



Brussels, 7 December 2011

BACKGROUND¹ **Transport, Telecommunications and Energy Council**

Brussels, 12 and 13 December in Brussels

The first day of the meeting will be dedicated to transport issues, and the second day to telecommunications issues. On both days the meeting will start at 10.00.

*The **Monday session on transport** will be chaired by Mr Sławomir Nowak, Polish Minister for Transport, Construction and Maritime Economy.*

*The Council is due to adopt a political agreement on a directive establishing a **single European railway area**, which is a recast of the first railway package adopted in 2001.*

*The Council is expected to seek a partial general approach on the proposal for a regulation on **tachographs** for professional drivers.*

*Transport ministers will take stock of the state of play on new guidelines defining a long-term strategy for the development of the **trans-European transport network (TEN-T)**.*

*The Council is expected to reach a general approach on updating the directive on the minimum level of **training for seafarers**, with a view to aligning EU legislation with recent amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STWC).*

*The Council is also due to agree on a general approach on the recast of the 2002 regulation on the phasing-in of **double-hull requirements** for single-hull **oil tankers**.*

Over lunch, ministers will discuss the issue "Transport and Innovation - competition or synergy?".

The presidency will hold a press conference at the end of the meeting (+/- 16.00).

*The **Tuesday session on telecommunications** will be chaired by Mr Michał Boni, Polish Minister for Administration and Digitisation.*

*The Council will adopt its position at first reading on the decision establishing the **first radio spectrum policy programme**.*

¹ This note has been drawn up under the responsibility of the Press Office.

*The Council will take note of a progress report on a draft **roaming regulation** and will have an exchange of views on the basis of a presidency questionnaire.*

*Furthermore, ministers will take note of the progress report on a draft regulation regarding the new modernised mandate of the **European Network and Information Security Agency**.*

*Moreover, the Council is expected to adopt conclusions on the **open internet and net neutrality** in Europe.*

Over lunch, ministers will discuss universal service.

The presidency will hold a press conference before the lunch break (+/- 12.45).

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TRANSPORT

LAND TRANSPORT

Establishment of a single European railway area

The Council is expected to reach political agreement on a draft directive on a single European railway area ([17324/11](#)), confirming its general approach adopted in June this year, while slightly adapting the wording of a few provisions in order to take account of amendments adopted by the European Parliament.

While this political agreement is being formalised in the form of a first-reading position, the Council will enter into negotiations with the European Parliament to seek agreement on a final text to be adopted jointly by both institutions at second reading, if possible.

The draft directive is a recast of the first railway package: a set of three directives on the development of European railways, licensing of railway undertakings and management of railway infrastructure (directives Nos 12, 13 and 14 of 2001), which launched a gradual opening-up of the railway sector to competition at European level.

The purpose of the recast is to simplify, clarify and modernise the regulatory framework for Europe's railway sector so as to increase competition, strengthen market supervision and improve conditions for investment in the sector. To this end, the recast merges the three directives, together with the amendments made to them over time, into one text, and makes a number of other changes:

- Competition between railway undertakings will be enhanced by making rail market access conditions more transparent and improving access for operators to rail-related services such as railway stations, freight terminals and maintenance facilities. To guarantee non-discriminatory access, the recast provides in particular that a service operator belonging to a body with a dominant position on the railway market concerned must be independent from that body to a certain extent, but without the need to create a separate legal body.
- The independence of national regulatory bodies and their powers, for instance to impose sanctions or audits, will be strengthened. Cooperation between regulators on cross-border issues will also be enhanced. This will help eliminate discriminatory obstacles to access to rail services and ensure the proper functioning of the rail services market.
- Financing of rail infrastructure will be improved by longer-term planning, offering more certainty to investors, and by adapting charging rules so as to give incentives to modernise infrastructure, including as regards reducing noise emissions.

The Commission proposal was presented by the Commission in September 2010 ([13789/10](#)). The European Parliament agreed on its first-reading position on 16 November 2011 ([16805/11](#)).

Tachograph regulation

The Council will try to reach a partial general approach on a proposal for a regulation on the tachograph to be used by professional drivers so that compliance with the rules on driving time and rest periods can be monitored, in order to ensure road safety, decent working conditions for drivers and fair competition between transport businesses. The aim of the new draft regulation (18148/11), which will replace the 1985 tachograph regulation, is to make fraud more difficult and to reduce the administrative burden by making full use of new technologies and introducing a number of new regulatory measures.

The partial general approach does not cover the proposed provision on merging the driving licence with the driver card used with the tachograph. That provision will be discussed at a later stage, in parallel with the proposal recently submitted by the Commission (16842/11) to include that merger into the directive on driving licences.

The main issues that might still need further discussion by ministers include:

- a request to extend the exemptions from the requirement to use the tachograph;
- the provision that penalties for very serious infringements must be of the highest category applicable in the member state concerned for infringements of social legislation relating to road transport; and
- the date from which newly registered vehicles will have to be equipped with the new smart tachograph connected to a global satellite navigation system.

The draft regulation resulting from the discussions in the Council's preparatory bodies contains the following key elements:

As regards the use of technology, the current manual recording of the location of the vehicle will be replaced by automated recording through satellite positioning. Moreover, remote communication from the tachograph providing basic information on compliance will allow early detection of possible manipulation or misuse, thereby enabling officers to target roadside checks better and avoid unnecessary checks. However, there will be no obligation for member states to ensure that their inspection authorities are equipped with the instruments required for remote early detection of this kind. In addition, the tachograph may be equipped with an interface facilitating its integration into Intelligent Transport Systems, subject to certain conditions.

On the regulatory side, there will be stricter requirements for workshops responsible for installing and calibrating tachographs. In order to cut the administrative burden, the exemption from the obligation to use tachographs, which member states may grant to certain users - mainly small and medium-sized enterprises - will be extended. The precise radius within which the exemption will apply is still under discussion. The Commission in its initial text proposed an increase from 50 to 100 km.

The regulatory measures will apply two years after the publication of the regulation in the Union's Official Journal, with the exception of the rules on the approval and control of workshops and the use of driver cards, which will be applicable one year earlier. The application of the new satellite-linked technology will become mandatory a few years - the precise time frame is still under discussion - after the technical specifications for the new tachograph have been established.

In a first debate on the Commission proposal ([13195/11](#)) at the Transport Council meeting on 6 October, ministers had in particular highlighted the need for improvements in order to combat manipulation and fraud, and the importance of reducing costs for transport businesses; there were also concerns about the costs the new regulation might entail.

The European Parliament, whose approval is also required for the adoption of the regulation, has yet to discuss the proposal.

The 1985 tachograph regulation, which has already been adapted 10 times to take account of technological progress, sets technical standards and establishes the rules on the use, type approval, installation and inspection of tachographs. At present, two types of tachographs are used by some 900 000 transport businesses and 6 million drivers: the digital tachograph introduced in vehicles registered after 1 May 2006, and the analogue tachograph, which is still used in older vehicles.

INTERMODAL ISSUES

Trans-European transport network

The Council will take stock of progress made on new guidelines defining a long-term strategy for the trans-European transport network (TEN-T) with the aim of establishing a complete and integrated transport network covering all member states and regions and providing the basis for the balanced development of all transport modes.

The guidelines lay down the requirements for the management of the infrastructure and the priorities for the development of the network and also provide for implementing measures. They set out the framework for identifying projects of common interest contributing to the development of the network; such projects may relate to the creation, maintenance, rehabilitation and upgrading of infrastructure for all modes of transport as well as measures promoting its resource-efficient use.

The Council's preparatory bodies have only recently started to discuss the draft guidelines proposed by the Commission ([15629/11](#)). In general, member states support the proposal to introduce a **double-layer** structure distinguishing between a core network to be put into place as a priority and a comprehensive network. However, further discussions will be necessary on other aspects of the proposal, in particular on the following issues:

- The **costs** for meeting the requirements set out in the guidelines for the different modes of transport, in particular rail transport, are considered problematic by several member states, which find it difficult to make very long-term financial commitments at this stage, given the current economic situation. These delegations advocate possible derogations under specific circumstances.
- Most member states also have difficulties with committing themselves to the binding **deadlines** proposed by the Commission: that is, 2030 for setting up the core network and 2050 for the comprehensive network.

- The core network **corridor** approach, as outlined in the proposal, has the support of several member states but is criticised by several other delegations, who point to a lack of prior consultation on the issue, to concerns that corridors mainly managed by the Commission could encroach on their sovereignty and to difficulties linked to the fact that this issue is also covered by the Commission's Connecting Europe Facility proposal currently under discussion in another forum. Concerns were also expressed that the new concept of **corridor platforms** might lead to increased bureaucracy and higher costs. The delegations critical of the corridor concept seem to prefer an approach with fewer constraints, dropping the detailed requirements proposed by the Commission regarding the number of transport modes and member states to be covered by a corridor.
- A large majority of member states are of the opinion that the **power delegated to the Commission** for updating the annexes to the guidelines should be limited in time.
- There are also doubts about the Commission's decision to give the guidelines the **legal form** of a regulation, which is directly addressed to all potential stakeholders, including regional and local authorities and private bodies, rather than a decision addressed only to the member states, as is the case for the guidelines currently in force.

The new double-layer structure of the TEN-T network, as set out in the **Commission proposal**, has the following key features:

The **comprehensive network**, to be completed by the end of 2050, will be made up of all existing and planned TEN-T infrastructure meeting the requirements of the guidelines, including as regards resource-efficiency and environmental and technological aspects.

The **core network**, to be in place by the end of 2030, consists of the components of the comprehensive network with the highest strategic importance from a European perspective, such as cross-border missing links, key bottlenecks and multi-modal nodes. It will have to comply with additional requirements and will be implemented through multi-modal network **corridors** covering at least three, or in justified cases two, different modes of transport and crossing at least three member states. These corridors will provide an instrument for capacity management, investments, interoperable traffic management systems, and building and coordinating multi-modal transshipment facilities. For each corridor, the member states concerned will set up a platform tasked with the governance and coordinated implementation of the corridor; each platform will be chaired by a European coordinator appointed by the Commission.

Maps indicating the layout of the comprehensive and core networks and the list of core network projects will be included in the annexes to the proposal.

The first guidelines defining the TEN-T policy were adopted in 1996 and revised in 2004. In 2010, maps covering the 10 new member states that joined the EU in 2004 were added. The revision under way intends to tackle the main problems encountered: missing links, in particular at cross-border sections, infrastructure disparities between and within member states, insufficient multi-modal connections, greenhouse gas emissions by transport and a lack of interoperability.

The Commission presented its proposal in October this year. The guidelines need to be approved by both the Council and the European Parliament.

SHIPPING

Training of seafarers

The Council will seek a general approach on an update of a 2008 directive defining the minimum level of training for seafarers ([18147/11](#)), with a view to aligning the EU legislation with recent amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). The 2008 directive is the transposition into EU law of this convention, which was adopted by the International Maritime Organisation (IMO) and to which all EU member states are parties.

The amendments to the STCW agreed by the IMO in 2010, which enter into force in 2012 (with transitional arrangements until 2017), include provisions on:

- updated standards for medical fitness and fitness for duty, including as regards alcohol abuse,
- the establishment of the new professional profiles of "able seafarers" and "electro-technical officers",
- security-related training for all seafarers,
- clearer and simpler definition of certificates, and
- prevention of fraudulent practices relating to certificates.

In addition to incorporating these amendments into EU law, the draft directive extends the time frame available to the Commission for deciding on the recognition of the training and certification systems of non-EU countries from three to eighteen months, as the three-month deadline has proved impracticable. The new text also provides for the collection of information on seafarers' certificates for statistical purposes, as a tool for policy-making in this sector.

The STCW Convention, adopted in 1978 and entering into force in 1984, was incorporated into EU legislation for the first time by a directive adopted in 1994, which itself was subsequently adapted to take account of amendments to the international convention and eventually replaced by directive 2008/106, currently in force. Besides setting minimum training standards for all seafarers working on EU-flagged ships, the current EU directive also contains a procedure for the recognition of certificates issued by non-EU countries.

The European Parliament has not yet delivered its opinion on the proposal, which was presented by the Commission in September this year ([14256/11](#)).

Double-hull requirements for oil tankers

The Council is due to agree a general approach on a recast of the 2002 regulation on the phasing-in of double-hull requirements for single-hull oil tankers ([17025/11](#)). The recast brings together the amendments made to the regulation in one text for clarity; the only change to the rules currently in force concerns the procedure for updating the references in the regulation to the relevant regulations and resolutions adopted by the International Maritime Organisation (IMO).

The Council and the European Parliament will delegate to the Commission the power to align the numbering of those references with a possible renumbering of the IMO rules. This procedure, introduced by the Lisbon treaty, is to replace the current one under which decisions on amendments to those references are taken by a committee composed of experts from both the Commission and the member states. The Council deemed it sufficient to limit the scope of possible amendments to renumbering since single-hull oil tankers will be phased out in the near future and it is therefore unlikely that IMO will modify the content of the relevant rules.

The regulation to be recast prohibits the transport to or from EU ports of heavy grades of oil in single-hull oil tankers and lays down an accelerated phasing-in scheme for the application of the double-hull or equivalent design requirements of the International Convention for the Prevention of Pollution from Ships to single-hull oil tankers, with 2015 as the final deadline. That regulation was adopted in 2002 as a response to shipping accidents involving oil tankers and to the ensuing pollution of the Union's waters and coastlines. Its main objective is to enhance safety and to prevent pollution in maritime transport by making oil tankers safer.

The European Parliament, whose approval is also required for the adoption of the recast, has not yet established its position.

OTHER BUSINESS (transport items)

- **Airport package**
 - *Presentation by the Commission*
- Ministerial conference on the **Eastern Partnership** (Krakow, 24-25 October 2011)
 - *Information from the presidency ([16406/11](#))*
- **Single European Sky**
 - (i) High-level conference on the implementation of the Single European Sky and its extension to third countries (Warsaw, 28 November 2011)
 - *Information from the presidency ([18108/11](#))*
 - (ii) Implementation of the regulatory framework
 - *Information from the Commission ([18291/11](#))*
 - (iii) Agreement on the establishment of the DANUBE functional airspace block
 - *Information from the Bulgarian and Romanian delegations*
- Proposal for a regulation of the European Parliament and of the Council on the implementation and exploitation of European **satellite navigation** systems
 - *Presentation by the Commission*
- European **Aviation Safety** Management System
 - *Information from the Commission ([18057/11](#))*
- **Air cargo security** action plan
 - *Information from the Commission*
- **ETS/aviation** - State of play
 - *Oral information from the Commission requested by the Finnish delegation*
- **Work programme** of the incoming presidency
 - *Information from the Danish delegation*

TELECOMMUNICATIONS

First radio spectrum policy programme

In a public session, the Council will adopt its position at first reading ([16226/11](#) + [ADD1](#)) on the draft decision on the first radio spectrum policy programme.

The text endorsed was negotiated in triologue meetings between the Polish presidency, the European Parliament and the European Commission. The Council position will be transmitted to the European Parliament, which is expected to endorse it in the first quarter of 2012.

The aim of the programme is to set out policy orientations and objectives for the strategic planning and harmonisation of spectrum use in order to ensure the functioning of the internal market. The programme covers all EU policy areas involving the use of spectrum such as electronic communications, research, technological development and space, transport, energy and audio-visual.

The new programme seeks to achieve in particular the following policy objectives:

- encourage efficient management and use of spectrum;
- allocate sufficient and appropriate spectrum in a timely manner to support EU policy objectives and, for that purpose, make every effort to identify, based on an inventory of spectrum, at least 1200 MHz of spectrum by 2015 at the latest;
- bridge the digital divide and contribute to the objectives of the Digital Agenda for Europe by fostering access to broadband at a speed of not less than 30 Mbps by 2020 for all EU citizens;
- enable the EU to take the lead in wireless electronic communication broadband services by freeing up sufficient spectrum in cost-efficient bands for these services to be widely available;
- promote innovation and investment;
- maintain and develop effective competition, in particular in electronic communication services;
- reduce the fragmentation and fully exploit the potential of the internal market in order to foster economic growth and economies of scale in the EU.

The decision provides for the establishing of an inventory of existing uses of spectrum for commercial and public purposes. The inventory will be administered by the Commission, which by July 2013 will adopt relevant implementing acts to develop modalities and formats for the collection and provision of data by the member states.

The Commission will review the application of this programme by 31 December 2015 and it will report on the implementation of this decision to the Council and the Parliament no later than two years after its entry into force.

Roaming regulation

The Council will take note, in a public session, of a progress report ([17900/11](#)) on a draft roaming regulation and will have an exchange of views on the basis of the presidency questionnaire ([17751/1/11](#)).

The proposal ([12639/1/11](#)) aims at revising the current regulation by introducing pro-competitive structural measures and extending its validity until 30 June 2022. The proposed structural measures aim to tackle the lack of competition and consumer choice, which causes the high roaming prices. The intention is to open the market to different type of providers and raise consumers' awareness of roaming prices, as well as increase the choice by allowing them to purchase roaming also as a stand-alone service.

The current roaming regulation will expire on 30 June 2012. The aim of the incoming Danish presidency will be to achieve a first-reading agreement with the European Parliament early 2012.

The presidency progress report is intended to inform ministers of the work done so far and to identify issues, which will need more in-depth consideration.

The working party discussed the proposal at several meetings on the basis of three clusters, which cover the main elements of the proposal: structural measures; price caps; transparency, safeguards and supervision. Most delegations welcomed the proposal. However, most delegations sought clarification with regard to the exact scope of the wholesale access obligation, and inquired about the technical and practical feasibility of de-coupling domestic mobile services and international roaming services, and about the implementation time-frame for particular actions indicated in the regulation. The delegations also expressed some concerns about the level of the proposed price caps and the margin of the price caps at wholesale and retail level.

The first roaming regulation, adopted in June 2007, covered only voice traffic. In June 2009, it was amended to extend its scope to regulating SMS and wholesale-level data roaming services too. The duration of the regulation was extended until June 2012.

European Network and Information Security Agency

In a public session, the Council will take note of the progress report ([18156/11](#)) on a draft regulation concerning the European Network and Information Security Agency (ENISA).

The Commission proposal aims to strengthen and modernise the ENISA and to establish a new mandate for a period of five years.

The presidency's progress report describes work done on this file during the Polish presidency. The only issue outstanding is the duration of the agency's mandate; several delegations agree to a mandate which is limited in time (including a mandate longer than the period of five years proposed by the Commission) whereas several others support an indefinite mandate.

The current mandate of the ENISA will expire on 13 September 2013.

The European Parliament is expected to conclude its first reading on this proposal in March 2012.

The original Commission proposal can be found in [14358/10](#).

Open internet and net neutrality

The Council is due to adopt conclusions on the open internet and net neutrality in Europe ([17904/11](#)).

These conclusions were drawn up on the basis of the Commission communication on the subject published in April 2011 ([9350/11](#)). This communication seeks to fulfil the Commission commitment to preserve "the open and neutral character of the internet, taking full account of the will of the co-legislators now to enshrine net neutrality as a policy objective and regulatory principle to be promoted by national regulatory authorities". This commitment was made in its declaration on net neutrality when the 2009 telecoms package was concluded (*OJ C 308, 18.12.2009, p.2*).

In the draft conclusions the Council underlines, inter alia, the need to preserve the open and neutral character of the internet and consider net neutrality as a policy objective. It welcomes the Commission's intention to assess the need, based on Body of European Regulators for Electronic Communications' (BEREC) investigations, for more stringent measures and to publish additional guidance on net neutrality if necessary. In addition, it welcomes the Commission's commitments to monitor the implementation of the EU regulatory framework for electronic communications and services and to issue a code of existing EU online rights by 2012.

The Commission is invited, inter alia, to assess, jointly with BEREC, the discrepancy between advertised and actual delivery speeds occurring in member states, and report to the Council and to the Parliament on the situation thereof by 2012. Furthermore, the Commission is invited to provide additional information on traffic management best practices and on how to respond to the requirements of global service providers concerning quality and pricing of services.

OTHER BUSINESS (telecommunications items)

- Ministerial conference "Perspectives for the development of the **electronic communications market in the EU**" (Warszawa 19-20 October 2011)
 - *Information from the presidency ([18159/11](#))*
 - Sixth ministerial **conference on e-Government** (Poznań, 17-18 November 2011)
 - *Information from the presidency ([18290/11](#))*
 - Commission communication on the results of the public consultation on the role of the **universal service** in electronic communications
 - *Presentation by the Commission*
 - (poss.) **Open data** - An engine for innovation, growth and transparent governance
 - *Presentation by the Commission*
 - **Connecting Europe Facility** – proposal for a regulation of the European Parliament and of the Council on guidelines for trans-European telecommunications networks and repealing Decision No 1336/97/EC
 - *Presentation by the Commission ([16006/11](#))*
 - State of play on implementation of the **Electronic Communications Framework**
 - *Information from the Commission ([18169/11](#))*
 - **Digital Agenda for Europe**
 - *Information from the Commission*
 - **Work programme** of the incoming presidency
 - *Information from the Danish delegation*
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