difficulté en droit interne à transférer le pouvoir de décision d'une entité à une autre. En conséquence, la France souhaite la plus grande souplesse sur ce sujet. Il est nécessaire d'ouvrir la possibilité de designer une autorité compétente par catégorie de projets et par secteur géographique. Il convient de noter que pour les grands projets la DUP et l'autorisation environnementale sont prises en France par deux autorités différentes (la DUP étant signée au niveau ministériel et l'autorisation environnementale par le Préfet de département). <i>The efficiency of the procedure set out by this Regulation requires that the decision-making authority should be clearly identified for each TEN-T project in the scope of this Regulation. On the contrary, it should not impose the creation of a single entity which,</i>

			in addition to additional administrative burden, would generate various difficulties. On the one hand, there are already, for each type of project, several authorities, often specialized, whose staff are well versed in the processing of files; on the other hand, the efficiency of the transfer of this competence to a single authority - which would ultimately be responsible for processing a smaller number of cases even more complex - is questionable. The principle of a single authority may encounter jurisdictional difficulties, for instance where more than one ministry and/or level of decision-making at the local or national level are involved. If this authority is to coordinate and regulate different entities with decision-making powers, this may actually be superfluous or even counterproductive. France also has difficulty in transferring the power of decision from one entity to another. As a result, France calls for the greatest flexibility on this subject. It is necessary to open the possibility of designating a competent authority by project classification and/or geographical area. It should be noted that for major projects in France, the Declaration of Public Utility (DUP) and the environmental authorisation are taken by two different authorities (DUP signed by the Minister and environmental authorization signed by the departmental prefect).
41	2. The responsibility of the single competent authority referred to in paragraph 1 and/or the tasks related to it may be delegated to, or carried out by, another authority at the appropriate administrative level, per project of common interest or per particular category of projects of common interest, under the following conditions:	2. The responsibility of the single competent authority referred to in paragraph 1 and/or the tasks related to it may be delegated to, or carried out by, another authority at the appropriate administrative level, per project of common interest or per particular category of projects of common interest , under the following conditions:	Modification pour être cohérent avec la définition de l'article 2 c) See article 2 c)
42	(a) only one authority is responsible per project of common interest;	(a) only one authority is responsible per project of common interest ;	Modification pour être cohérent avec l'article 1 See article 1

43	(b) the authority is the sole point of contact for the project promoter in the procedure leading to the comprehensive decision for a given project of common interest, and	(b) the authority is the sole point of contact for the project promoter in the procedure leading to the comprehensive decision for a given project of common interest , and	
44	(c) the authority coordinates the submission of all relevant documents and information.		
45	The single competent authority may retain the responsibility to establish time limits, without prejudice to the time limits set in accordance with Article 6.	The single competent authority may retain the responsibility to establish time limits, without prejudice to the time limits set in accordance with Article 6.	Modification pour être cohérent avec la définition de l'article 2 c) <i>See article 2 c)</i>
46	3. The single competent authority shall issue the comprehensive decision within the time limits specified in Article 6. It shall do so following joint procedures.	3. The single competent authority shall issue the comprehensive decision within the time limits specified in Article 6. It shall do so following joint procedures.	Modification pour être cohérent avec la définition de l'article 2 (a)/(c) <i>See article 2 a/c)</i>
47	The comprehensive decision issued by the single competent authority shall be the sole legally binding decision resulting from the statutory permit granting procedure. Where other authorities are concerned by the project, they may give their opinion as input to the procedure, in accordance with national legislation. This opinion shall be taken into account by the single competent authority.	The comprehensive decision issued by the single competent authority shall be the sole legally binding decision resulting from the statutory permit granting procedure. Where other authorities are concerned by the project, they may give their opinion as input to the procedure, in accordance with national legislation. This opinion shall be taken into account by the single competent authority.	En cohérence avec ce qui précède : suppression de la décision unique, la « décision globale » devant pouvoir être multiple et successive. <i>See article 2 a)</i>
48	4. When taking the comprehensive decision, the single competent authority shall ensure that the relevant requirements under international and Union law are respected and shall duly justify its decision.	4. When taking the comprehensive authorising decision, the single competent authority shall ensure that the relevant requirements under international and Union law are respected and shall duly justify its decision.	
49	5. If a project of common interest requires decisions to be taken in two or more Member States, the respective competent authorities shall take all the necessary steps for efficient and effective cooperation and coordination among themselves. Without prejudice to obligations	5. If a project of common interest requires decisions to be taken in two or more Member States, the respective competent authorities shall take all the necessary steps for efficient and effective cooperation and coordination among	

	arising under applicable Union and international law, Member States shall endeavour to provide for joint procedures, particularly with regard to the assessment of environmental impacts.	themselves. Without prejudice to obligations arising under applicable Union and international law, Member States shall endeavour to provide for joint procedures, particularly with regard to the assessment of environmental impacts.	
50	<i>Article 6</i>		Les commentaires de la France sur cet article sont présentés ci-dessous. Une rédaction pourra être proposée ultérieurement selon les indications présentées en groupe par la Commission.
51	<i>Duration and implementation of the permit granting procedure</i>		

De manière simplifiée, l'ensemble des études d'un projet d'infrastructures de transport se décompose en trois grandes phases successives :

1. les études d'opportunité (pour le routier) / pré-études fonctionnelles (pour le ferré) / études préliminaires (voies d'eau) en vue de dégager les grandes options de l'aménagement projeté (solution modale, parti d'aménagement, famille de solutions de tracé préférentiel), les projets les plus importants donnent lieu à un **débat public** au cours de cette phase ;
2. **les études préalables** à la déclaration de projet ou à la **déclaration d'utilité publique** : c'est à ce stade qu'est réalisée et mise à la disposition du public l'évaluation environnementale et la mise en compatibilité des documents d'urbanisme ;
3. **les études de projet détaillées** qui précisent les caractéristiques et les dimensions des différents ouvrages de la solution retenue et qui permettent d'approfondir certaines mesures environnementales prévues au niveau de l'étude d'impact. C'est à ce stade que sont sollicitées les **autorisations environnementales "sectorielles"** nécessaires (eau, espèces protégées...) fusionnées récemment en une autorisation unique.

En effet, **il est important de permettre d'avoir des procédures bien séquencées qui permettent une progressivité effective des études afin de limiter les risques de retour en arrière ou de remise en question (effet cliquet)**. L'expérience montre la nécessité d'une approche progressive de la conception des infrastructures, notamment linéaire, à plusieurs titres : meilleure prise en compte des enjeux notamment environnementaux et humains, meilleure acceptabilité du public. Le temps fait partie des conditions nécessaires à des études de qualité en réponse à la complexité et la multiplicité des enjeux. L'organisation d'une enquête publique unique préalable à la Déclaration d'Utilité Publique du projet et à l'obtention des autorisations environnementales post DUP (fusion des phases 2 et 3), est une possibilité déjà offerte par le droit français au maître d'ouvrage. Cependant, cette procédure conjointe n'est pas utilisée pour les grands projets d'infrastructures de transport pour lesquels la progressivité et la proportionnalité des études sont un gage d'efficacité de rationalisation de la dépense publique et de bonne participation du public à l'élaboration des projets.

Il est donc impératif de conserver la possibilité pour les maîtres d'ouvrage de procéder en deux étapes faisant l'objet de deux décisions successives : la DUP ou DP et l'autorisation environnementale. Au regard de la rédaction actuelle du règlement qui préconise une autorité unique de décision, il convient de noter que ces deux décisions sont prises en France par deux autorités différentes : pour les grands projets, la DUP est signée au niveau ministériel tandis que l'autorisation environnementale est signée par le Préfet de département.

Il serait contre-productif d'imposer aux porteurs de projet des délais contraignants pour la constitution de leurs dossiers d'autorisation (délai de 21 mois imposé dans la rédaction actuelle). Il appartient au porteur de projet d'apprécier le niveau d'étude qu'il doit fournir pour obtenir une autorisation et donc le temps nécessaire.

In a simplified way, all studies of a transport infrastructure project can be broken down into three major successive phases:

- 1. Opportunity studies (for the road) / pre-functional studies (for rail) / preliminary studies (waterways) in order to identify the main options of the project planned, the most important projects give rise to a public debate during this phase;*
- 2. Studies prior to the project declaration or the declaration of public utility: from this stage, the environmental assessment and the compatibility of urban planning documents are made available to the public;*
- 3. Detailed project studies which specify the characteristics and dimensions of the identified solution and which allow to deepen some environmental measures provided for in the impact study. It is at this stage that the necessary "sectoral" environmental authorising decisions (water, protected species, etc.) - recently merged into a single authorising decision - are solicited.*

Indeed, it is important to have well-sequenced procedures that allow the efficient progressivity of the studies in order to limit the risk of step backwards or questioning ("ratchet effect"). Experience shows the need for a progressive approach to infrastructure design, including linear, for several reasons: better consideration of issues including environmental and human issues, better public acceptability. Time is one of the necessary conditions for quality studies in response to the complexity and multiplicity of issues. The organisation of a single public inquiry prior to the Declaration of Public Utility (DUP) of the project and to the post-DUP environmental authorising decisions (merger of phases 2 and 3), is a possibility already offered by French national law to the project promoter. However, this joint procedure is not used for major transport infrastructure projects for which progressivity and proportionality of studies are a guarantee of efficiency in rationalizing public expenditure and good public participation in the projects design.

It is therefore imperative to maintain the possibility for project promoters to proceed in two steps subject to two successive decisions: the Declaration of Public Utility (DUP) or Declaration of Project (DP) and the environmental authorisation. In view of the current wording of the regulation, which recommends a single decision-making authority, it should be noted that for major projects in France, the Declaration of Public Utility (DUP) and the environmental authorisation are taken by two different authorities (DUP signed by the Minister and environmental authorisation signed by the departmental prefect).

***It would be counter-productive to impose binding time-limits on project promoters for the constitution of their authorisation files** (21-month time-limit imposed in the current drafting). It is the responsibility of the project promoter to assess the level of study he must provide in order to obtain an authorising decision and therefore the necessary period of time. However, provided that the regulation can offer several organisational frameworks, France supports the stated general objective of controlling procedure time-limits.*

Indeed, an important work has already been done in France to simplify project authorisation procedures. Thus, the environmental authorisation put in place since March 1, 2017 makes it possible to group together in a single application, for the same project, a set of "sectoral" environmental authorizations issued by the State necessary under the various legislations (law on water, facilities classified for the environment, clearing, protected species...). This simplification measure has clearly inspired the Commission in drafting Article 6 of its draft regulation. If the scope of the authorisation procedures covered by the regulation could be reduced to the scope of the French environmental permit, the Commission's proposal could be acceptable. As such, if the decision on the inclusion of environmental assessments (DUP phase in France) was left to the discretion of the MS in the total duration for issuing authorisations, France would support this proposal. The upstream phases of exploratory studies and public consultation would also be excluded from the scope of the regulation.

If a majority of MS wanted to include the environmental assessment phase into the scope of the procedures concerned, France could accept that the regulation requires MS to set deadlines for their authorising decision procedures within the limit of a cumulative instruction period not exceeding 3 years.

In French law, there are some time-limits foreseen for authorization procedures:

- maximum period of time between the closure of the public inquiry and the DUP (1 year for DUP at prefect level, 18 months for DUP at minister level);*
- single authorisation period (9 months excluding request for additions, extension and suspension of time).*

The total of the time-limits for successive proceedings should not exceed 3.5 years.

52	1. The permit granting procedure shall consist of the pre-application phase and the phase of the assessment of the application and the decision-making by the single competent authority.		
53	2. The pre-application phase, covering the period from the start of the permit granting procedure to the submission of the complete application file to the single competent authority, shall in principle not exceed two years.		
54	3. In order to launch the permit granting procedure, the project promoter shall notify the single competent authority of the Member States concerned about the project in writing, and shall include a detailed description of the project. No later than two months following the receipt of the above notification, the single competent authority shall either acknowledge it or, if it considers that the project is not mature enough to enter the permit granting procedure, reject the notification in writing. If the single competent authority decides to reject the notification, it shall justify its decision. The date of signature of the acknowledgement of the notification by the competent authority shall serve as the start of the permit granting procedure. If two or more Member States are concerned, the date of the acceptance of the last notification by the competent authority concerned shall serve as the date of the start of the permit granting procedure		

55	4. Within three months of the start of the permit granting procedure, the single competent authority, in close cooperation with the project promoter and other authorities concerned and taking into account the information submitted by the project promoter on the basis of the notification referred to in paragraph 3, shall establish and communicate to the project promoter a detailed application outline, containing:		
56	(a) the material scope and level of detail of information to be submitted by the project promoter, as part of the application file for the comprehensive decision		
57	(b) a schedule for the permit granting process, identifying at least the following:		
58	(i) the decisions and opinions to be obtained;		
59	(ii) the authorities, stakeholders, and the public likely to be concerned;		
60	(iii) the individual stages of the procedure and their duration;		
61	(iv) major milestones to be accomplished and their deadlines in view of the comprehensive decision to be taken;		
62	(v) the resources planned by the authorities and possible additional resource needs.		
63	5. In order to ensure that the application file is complete and of adequate quality, the project promoter shall seek the single competent authority's opinion on its application as early as possible during the pre-application procedure. The project promoter shall cooperate fully with the single competent authority to meet deadlines and comply with the detailed application outline as defined in paragraph 4.		

64	6. The project promoter shall submit the application file based on the detailed application outline within the period of 21 months from the receipt of that detailed application outline. After the expiry of that period, the detailed application outline is no longer considered applicable, unless the single competent authority decides to prolong that period, on the basis of a justified request from the project promoter.		
65	7. At the latest within the period of two months from the date of submission of the complete application file, the competent authority shall acknowledge in writing the completeness of the application file and communicate it to the project promoter. The application file submitted by the project promoter shall be considered as being complete, unless, within the period of two months from the date of submission, the competent authority makes a request regarding missing information to be submitted by the project promoter. That request shall be limited, as regards the material scope and level of detail, to the elements identified in the detailed application outline. Any additional request for information shall only result from exceptional and unforeseen new circumstances and shall be duly justified by the single competent authority.		
66	8. The single competent authority shall assess the application and adopt a comprehensive decision within the period of one year from the date of submission of the complete application file in accordance with paragraph 7. Member States may set an earlier time-limit, where appropriate.		
67	9. The time limits in the above provisions shall be without prejudice to obligations arising from Union and international legal acts, as well as to administrative appeal procedures and judicial remedies before a court or tribunal.		

68	Article 7		
69	Coordination of cross-border permit granting procedure		
70	1. For projects that involve two or more Member States, the competent authorities of the Member States concerned shall align their timetables and agree on a joint schedule.		
71	2. The European Coordinator referred to in Article 45 of Regulation (EU) ² No 1315/2013 shall be empowered to closely follow the permit granting procedure for cross-border projects of common interest and to facilitate contacts between the involved competent authorities.	2. The European Coordinator referred to in Article 45 of Regulation (EU) ² No 1315/2013 shall be empowered to closely follow the permit granting procedure for cross-border projects of common interest and to facilitate contacts between the involved competent authorities.	

72	3. Without prejudice to the obligation to comply with the time limits under this Regulation, if the time-limit for the comprehensive decision is not observed, the competent authority shall immediately inform the European Coordinator concerned about the measures taken or to be taken to conclude the permit granting procedure with the least possible delay. The European Coordinator may request the competent authority to regularly report on progress achieved.	3. Without prejudice to the obligation to comply with the time limits under this Regulation, if the time-limit for the comprehensive decision is not observed, the competent authority shall immediately inform the European Coordinator concerned should be informed by the member states about the measures taken or to be taken to conclude the permit granting procedure with the least possible delay. The European Coordinator may request the competent authority to regularly report on progress achieved.	Pour les projets transfrontaliers, le coordinateur européen participe en tant qu'observateur dans le cadre de Commissions intergouvernementales ou de Conseils d'Administration de sociétés de projet comme dans le cas du Lyon-Turin. C'est dans ce cadre, soumis à des accords bilatéraux, que son action peut s'exercer. Ce sont ainsi les États membres décisionnaires qui informent le coordinateur européen concerné (cf. Lyon-Turin) sur le calendrier, les enjeux et les moyens mis en œuvre pour la réalisation du projet. <i>For cross-border projects, the European coordinator participates as an observer in the framework of intergovernmental commissions or governing board of project companies, as in the case of Lyon-Turin. It is within this framework, subject to bilateral agreements, that its action can be exercised.</i> <i>It is thus the decision-making Member States that inform the European coordinator concerned (see Lyon-Turin) about the timetable, the stakes and the means implemented for the realization of the project.</i>
73	CHAPTER III PUBLIC PROCUREMENT		
74	<i>Article 8</i>		
75	<i>Public Procurement in cross-border projects of common interest</i>	<i>Public Procurement in cross-border projects of common interest</i>	
76	1. Public procurement in cross-border projects of common interest shall be conducted in accordance with the Treaty and Directives 2014/25/EU and/or 2014/24/EU.	1. Public procurement in cross-border projects of common interest shall be conducted in accordance with the Treaty and Directives 2014/25/EU and/or 2014/24/EU.	

77	2. In case the procurement procedures are conducted by a joint entity set up by the participating Member States, that entity shall apply the national provisions of one of those Member States and, by way of derogation from these Directives, those provisions shall be the provisions determined in accordance with point (a) of Article 57(5) of Directive 2014/25/EU of the European Parliament and of the Council or point (a) of Article 39(5) of Directive 2014/24/EU of the European Parliament and of the Council, as applicable, unless an agreement between the participating Member States provides otherwise. Such an agreement shall in any case provide for the application of a single national legislation in case of the procurement procedures conducted by a joint entity.		
78	CHAPTER IV TECHNICAL ASSISTANCE		
79	<i>Article 9</i>		
80	<i>Technical assistance</i>		
81	On the request of a project promoter or Member State, in accordance with the relevant Union funding programmes and without prejudice to the Multi-Annual Financial Framework, the Union shall make available technical assistance for the implementation of this Regulation and the facilitation of the implementation of projects of common interest.	On the request of a project promoter or Member State, in accordance with the relevant Union funding programmes and without prejudice to the Multi-Annual Financial Framework, the Union shall make available technical assistance for the implementation of this Regulation and the facilitation of the implementation of cross-border projects of common interest .	
82	CHAPTER V FINAL PROVISIONS		
83	<i>Article 10</i>		

84	Transitional provisions		
85	This Regulation shall not apply to the administrative procedures which started before the date of its entry into force.	This Regulation shall not apply to the projects for which public participation under the directive 2011/92/EU administrative procedures which started before the date of its entry into force.	Un approfondissement est nécessaire pour préciser le champ de l'exclusion. Ainsi qu'entend-on par procédure administrative ? Proposition FR : Le règlement s'appliquera à son entrée en vigueur aux projets pour lesquels aucune participation du public au titre de l'article 6 de la directive 2011/92/UE n'a été ouverte (en France ouverture de l'enquête publique de l'étude d'impact). <i>Further study is needed to clarify the scope of exclusion. Thus, what is the meaning of "administrative procedure"?</i> <i>The regulation will apply from its entry into force for projects for which no public participation under Article 6 of Directive (EU) 2011/92 has been opened (in France, opening of the public inquiry of the impact study).</i>
86	Article 11		
87	Entry into force		
88	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force two years on the twentieth day following the day that of its publication in the Official Journal of the European Union.	Une période de transition de deux ans est nécessaire pour permettre le cas échéant l'adaptation des organisations et des procédures au niveau national. <i>A transition period of two years is necessary to enable the adaptation of organizations and procedures at national level, where appropriate.</i>
89	This Regulation shall be binding in its entirety and directly applicable in all Member States.		