



COMMISSION OF THE EUROPEAN COMMUNITIES

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DECLASSIFIED PART

**RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL**

**in order to authorise the Commission to open and conduct negotiations with Switzerland on the conditions and arrangements for the European Community's membership of the Central Commission for the Navigation of the Rhine**

**RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL**

**in order to authorise the Commission to open and conduct negotiations with the Danube Commission on the conditions and arrangements for the European Community's membership**

## EXPLANATORY MEMORANDUM

### **Introduction**

This communication from the Commission to the Council concerns European Community membership of the Central Commission for the Navigation of the Rhine (CCNR) and of the Danube Commission.

As pointed out in the White Paper on the future of European transport policy<sup>1</sup>, the European Union, which is the world's leading commercial power and conducts a large part of its trade outside its own borders, needs to play its proper role in the adoption of international rules which govern much of transport.

Since the 1980s, the Community has developed a substantial legislative *acquis* in the field of inland waterway transport. Consequently, the increasingly significant role played by the Community in areas covered by the CCNR and the Danube Commission make it necessary to strengthen its participation in those two organisations, which adopt international rules on inland waterway transport. By strengthening its participation, the Community will have the means with which to create a genuine single market in the field of inland navigation and to ensure that the interests of the Community and of its Member States which are not members of the two organisations are safeguarded and that due account is taken of those interests within the CCNR and the Danube Commission.

In addition to these considerations, and as the Commission pointed out in its White Paper on the future of European transport policy<sup>2</sup>, *'The forthcoming enlargement poses a specific problem concerning the Community's status in the international organisations responsible for navigation on the Rhine and the Danube. For historical reasons, the Central Commission for Navigation on the Rhine has been responsible for drawing up the rules governing shipping on the Rhine and its tributaries, that is, 70% of the European tonnage. The Community has generally endeavoured to incorporate these rules in the Community legislation applicable to the entire inland waterways network. Nevertheless, the coexistence of these two judicial systems poses problems concerning the issue of certificates, protection of crews and gaseous emissions.'*

It may be expected that this division will be accentuated by enlargement, as the six applicant countries connected to the Community's international network of inland waterways are not members of the CCNR.

Several of these applicant countries are, however, members of the Danube Commission. Their membership of the European Union could fragment the Danube into Community sections and non-Community sections (on the territory of third countries). Community membership of the Danube Commission is thus becoming essential as a means of maintaining consistency amongst the rules that apply to the Danube waterway as a whole.

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<sup>1</sup> White Paper 'European transport policy for 2010: time to decide', COM(2001) 370, 12.9.2001

<sup>2</sup> White Paper 'European transport policy for 2010: time to decide', COM(2001) 370, 12.9.2001

## **Current situation and prospects**

The current arrangements for the Commission's participation as an observer in the work of the CCNR and of the Danube Commission are neither satisfactory nor sufficient to ensure genuine representation of the Community's position.

The position which the Commission occupies within these two organisations does not allow it either to express views on behalf of the Community on matters which fall within the exclusive competence of the Community or to invoke decisions taken at Community level, as all national positions are considered individually, irrespective of whether the member country expressing a position is a Community Member State.

Consequently, it is necessary for the Community to become a member of the CCNR and of the Danube Commission.

Given that the Revised Convention for the Navigation of the Rhine and the Belgrade Convention, by which these two international organisations were established, provide only for accession by States, accession by the Community will require an amendment to each of them so as to allow regional economic integration organisations to become members. Consequently, before any accession by the Community, it is necessary to submit a proposal amending the Revised Convention for the Navigation of the Rhine and a proposal amending the Belgrade Convention, each of which will need to be approved unanimously by the Contracting Parties to the convention concerned and ratified in accordance with the provisions of that convention.<sup>3</sup>

The Commission therefore recommends the Council to authorise it to negotiate the necessary amendments to these conventions.

## **Conclusions**

The Commission calls on the Council:

- to authorise the Commission to negotiate, on behalf of the Community, the amendments which must be made to the Revised Convention for the Navigation of the Rhine and to the Belgrade Convention in order to permit its membership of the CCNR and of the Danube Commission respectively.

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<sup>3</sup> In both cases by all the Contracting Parties.

## RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

### **in order to authorise the Commission to open and conduct negotiations with Switzerland on the conditions and arrangements for the European Community's membership of the Central Commission for the Navigation of the Rhine**

#### **1. INTRODUCTION**

The Central Commission for the Navigation of the Rhine (CCNR) was established in 1816, on the basis of the deliberations of the Congress of Vienna. Its current basis is the Mannheim Convention (Revised Convention for the Navigation of the Rhine) of 17 October 1868, as amended in 1963. The members of the CCNR are Germany, Belgium, France, the Netherlands and Switzerland.

The CCNR's task is to ensure compliance with the principles set out in the Mannheim Convention: freedom of navigation, equal treatment for vessels flying the flag of any nation - exemption from the duties and taxes based solely on navigation - absence of physical or administrative barriers to the freedom of navigation, obligation for member countries to maintain the fairway in good order and to keep it in a navigable state.

The CCNR can adopt, by means of unanimous resolutions, binding technical rules concerning the construction of vessels and their equipment and concerning the conditions for issuing boatmasters' certificates for navigation on the Rhine. Moreover, under the Mannheim Convention, the CCNR alone has the power to decide on the conditions governing access to cabotage on the Rhine for the third-country vessels.

In keeping with the objectives of the common transport policy, the Community has in recent years adopted numerous legislative measures in the inland waterway sector, in particular concerning access to the profession, cabotage, freedom to provide services, liberalisation of the market, fleet restructuring policies, technical rules for inland waterway vessels and the conditions for obtaining boatmasters' certificates for inland navigation. These rules apply on all inland waterways in the Community. With regard to external powers, following the negotiating mandate issued by the Council in 1992<sup>4</sup>, the Community was recognised as competent for laying down the rules governing third-country access to the Community's internal market.

Generally, the Community has taken account in its legislation of the existence, alongside its own legal system, of a legal system specifically applicable to the Rhine<sup>5</sup>. In some cases (e.g. technical rules for inland waterway vessels), it has incorporated Rhine navigation rules into Community legislation which applies to the entire inland waterway network. The Community has explicitly recognised the validity of Rhine navigation certificates (for vessels and their equipment, as well as boatmasters' certificates) on all inland waterways in the Community. However, Community certificates are not recognised by the CCNR.

The absence of a common set of rules for the Community's inland waterways is becoming increasingly problematic: rules overlap, there is no reciprocal recognition of certificates, and

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<sup>4</sup> Council Decision of 7 December 1992

<sup>5</sup> See Annex I

Member States' positions within the CCNR are not coordinated or worked out jointly with those of other Member States of the Community. These problems could intensify further with the enlargement of the Union. As the Commission pointed out in its recent White Paper entitled 'European transport policy for 2010: time to decide'<sup>6</sup> : *'If nothing is done to alter the situation, when the six candidate countries connected to the Community's international network of inland waterways have adopted the acquis there will be one system in force on the Rhine and a Community system in force on the other inland waterways such as the Upper Danube, the Oder and the Elbe, and yet all these waterways will be interlinked on Community territory. The new Member States would thus be asked to adopt the Community legislation and to issue Community certificates that were not valid on the Rhine. This would be incompatible with the single market.'*

The member countries of the CCNR, aware of the situation, have recently adopted a protocol to the Revised Convention for the Navigation of the Rhine<sup>7</sup> making it possible to recognise certificates and licences which were not issued under Rhine navigation rules but which were issued on a basis corresponding to that underlying the Rhine navigation regulations. However, decisions concerning the conditions for accepting such certificates and licences will continue to rest with the CCNR and will fall outside the Community's influence.

## **2. RELATIONS BETWEEN THE COMMISSION AND THE CCNR**

In 1961, an initial exchange of letters<sup>8</sup> between the Presidents of the Commission and the CCNR laid down the arrangements for regular contact between the CCNR Secretariat and the Commission with a view to strengthening cooperation. In 1987, a further exchange of letters<sup>9</sup> revised and fleshed out the arrangements governing cooperation. However, with the establishment of a genuine Community policy on inland navigation, it proved necessary to strengthen cooperation between the two organisations.

A cooperation agreement between the Commission and the CCNR was concluded on 3 March 2003. Although this agreement makes it possible to improve pragmatic cooperation between the two organisations, only Community membership of the CCNR could provide the right solution to the fundamental problems connected with the coexistence with the Community's legal system of a separate legal system applicable to the Rhine. The Community's membership will ensure that the interests of the Community and of its Member States which are not members of the CCNR are safeguarded and that due account is taken of those interests in the context of the work undertaken by the CCNR.

## **3. EUROPEAN COMMUNITY MEMBERSHIP**

In order to establish a genuine single market in the field of inland navigation and to create conditions in which inland navigation in Europe can prosper, it is necessary for the Community to become a member of the CCNR.

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<sup>6</sup> COM(2001) 370, 12.9.2001

<sup>7</sup> Additional Protocol No 7 to the Revised Convention for the Navigation of the Rhine, signed on 27 November 2002 by the Plenipotentiaries of Germany, Belgium, France, the Netherlands and Switzerland.

<sup>8</sup> Exchange of letters of 6 June 1961.

<sup>9</sup> Exchange of letters of 24 March 1987 between the respective Secretaries-General.

As long ago as 1977, the Commission noted that, in order to resolve the issues concerning the Community institutions' powers and prerogatives, accession by the Community to the Revised Convention for the Navigation of the Rhine was essential<sup>10</sup>.

This conclusion was reached at a time when the CCNR was preparing to restrict the freedom of navigation on the Rhine (which was initially open to vessels of all nations) ahead of the opening of the Main-Danube canal. Eventually, in order to prevent discrimination against Member States of the Community, all Member States of the Community were granted *de jure* equality on the Rhine with the member countries of the CCNR.

Moreover, the new Rhine navigation rules offered the Community a possibility of becoming a contracting party to the Revised Convention for the Navigation of the Rhine: *'in the interests of developing the common transport policy and the Rhine regime, the Contracting States are prepared to take the measures necessary to permit the negotiation of such amendments to the Revised Convention for the Navigation of the Rhine as may prove to be necessary with a view to possible accession by the European Economic Community to the international Rhine regime'*<sup>11</sup>.

The Council did not follow the Commission's proposal that negotiations be opened with Switzerland in order to permit Community membership of the CCNR. At the current time, as part of efforts to complete a common transport policy and looking ahead to the enlargement of the European Union, membership of the CCNR is the only way to bring about a genuine single market in the field of inland navigation and to safeguard the interests of the Community and of its Member States which are not members of the CCNR and ensure that due account is taken of those interests within the CCNR. The imminent enlargement of the European Union makes this all the more essential.

In order that the Community can become a full member, it will first be necessary to amend the Revised Convention for the Navigation of the Rhine so as to permit accession by the Community. As in 1977, the Commission considers that this amendment must be negotiated with the only third country in the CCNR, namely Switzerland.

#### 4. CONCLUSION

In the light of the foregoing, the Commission recommends the Council to authorise the Commission to open and conduct negotiations with Switzerland on the conditions and arrangements for accession by the European Community to the Revised Convention for the Navigation of the Rhine, appoint a special committee to assist the Commission in this task, and adopt the negotiating directives included in the Recommendation below.

(Rest of conclusions including attachments: EU RESTRICTED)

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<sup>10</sup> COM(77) 518 of 17 October 1977 (internal document)

<sup>11</sup> Protocol of Signature of Additional Protocol No 2 to the Revised Convention for the Navigation of the Rhine, signed on 17 October 1979 by the Plenipotentiaries of Germany, Belgium, France, the United Kingdom of Great Britain and Northern Ireland, the Netherlands and Switzerland.

## ANNEX I

### Rhine navigation rules in Community legislation in the field of inland navigation

#### Functioning of the market

Council Regulation (EEC) No 2919/85 of 17 October 1985 laying down the conditions for access to the arrangements under the Revised Convention for the navigation of the Rhine relating to vessels belonging to the Rhine Navigation.

*Official Journal L 280, 22/10/1985, pp. 4 -7*

***This Regulation grants de jure equality for all Member States of the Community and the member countries of the CCNR***

Council Regulation (EEC) No 3921/91 of 16 December 1991 laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State.

*Official Journal L 373, 31/12/1991, pp. 1-3*

#### ***Article 6***

***'This Regulation shall not affect the rights existing under the Revised Convention for the navigation of the Rhine (Convention of Mannheim).'***

Council Regulation (EC) No 1356/96 of 8 July 1996 on common rules applicable to the transport of goods or passengers by inland waterway between Member States with a view to establishing freedom to provide such transport services

*Official Journal L 175, 13/07/1996, pp. 7-8*

#### ***Article 3***

***'This Regulation shall not affect the rights of third-country operators under the Revised Convention for the Navigation of the Rhine (Mannheim Convention) (...).'***

Council Regulation (EC) No 718/1999 of 29 March 1999 on a Community-fleet capacity policy to promote inland waterway transport

*Official Journal L 90, 02/04/1999, pp. 1-5*

***This regulation does not explicitly mention the separate rules for Rhine navigation. However, the CCNR has adopted identical parallel rules (which thus also cover Switzerland).***

Council Directive 96/75/EC of 19 November 1996 on the systems of chartering and pricing in national and international inland waterway transport in the Community

*Official Journal L 304, 27/11/1996, pp. 12-14*

***This Directive does not distinguish between the Rhine and other inland waterways in the Community.***

#### Access to the profession

Council Directive 87/540/EEC of 9 November 1987 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation  
*Official Journal L 322, 12/11/1987, pp. 20-24*

***This Directive does not distinguish between the Rhine and other inland waterways in the Community.***

Council Directive 91/672/EEC of 16 December 1991 on the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway  
*Official Journal L 373, 31/12/1991, pp. 29-32*

#### ***Article 2***

***'Subject to the provisions of Article 3(5), the Rhine navigation licence for boatmasters issued in accordance with the revised Convention for the Navigation of the Rhine shall be valid for all waterways in the Community'.***

Council Directive 96/50/EC of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community  
*Official Journal L 235, 17/9/1996, pp. 31-38*

#### ***Article 1(5)***

***'Subject to Article 8(2), the Rhine navigation licence, issued in accordance with the revised Convention for the Navigation of the Rhine, shall be valid for all waterways in the Community'.***

#### **Safety**

Council Directive 76/135/EEC of 20 January 1976 on reciprocal recognition of navigability licences for inland waterway vessels  
*Official Journal L 21, 29/1/1976, pp. 10-12*

#### ***Article 1(b)***

***'(...) This Directive shall not prejudice the provisions laid down in the Regulation on inspection of shipping on the Rhine and in the Agreement on transport of dangerous goods on the Rhine (ADNR)'.***

#### ***Article 3(5)***

***'Vessels which fulfil the requirements laid down in the Regulation on inspection of shipping on the Rhine shall be admitted to all inland waterways in the Community'.***

Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels  
*Official Journal L 301, 28/10/1982, pp. 1-66*

#### ***Article 4(1)***



***'All vessels carrying a valid certificate issued pursuant to Article 22 of the Revised Convention for the Navigation of the Rhine may navigate on Community waterways carrying only that certificate'.***

### **Working conditions**

Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ L 307, 13.12.1993, p. 18), amended by Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 (OJ L 195, 1.8.2000, p. 41)

***This directive does not refer to the Rhine navigation rules.***

### **Legislative proposals**

Proposal for a Council directive amending Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels (COM(97) 644 final)  
*Official Journal C 105, 6/4/1998, p. 1*

Amended by:

Amended proposal for a directive of the European Parliament and of the Council amending Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels (presented by the Commission pursuant to Article 250(2) of the EC Treaty) (COM(2000) 419 final)  
*Official Journal C 365 E, 19/12/2000, pp. 138-166*

***This proposal provides for recognition of the Rhine certificate on other inland waterways in the Community and lays down that a Community certificate for inland waterway vessels is valid on the Rhine provided that it has been issued on the basis of technical rules equivalent to those imposed by the CCNR.***

Proposal for a Council directive on the approximation of the laws of the Member States with regard to the transport of dangerous goods by vessels on inland waterways (COM(97) 367 final)  
*Official Journal C 267, 3/9/1997, p. 96*

Amended by:

Amended proposal for a directive of the European Parliament and of the Council on the approximation of the laws of the Member States with regard to the transport of dangerous goods by vessels on inland waterways (COM(1999) 563 final)  
*Official Journal C 150 E, 30/5/2000, pp. 34-42*

Article 4(2) of the proposed directive stipulates that:

***'... all vessels carrying a certificate granted according to the Regulation on the Transport of Dangerous Goods on the Rhine (ADNR) as in force at 1 January 1997 may carry dangerous goods over the entire Community territory under the conditions specified in this certificate'.***

Proposal for a directive of the European Parliament and of the Council amending Directive 97/68/EC on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery. (*COM(2002)765*)

This proposal is aimed at introducing emission standards for engines used in inland waterway transport at Community level.

## ANNEX II

### The Central Commission for Navigation on the Rhine

The Central Commission for the Navigation on the Rhine (CCNR) was established in 1816, on the basis of the deliberations of the Congress of Vienna. Its current basis is the Mannheim Convention (Revised Convention for the Navigation of the Rhine) of 17 October 1868, as amended in 1963. The members of the CCNR are Germany, Belgium, France, the Netherlands and Switzerland.

The CCNR's task is to ensure compliance with the principles set out in the Mannheim Convention : freedom of navigation, equal treatment for vessels flying the flag of any nation - exemption from duties and taxes based solely on navigation - absence of physical or administrative obstacles to free navigation, obligation to maintain the fairway in good order and in a navigable state.

**The CCNR's mission is as follows:**

#### **To ensure the safety of navigation**

This concern is at the root of all the regulations adopted by the CCNR:

- Rhine navigation police regulation
- Regulation on the inspection of vessels on the Rhine
- Regulation on the transport of dangerous goods on the Rhine
- Regulations for the issue of Rhine navigation licences
- Guidelines on radiotelephony, etc.

The Rhine regulations are continuously adapted to keep pace with changes in requirements and technology, thus ensuring a high degree of safety for navigation and the environment, crews and passengers. The CCNR considers, from the perspective of benefits for navigation, plans for river development works and civil engineering projects.

**To strive for the unity of the Rhine system** and, more generally, to unify the laws applicable to inland navigation.

Some conventions under public or private law have been concluded under its auspices, e.g. the Convention on the collection, deposit and reception of waste produced by inland and Rhine navigation, which provides for a set of preventive and repressive measures aimed at preventing pollution and at reducing the production of waste and ensuring its 'ecologically sound' disposal.

**To promote the prosperity of Rhine navigation.** The Rhine is currently the most important inland waterway in Europe. Traffic on the Rhine totals about 300 million tonnes, i.e., by way of comparison, more than three times the volume of traffic carried on the Danube. The activities of the Central Commission continue to be characterised by liberalism. It endeavours to find solutions based on consensus amongst the various professional groups concerned in order to adapt to new economic realities or to face up to emerging economic problems.

**To deliberate** on proposals made by member countries, especially those aimed at adding to or amending the Convention.

**To examine any complaint** arising from the implementation of the Convention and the enforcement of the regulations jointly agreed upon by the riparian governments and measures adopted by common accord.

**With regard to social matters**, the CCNR administers the Agreement on Social Security for Rhine Boatmen, which has set up an administrative centre, the European Agreement on Social Security for Boatmen on Inland Waterways and the Rhine (Central and Eastern Europe and Western Europe), and the Agreement on Working Conditions in the context of Rhine Navigation, which has established a tripartite commission on working conditions.

The CCNR maintains links with other international organisations and takes part in their work: the UN Economic Commission for Europe in Geneva, the European Conference of Ministers of Transport, the International Atomic Energy Agency in Vienna, etc.

### **Decision-making process**

Each member country's delegation is composed of four representatives (commissioners) and two substitutes (deputy commissioners). The presidency rotates and is held for a term of two years in alphabetical order of the member countries.

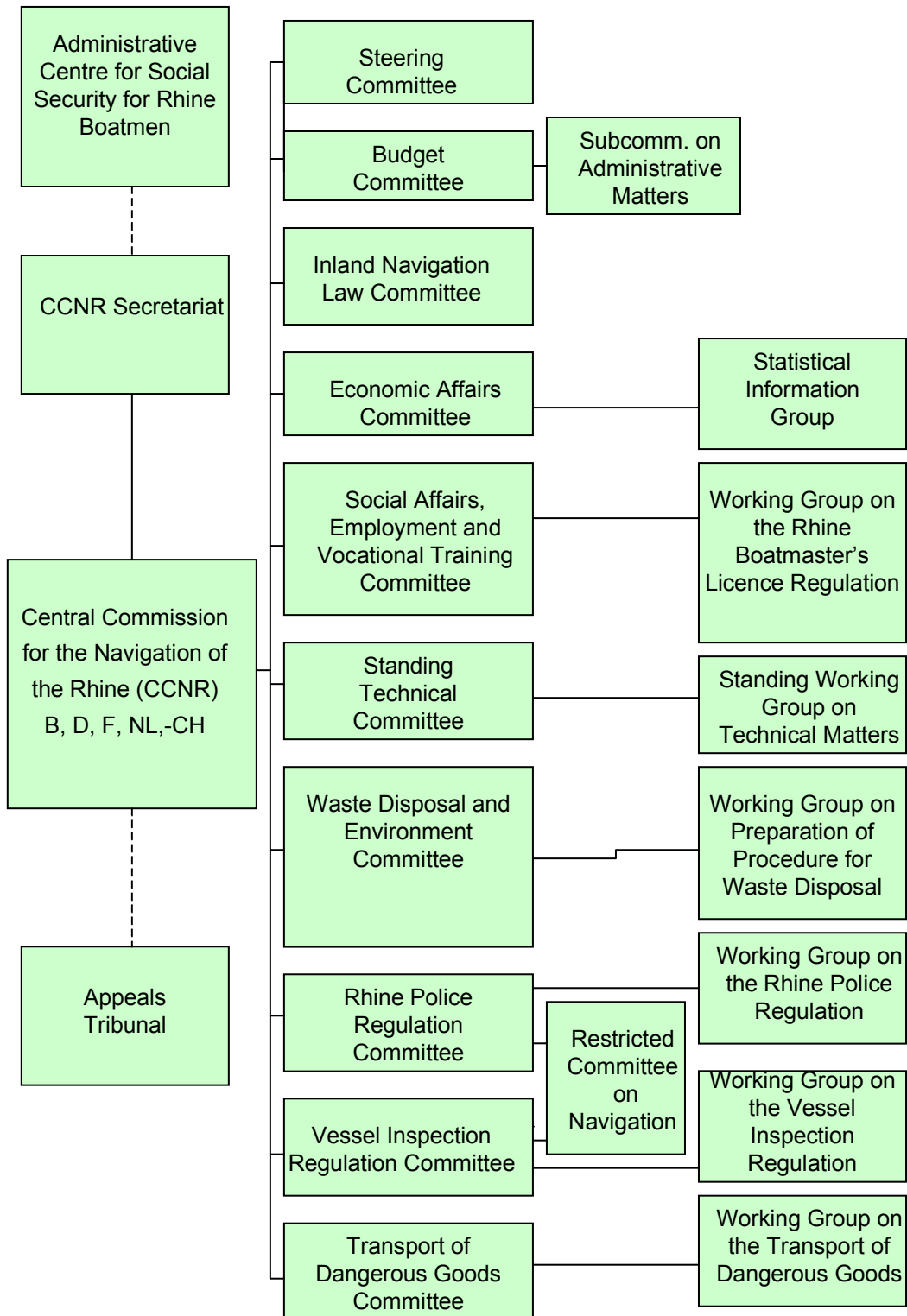
The commissioners meet twice a year (in spring and autumn) at plenary sessions of the CCNR chaired by the President of the Commission, who is appointed for a period of two years by each of the Contracting States in turn. Resolutions are adopted on the basis of unanimity and relate to:

- proposals aimed at promoting navigation of the Rhine,
- technical and administrative regulations relating to the safety of navigation and amendments to such regulations,
- complaints arising from implementation of the Mannheim Convention.

National delegations or professional organisations in the field of navigation refer problems which have arisen in the context of Rhine navigation to the CCNR. The plenary session takes decisions on such problems or refers them to specialist committees, which, with the help of experts if necessary, draw up proposals for resolving them.

## Structure of the CCNR

CCNR resolutions are prepared within the numerous specialist committees and the Groups of Experts from the member countries, which meet several times a year, and are submitted to the plenary session for adoption.



## ANNEX III

### Relevant provisions of the Revised Convention for the Navigation of the Rhine

#### Article 1

Navigation of the Rhine and its estuaries from Basle to the open sea, either upstream or downstream, shall be free to the vessels of all nations for the transport of merchandise and persons on the condition of conforming to the provisions contained in this Convention and to the measures prescribed for the maintenance of general safety.

Apart from these regulations no obstacle of any kind shall be offered to free navigation.

The Lek and the Waal shall be considered to be part of the Rhine.

#### Composition of the CCNR

##### **Article 43(1)**

Each of the Contracting States shall delegate between one and four Commissioners to take part in joint conferences on Rhine navigation affairs. These Commissioners shall form the Central Commission, which shall have its seat at Strasbourg.

##### **Article 44 b**

The Central Commission shall decide on the organisation of its work and of its Secretariat.

It shall hold two sessions per year; extraordinary sessions may be convened by the President at the request of a Commissioner.

It shall set up, on a permanent or temporary basis, the working bodies necessary for it to carry out its activities. Such bodies shall be chaired by a Commissioner or a Deputy Commissioner, chairmanship rotating on a two-yearly basis amongst the Contracting States.

#### Remit of the CCNR

##### **Article 45**

The terms of reference of the Central Commission shall be:

- (a) to examine all complaints arising from the application of this Convention as well as the enforcement of regulations drawn up by the riparian Governments and the measures which they have adopted by common agreement;
- (b) to deliberate on the proposals made by the riparian Governments concerning the prosperity of Rhine navigation, and in particular those which are designed to add to or to amend this Convention and the regulations jointly adopted;
- (c) to render judgment in cases of appeal brought before the Commission against the judgments of Rhine navigation tribunals of first instance (Article 37). The Central Commission will each year prepare a report on the state of Rhine navigation.

#### Decision-making process

#### **Article 46**

Each Contracting State shall have one vote in the Central Commission.

A vote may be cast subject to subsequent confirmation.

Resolutions adopted unanimously shall be binding unless, within a period of one month, a Contracting State informs the Central Commission that it is refusing to give its approval or that it cannot give its approval until the agreement of its legislative bodies has been obtained.

Resolutions adopted by a majority shall constitute recommendations, as shall resolutions adopted unanimously where a State has refused to give its approval in the circumstances specified in the preceding paragraph.

Resolutions relating to internal Central Commission matters shall, however, be adopted by a majority.

Abstentions shall not be counted in the calculation of votes.

## RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

### **in order to authorise the Commission to open and conduct negotiations with the Danube Commission on the conditions and arrangements for the European Community's membership**

#### **1. INTRODUCTION**

The Danube Commission, established by the Belgrade Convention of 1948<sup>12</sup>, is an intergovernmental organisation composed of representatives of the countries of the Danube basin. Its current members are: Germany, Austria, Bulgaria, Croatia, Hungary, Moldova, Romania, Russia, Slovakia, Ukraine and Serbia and Montenegro.

Its main tasks are to:

- ensure compliance with the provisions of the Belgrade Convention (in particular free navigation<sup>13</sup>);
- coordinate major works in the interests of navigation and to carry out such works if a Danubian State is unable to undertake them itself;
- adopt recommendations concerning technical rules for inland waterway vessels and the rules of navigation;
- coordinate hydrometeorological services;
- gather statistical data.

In recent years, the Community has adopted, in accordance with the objectives of the common transport policy, numerous legislative measures in the inland waterway sector, especially concerning access to the profession, cabotage, freedom to provide services, liberalisation of the market, fleet restructuring policies, technical rules for inland waterway vessels and conditions for obtaining boatmaster's certificates for inland navigation. These rules apply on all inland waterways in the Community. As regards external powers, following the negotiating mandate issued by the Council in 1992<sup>14</sup>, the Community was recognised as competent for laying down the rules governing third-country access to the Community's internal market.

In its legislation, the Community has taken into account the rights concerning the freedom to provide services granted to third countries in the framework of the Belgrade Convention<sup>15</sup>.

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<sup>12</sup> Convention on Navigation on the Danube.

<sup>13</sup> It should be noted that the Belgrade Convention does not cover cabotage, for which the Contracting States are responsible.

<sup>14</sup> Council Decision of 7 December 1992.

<sup>15</sup> Council Regulation (EC) No 1356/96 of 8 July 1996 on common rules applicable to the transport of goods or passengers by inland waterway between Member States with a view to establishing freedom to provide such transport services. *Official Journal L 175, 13.7.1996, pp. 7-8.*



At present, only two Member States are members of the Danube Commission, namely Austria and Germany. Following the enlargement of the European Union to include the current applicant countries, the majority of the eleven member countries of the Danube Commission will be Member States of the European Union.

Following this enlargement, the Danube will be split into Community sections and non-Community sections. The regulatory differences could adversely affect the functioning of the single market for inland navigation and impair the efficiency of transport operations on this major waterway.

Although the Member States of the European Union which are members of the Danube Commission are required to ensure the compatibility of Danube Commission recommendations with Community law, the Community does not have any means of directly influencing the content of such recommendations.

The member countries of the Danube Commission which are not Member States of the European Union (but could become so in the very near future) have indicated that they wish to take account of Community provisions when drawing up those recommendations. However, the final decision on the content of Danube Commission recommendations remains in the hands of the member countries of the Danube Commission and is outside the Community's influence.

Community membership of the Danube Commission is the best way to safeguard the interests of the Community and of its Member States which are not members of the Danube Commission and to ensure that due account is taken of such interests in the context of the work undertaken by the Danube Commission. It will lead to an approximation of the sets of rules applicable on the Danube, on the basis of the Community *acquis*, which is essential for the smooth functioning of the European inland navigation market, in particular following enlargement of the European Union.

## **2. EUROPEAN COMMUNITY MEMBERSHIP**

In order to establish a genuine single market in the field of inland navigation and to create conditions in which inland navigation on the Danube and in Europe as a whole can prosper, it is necessary for the Community to become a member of the Danube Commission.

In order for the Community to become a full member, the Belgrade Convention will first need to be amended so as to allow accession by the Community.

## **3. CONCLUSION**

In the light of the foregoing, the Commission recommends the Council to authorise the Commission to open and conduct negotiations with the Danube Commission on the conditions and arrangements for accession by the European Community to the Belgrade Convention, to appoint a special committee to assist the Commission in this task and to adopt the negotiating directives included in the Recommendation below.

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Article 3 of this Regulation stipulates that: 'This Regulation shall not affect the rights of third-country operators under the (...) Convention on Navigation on the Danube (Belgrade Convention) (...)'.  
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(Rest of conclusions including attachments: EU RESTRICTED)

## ANNEX I

### Community legislation in the field of inland navigation

#### Functioning of the market

Council Regulation (EEC) No 2919/85 of 17 October 1985 laying down the conditions for access to the arrangements under the Revised Convention for the navigation of the Rhine relating to vessels belonging to the Rhine Navigation.

*Official Journal L 280, 22/10/1985, pp. 4-7*

Council Regulation (EEC) No 3921/91 of 16 December 1991 laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State.

*Official Journal L 373, 31/12/1991, pp. 1-3*

Council Regulation (EC) No 1356/96 of 8 July 1996 on common rules applicable to the transport of goods or passengers by inland waterway between Member States with a view to establishing freedom to provide such transport services

*Official Journal L 175, 13/07/1996, pp. 7-8*

Council Regulation (EC) No 718/1999 of 29 March 1999 on a Community-fleet capacity policy to promote inland waterway transport

*Official Journal L 90, 02/04/1999, pp. 1-5*

Council Directive 96/75/EC of 19 November 1996 on the systems of chartering and pricing in national and international inland waterway transport in the Community

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#### Access to the profession

Council Directive 87/540/EEC of 9 November 1987 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation

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Council Directive 91/672/EEC of 16 December 1991 on the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway

*Official Journal L 373, 31/12/1991, pp. 29-32*

Council Directive 96/50/EC of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community

*Official Journal L 235, 17/9/1996, pp. 31-38*

#### Safety

Council Directive 76/135/EEC of 20 January 1976 on reciprocal recognition of navigability licences for inland waterway vessels

*Official Journal L 021, 29/1/1976, pp. 10-12*

Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels  
*Official Journal L 301, 28/10/1982, pp. 1 – 66*

### **Working conditions**

Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ L 307, 13.12.1993, p. 18), amended by Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000  
*Official Journal L 195, 1/8/2000, p. 41*

### **Legislative proposals**

Proposal for a Council directive amending Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels (COM(97) 644 final)  
*Official Journal C 105, 6/4/1998, p. 1*

Amended by:

Amended proposal for a directive of the European Parliament and of the Council amending Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels (presented by the Commission pursuant to Article 250 (2) of the EC Treaty) (COM(2000) 419 final)  
*Official Journal C 365 E, 19/12/2000, pp. 138-166*

Proposal for a Council directive on the approximation of the laws of the Member States with regard to the transport of dangerous goods by vessels on inland waterways (COM(97) 367 final)  
*Official Journal C 267, 3/9/1997, p. 96*

Amended by:

Amended proposal for a directive of the European Parliament and of the Council on the approximation of the laws of the Member States with regard to the transport of dangerous goods by vessels on inland waterways (COM(1999) 563 final)  
*Official Journal C 150 E, 30/5/2000, pp. 34-42*

Proposal for a directive of the European Parliament and of the Council amending Directive 97/68/EC on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery. (COM(2002)765)

This proposal is aimed at introducing emission standards for engines used in inland waterway transport at Community level).

## ANNEX II

### The Danube Commission

The Danube Commission is an intergovernmental organisation which has had its seat at Budapest since 1954 and which performs the tasks laid down in the Convention on Navigation on the Danube of 18 August 1948. The Danube Commission brings together eleven member countries: Germany, Austria, Bulgaria, Croatia, Hungary, Moldova, Romania, Russia, Slovakia, Ukraine and Serbia and Montenegro. The Danube Commission is composed of one representative from each member country.

The Danube Commission elects from amongst its members its President, its Vice-President and its Secretary, for a term of three years.

For the performance of its tasks, the Danube Commission has the services of a Secretariat comprising specialist counsellors. The Secretariat is headed by the Director-General. The official languages of the Danube Commission are German, French and Russian.

#### **The main tasks of the Danube Commission are to:**

- ensure compliance with the provisions of the Belgrade Convention (in particular free navigation<sup>16</sup>);
- coordinate major works in the interests of navigation and to carry out such works if a Danubian State is unable to undertake them itself;
- adopt recommendations concerning technical rules for inland waterway vessels and the rules of navigation;
- coordinate hydrometeorological services;
- gather statistical data.

#### **Decision-making process**

Decisions of the Danube Commission are adopted by a majority of the members present, except in certain cases, such as the budget, which has to be approved by a majority of all its members.

Decisions of the Danube Commission are prepared at meetings of experts.

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<sup>16</sup> It should be noted that the Belgrade Convention does not cover cabotage, ceci est du ressort des Etats.

## ANNEX III

### Relevant provisions of the Belgrade Convention

#### Article 1

Navigation on the Danube shall be free and open to nationals, merchant vessels and goods of all States on an equal footing as regards port dues and navigation taxes and the conditions to which commercial navigation is subject. The provisions set out below shall not apply to traffic between ports of the same State.

#### Composition of the Danube Commission

#### Article 5

A Danube Commission, hereinafter referred to as the 'Commission', shall be established; it shall be composed of one representative from each of the Danubian States.

#### Article 7

The Commission shall lay down its calendar of meetings and draw up its rules of procedure. (...)

#### Remit of the Danube Commission

#### Article 2

The system established by this Convention shall apply to the navigable part of the Danube (river) from Ulm to the Black Sea, following the Sulina arm, with access to the sea via the Sulina Channel.

#### Article 4

If a Danubian State is itself unable to carry out work which falls within its territorial remit and which is necessary to ensure normal navigation, it shall be obliged to allow such work to be carried out by the Danube Commission (Article 5), subject to the conditions laid down by the latter, which may not entrust the work to another State, except where parts of the waterway forming the frontier of that State are concerned. In such cases, the Commission shall determine the arrangements for the execution of the work.

The Danubian States undertake to provide every assistance to the Commission or to the State carrying out the work concerned.

#### Article 8

The Commission's remit covers the Danube as defined in Article 2.

The Commission's terms of reference shall include:

- (a) ensuring compliance with the provisions of this Convention;
- (b) drawing up, on the basis of proposals and drafts submitted by the Danubian States and by the Special River Administrations (Articles 20 and 21), the general plan of

major works to be carried out in the interests of navigation, and compiling an overall assessment of the cost of such works;

- (c) carrying out work in the cases specified in Article 4;
- (d) providing advice and making recommendations to Danubian States on the execution of the works referred to at point (b) of this Article, with due regard to the technical and economic interests, plans and capacities of the respective States;
- (e) providing advice and making recommendations to the Special River Administrations (Articles 20 and 21) and to exchange information with them;
- (f) setting up, along the entire navigable section of the Danube, a uniform system of waterway management and laying down, with due regard to the conditions specific to individual sectors, the basic provisions relating to navigation on the Danube, including provisions concerning the pilot service;
- (g) unifying the rules on river inspection;
- (h) coordinating the activities of the hydrometeorological services on the Danube, and publishing a single hydrological bulletin and short- and long-term hydrological forecasts for the Danube;
- (i) gathering statistical data relating to navigation on the Danube, insofar as such data relates to matters which fall within the Commission's jurisdiction;
- (j) publishing, in order to meet the requirements of navigation, reference works, plotting charts, navigation charts and atlases;
- (k) drawing up and approving the budget of the Commission and laying down and collecting the taxes specified in Article 10.

#### Article 10

The Commission shall draw up its budget and shall approve it by a majority of the votes of all its members. The budget shall make provision for the expenditure required to maintain the Commission and its structures; such expenditure shall be covered by an annual contribution of an equal amount from each of the Danubian States.

The Commission may lay down special taxes to meet the cost of special work carried out to ensure or improve the conditions of navigability.

#### **Decision-making process**

#### Article 11

The Commission shall adopt decisions by a majority of the votes of the members present, unless otherwise specified in this Convention (Articles 10, 12 and 13).

The number of members required for a quorum shall be five.

#### Article 12

Decisions of the Commission relating to the matters referred to at points (b), (c), (f) and (g) of Article 8 shall be taken by a majority of the votes of all its members, and the State on whose territory the works are to be carried out shall not have additional voting weight.

#### Article 13

The Commission shall have its seat at Galati.

However, it may decide by a majority of the votes of all its members to change its seat<sup>17</sup>.

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<sup>17</sup> Since 1954, the Danube Commission has had its seat at Budapest.