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**Report on the impact assessment  
of proposals aiming to modernise and reinforce the organisational framework  
for inland waterway transport in Europe**

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## COMMISSION STAFF WORKING DOCUMENT

### Report on the impact assessment of proposals aiming to modernise and reinforce the organisational framework for inland waterway transport in Europe

**Lead DG:** DG TREN

**Other involved services:** Secretariat General, Legal service, DG ECFIN, DG ENTR, DG COMP, DG EMPL, DG ENV, DG RTD, DG INFSO, DG MARKT, DG EAC, DG RELEX, DG TRADE, DG ELARG, DG ADMIN, DG BUDG.

**Agenda planning or WP reference:** Original reference: 2006/TREN/009. The initiative was postponed. A reference to the impact assessment has been merged into 2007/TREN/012.

#### EXECUTIVE SUMMARY

##### The problem

Besides proposing the “NAIADES” Action Programme, the Commission’s Communication on the promotion of inland waterway transport in January 2006<sup>1</sup> also addressed the question of modernising the organisational structure for inland waterway transport in Europe.

The problem posed by the current organisational structure shows different, yet interdependent facets. It can be described as threefold: (1) regulatory, (2) institutional and (3) organisational.

- (1) Today a skipper who wants to sail through the EU’s inland waterway network is faced with coexisting sets of rules stemming from the European Union, from the Central Commission for Navigation on the Rhine (CCNR) or from the Danube Commission. While some of these rules are equivalent, they are not identical and mutual recognition of the respective certificates is not ensured.
- (2) The regulatory aspect is reinforced by the institutional setting. Only the Community can adopt binding rules for the entire Community network. The CCNR can only set rules for the Rhine. The Danube Commission cannot adopt binding decisions. While the different organisations have different geographical scopes, their regulatory activities largely overlap.
- (3) In addition, the way in which existing administrative resources in the area of inland waterway transport at international level are used, having to overcome system-inherent frictions and coping with duplication of work at different levels, does not allow the development of their full potential. Moreover, given that apart from the EU, none of the organisations has neither the competence nor the means to legitimately act in the area of strategic policy management, progress in that area is regarded as insufficient. Furthermore, inland waterway transport enjoys comparably little attention at political level.

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<sup>1</sup> [COM\(2006\) 6 final](#) of 17 January 2006.

There is agreement since a number of years that the current framework has to be modernised. The process has already started. The main issue to be solved, however, is whether the insufficiencies of the current organisational framework can be overcome through a modification of the institutional setting, possibly on the basis of an initiative from the European Commission.

### **The impact assessment**

The impact assessment has been focused on the question whether or not modernising the organisational structure for inland waterway transport in Europe would require a modification of the institutional setting. To this aim, and following the adoption of the 2006 “NAIADES” Communication, the Commission services have undertaken an impact assessment, including thorough consultations of relevant stakeholders, of the following four options:

- Option 1: Increased cooperation but no change in the institutional framework
- Option 2: Adhesion of the Community to the Rhine and the Danube Commissions
- Option 3: Pan-European Convention
- Option 4: European Agency.

The comparison of the impacts of the different options can be summarised as follows:

Further increasing the cooperation between the European Commission and the international river commissions (option 1) would maintain the existing framework and working methods but entail increased coordination between the works of these organisations. Even if the fragmented legal bases for inland waterway transport and the different sets of rules for different geographical areas within the single market would remain untouched, the objective of fully integrating the single market in the area of inland navigation and to create a level playing field on all Community waterways can also be reached without changing the organisational structure. It would nevertheless take longer than under options with a stronger impact on the institutional setting, and come at similar administrative costs as the adhesion of the Community to the international river commissions (option 2).

Administrative structures and human resources might be used more efficiently and effectively if the European Community adhered to the international river commissions with regard to matters of its competence (option 2). This option would not modify the institutional setting significantly. It would require a marginal increase in human resources. At the same time, it would allow relying on existing expertise and using established working and decision-making mechanisms, which might speed up the process of legislative harmonisation. Within this option, a clear difference of the impacts with regard to the CCNR or to the Danube Commission has been identified. With regard to the latter, the adhesion of the Community will not only facilitate the adoption of harmonised rules for navigation on the Danube, but also help to facilitate and speed up the revision of the Belgrade Convention – needed in order to reform the Danube Commission. In addition, it is legally justified by the specific circumstances of the ongoing revision of the Belgrade Convention.

In comparison to the two first options, the establishment of a Pan-European Convention (option 3) would mean an additional regulatory, institutional and administrative layer, bearing the risk of further complicating the process of regulatory harmonisation. It would generate

extra administrative costs which would be significantly higher than the two first options, but the increase in human resources would not be justified by an increase in efficiency. This option would, however, bear the potential of attracting stronger political attention, which might make it easier to achieve the objective of strategic promotion.

Establishing an EU Agency for inland waterway transport – or an inland waterway transport “antenna” of an existing agency – (option 4) would be the option with a similar impact on human resources and operational costs as option 3 (even if the latter could be reduced in case of an “antenna”). This option would be consistent with the European Union’s policy with regard to other modes of transport or e.g. with promoting the intelligent use of energy. The establishment of an EU Agency *in addition* to the existing international river commissions might not constitute a more efficient use of human resources, *unless* such an Agency was attributed executive tasks to ensure the uniform implementation of inland waterway transport safety legislation in all Member States, an activity which is normally entrusted to the competent authorities of Member States. Using established working and decision-making mechanisms could nevertheless speed up the harmonisation process in comparison to option 1 and to option 3. The objective of strategic promotion and stronger political attention might be reached more easily under this option, even if further measures would be required.

All options which have been analysed have in common that without further measures, the impacts of any option – as a stand-alone measure – on *competitiveness*, the *environment*, or the *social situation* of the inland waterway transport sector would be either too hypothetical or too marginal to be quantified. An analysis of these impacts would have had to be based on assumptions with a great degree of uncertainty, and would have been disproportionate to the potential impacts.

## **Conclusion**

The Commission services conclude from the analysis that the impact assessment shows no clear advantage of a particular option in terms of the impacts assessed. Even if the current organisational structure situation may be regarded as “a patchwork of resources and efforts, with a fragmented legitimacy and a system-inherent reduced effectiveness” (see below, Section 2.1.), the modification of the organisational structure, *as such*, would apparently not provide a sufficient contribution to dissolving the obstacles for the development of inland waterway transport in Europe.

As a result, it appears that, under the current circumstances, it can be preferable to base the organisational framework on the existing institutional actors, and to improve and modernise their working methods wherever possible. Against this background, a combination of options 1 and 2 – increased coordination of the existing institutional actors combined, at an early stage, with Community membership in the Danube Commission to speed up its reform and the revision of the Belgrade Convention – can offer the best value. The Commission services have no intention to propose the creation of any additional structures to the existing framework at this point. As requested by the stakeholders, this should go hand in hand with an even stronger commitment from the European Commission services within the existing organisational framework.

## **1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES**

### **1.1. Organisation and timing**

One of the priorities in the Commission's Legislative Work Programme 2006 was a "Package of Proposals aiming to modernise and reinforce the organisational framework for inland waterway transport" (CLWP reference: 2006/TREN/009).

Work on the impact assessment started in January 2006. An inter-service steering group was established and held regular meetings between May and September 2006. This group was chaired by DG TREN and consisted of representatives of the following DGs: Secretariat General, Legal service, DG ENTR, DG COMP, DG ENV, DG RTD, DG MARKT, DG RELEX, DG ELARG, DG BUDG. The following DGs were invited but did not participate in the work: DG ECFIN, DG EMPL, DG INFSO, DG EAC, DG TRADE, DG ADMIN.

The initiative initially planned for 2006 was postponed because of ongoing discussions, including in the context of the revision of the Belgrade Convention. The impact assessment, including external expertise (see below, Section 1.2.1.) and the stakeholder consultation (see below, Section 1.2.2.) were carried out between May 2006 and July 2007.

The result of the impact assessment is referred to in the Commission's First progress report on the implementation of the NAIADES Action Programme for the promotion of inland waterway transport<sup>2</sup>, foreseen under the Commission's Legislative Work Programme 2007 (CLWP reference: 2007/TREN/012).

### **1.2. Expertise and consultation**

#### *1.2.1. Expertise involved in the elaboration of the impact assessment*

The production of this impact assessment has been supported by a study by ECORYS Research and Consulting, appointed by DG TREN under a framework contract. The ECORYS team included experts with expertise in the area of inland waterway transport economics, administrative organisation, European and International law. The terms of reference of that study and its reports have been followed in the inter-service steering group mentioned above.

The consultants were instructed to draw on existing studies and documents, wherever possible, in particular the following:

- Communication from the European Commission on the promotion of inland waterway transport "NAIADES", January 2006<sup>3</sup>;

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<sup>2</sup> COM(2007) 770 final of 5 December 2007.

<sup>3</sup> [COM\(2006\) 6 final](#) of 17 January 2006.

- Commission Staff Working Document “Annex to the Communication from the Commission on the Promotion of Inland Waterway Transport “NAIADES” - An Integrated European Action Programme for Inland Waterway”, January 2006<sup>4</sup>;
- Recommendation from the Commission to the Council in order to authorise the Commission to open and conduct negotiations on the conditions and arrangements for the European Community's membership of the CCNR and of the Danube Commission, August 2003<sup>5</sup>;
- Report of the “EFIN Group”: A new institutional framework for the European Inland Navigation, October 2004<sup>6</sup>;
- Final report of the study “Prospects of Inland Navigation within the Enlarged Europe” (PINE), September 2004<sup>7</sup>;
- Opinion of the European Economic and Social Committee on The institutional framework for inland waterway transport in Europe (own-initiative opinion), April 2006<sup>8</sup>;
- Declaration of the Ministers of the Member States of the Central Commission for Navigation of the Rhine, Basel, May 2006.

The study by ECORYS came to the conclusion that because of the current institutional structure, the execution of specific tasks and decision-making on some important aspects of inland waterway transport (i.e. boatmaster certificates, manning requirements, transport of dangerous goods, emissions, technical requirements for vessels, River Information Services) take a long time or have even stagnated. While the EU Agency option would provide the best impacts in terms of effectiveness and consistency, but against high administrative costs and a negative score on proportionality, increased cooperation as such could also be effective through an efficient use of resources and no transaction costs. “More guidance and decision-making” in these fields could be achieved, according to the consultant, by reinforcing the role of the Community in the area of inland waterway transport policy. In addition, the modernisation process of the Danube Commission could be accelerated through the adhesion of the Community.

### 1.2.2. *Stakeholder consultation*

The following (categories of) stakeholders have been identified:

- International organisations involved in legislative activities regarding inland waterway transport, in particular the European Community, the international river commissions (Central Commission for Navigation on the Rhine (CCNR), Danube

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<sup>4</sup> SEC(2006) 37 of 17 January 2006.

<sup>5</sup> SEC(2003) 897 EU restricted of 1 August 2003.

<sup>6</sup> See: <http://www.efingroup.net>.

<sup>7</sup> See: [http://ec.europa.eu/transport/iw/studies/index\\_en.htm](http://ec.europa.eu/transport/iw/studies/index_en.htm).

<sup>8</sup> TEN/222 - CESE 599/2006 - 21 April 2006.



Commission, Mosel Commission), the United Nations Economic Commission for Europe (UNECE); the European Conference of Ministers of Transport (ECMT).

- National authorities involved in legislative or administrative activities, namely EU Member State governments and their waterway authorities, candidate and associated countries (Croatia, Serbia), third countries the waterway network of which is connected to the EU's inland waterway network (Switzerland, Ukraine, Moldova, Russia).
- In addition to that, the professional organisations of the sector, as well as the social partners, are relevant whenever they act as a partner in the preparation of legislation.
- Finally, promotion organisations or federations at European level also play a role for the development of the organisational framework for inland waterway transport.

The Commission's Communication on the promotion of inland waterway transport indicated in early 2006 that the process of modernising the organisational structure for inland waterway transport in Europe had already started<sup>9</sup>. Indeed, the Commission services hold regular contacts with most of the stakeholders in the daily policy development. Furthermore, the available documentation demonstrates that most of the stakeholders participate actively in the discussion already since a number of years<sup>10</sup>. During the impact assessment, a consultation of relevant stakeholders from the international organisations, national authorities, inland waterway operators and professionals as well as inland waterway promotion organisations took place on the basis of a questionnaire, developed by the consultant. In addition, a number of individual interviews were conducted with selected stakeholders. The Commission services also consulted the stakeholders in several dedicated meetings. The consultation period was from September 2006 to March 2007.

The main result of the stakeholder consultation is a strong support for the existing *institutional* framework for inland waterway transport in Europe, which should be used as a basis for any future development. Further results are indicated in the analysis of impacts of the different options (cf. below, Section 5.). The conclusion of the impact assessment shows that the opinion of the majority of the stakeholders has been taken into account.

### 1.2.3. *Impact Assessment Board*

The Impact Assessment Board of the European Commission issued an opinion on the draft impact assessment on 1 October 2007. The Board recommended the following improvements:

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<sup>9</sup> In 2003 the Commission had proposed to the Council that the Community should become a member of the international river commissions, see above, footnote 5.

<sup>10</sup> Cf. in particular the "EFIN" report elaborated in 2004, see above, footnote 6.

- To provide realistic global projections regarding the expected speed of regulatory convergence and harmonisation under the different options, and the costs and benefits for the actors involved;
- To better quantify the economic consequences of delayed harmonisation;
- To further elucidate the consequences for other relevant EU policies; and
- To summarise the results of expert studies carried out for this impact assessment.

Taking into account these recommendations, the text has been modified as follows: projections regarding the expected speed of regulatory convergence, the economic consequences of delayed harmonisation, as well as the consequences for other relevant EU policies have as far as possible been included in sections 2.4 and 5.3., and the results of the expert study carried out for this impact assessment were summarised in section 1.2.1.

## 2. PROBLEM DEFINITION

Besides proposing the “NAIADES” Action Programme, the Commission’s Communication on the promotion of inland waterway transport in January 2006 also outlined some of the problems related to the organisational structure for inland waterway transport in Europe.

### 2.1. What is the issue that may require action?

The problem posed by the current organisational structure within the European Union shows different yet interdependent facets. Despite a well-established cooperation between the different actors, there is general agreement that the current organisational framework shows the following shortcomings:

- A ***fragmented legitimacy***: only the Community can adopt binding rules for the entire Community network; the Danube Commission cannot adopt binding decisions; the CCNR can only set rules for the Rhine; this poses significant difficulties in implementing harmonised legislation across the entire waterway network of the Community;
- A ***patchwork of resources and efforts***: different organisations have different territorial scopes but their regulatory activities largely overlap;
- An ***overall reduced effectiveness*** due to system-inherent frictions and duplication of work at different levels (EC/EU, CCNR, DC, UNECE);
- An ***insufficient strategic policy management***: apart from the EU, none of the organisations has the competence nor the means to legitimately act in that area;
- Comparably ***little attention for inland waterway transport at political level***. As a consequence, progress e.g. in the area of environmental regulations is often not addressed as swiftly as for other transport modes.

In order to better understand the problem, it is useful to have a closer look especially at the legal framework and at the different actors, as well as at those affected (and to which extent).

## **2.2. What are the underlying drivers?**

### *2.2.1. The legal framework*

Inland waterway transport in the European Union is currently administered under different legal regimes, namely the Mannheim and Belgrade Conventions for navigation on Rhine and Danube, relevant legislation of the Community and of Member States.

Only the European Community can adopt binding rules valid for the entire inland waterway network in the Community. The rules adopted under the Mannheim Convention are binding for navigation on the River Rhine only. In the framework of the Belgrade Convention for navigation on the River Danube, the members of the Danube Commission cannot adopt binding decisions.

While EU legislation is applicable in principle on the sections of the Rivers Rhine and Danube lying in the territory of the Union but not on sections outside the Union's territory, especially the Danube is potentially subject to diverging rules for different stretches of the River. At the same time, the territorial overlap of the scope of the relevant legislation creates the risk not only of confusion for the individual skipper, but also for distortion of competition between users of the same waterway, depending on the legislation which is applied to them.

This situation is gradually changing over time and legislation in different areas is developing towards greater harmonisation. However, as long as the different actors continue to act rather independently, differences will still persist in particular in the area of technical requirements for vessels, boatmasters' certificates, recognition of professional qualifications and manning requirements, as well as for the transport of dangerous goods and environmental requirements.

### *2.2.2. The actors*

The principal actors in the organisational structure for inland waterway transport in Europe are the following: the European Union, Member State administrations, the Central Commission for Navigation on the Rhine (CCNR), the Danube Commission, and the United Nations Economic Commission for Europe (UNECE)<sup>11</sup>.

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<sup>11</sup> The Central Commission for Navigation on the Rhine is based on the revised Mannheim Convention of 1968. Its members are Belgium, France, Germany, the Netherlands and Switzerland. The Danube Commission is based on the Belgrade Convention of 1948. Its members are Germany, Austria, Slovakia, Hungary, Croatia, Serbia, Romania, Bulgaria, Moldova, Ukraine and Russia. The United Nations Economic Commission for Europe strives to foster sustainable economic growth and provides a forum for communication among its 56 member countries. In the area of inland waterway transport, it has developed a number of conventions and recommendations.

As with the legal framework, there is an overlap in the different territorial scopes of different organisations. In addition, several organisations have overlapping (legislative) activities, even if there are tasks which are specific to the river commissions and where EU legislation does not interfere, especially river police, navigation rules or the coordination of fairway (maintenance) works.

While there is a relatively well-established cooperation between the different actors, including a well organised formal and informal communication framework, a major drawback of the current structure is slow progress in particular regarding those files which are related to the “institutional” character of the actors.

### **2.3. Who is affected?**

On the one hand, the inland waterway administrations of the Member States as well as from the international organisations which are active in the area of inland waterway transport are affected. The way in which existing administrative resources in the area of inland waterway transport at international level (including experts from Member States) are used does not allow the development of their full potential. Compared to other modes of transport, as well as to its overall modal share, the knowledge base of the inland waterway transport sector is relatively small. The fact that actors are mostly working towards the same types of objectives, but preferably within their own institutional setting, can lead to overlaps and duplication of work. This is aggravated by the relatively low human resources and financial budget available for the administration of inland waterway transport at different levels. It is not rare to see that the same experts come together in different “meeting capitals” (Brussels, Budapest, Strasbourg or Geneva) in order to talk about the same subject, but in different working group compositions.

On the other hand, inland waterway operators and professionals are affected by coexisting sets of different rules stemming from the European or national legislator, from the Central Commission for Navigation on the Rhine (CCNR) or from the Danube Commission. Slow harmonisation processes and persisting difficulties regarding the mutual recognition of certificates and administrative requirements can hamper the mobility of vessels, operators – often small and medium enterprises – and employees in the inland navigation sector, which results in market distortions.

For example, the slow speed which has long been the case for legislative harmonisation in the area of technical requirements for vessels, combined with the high technical and safety standards for navigation on the River Rhine, can constitute a non-market-inherent barrier for access to the River Rhine for certain vessels, particularly from Central and Eastern Europe. This in turn bears the risk of creating a limited market within the Single market and may hinder inland waterway transport from reaching its full potential. This can affect the competitiveness and the profitability of the IWT sector.

Other examples are the recognition of professional qualifications, where there’s no harmonisation between the requirements on the Rhine and those valid on other inland waterways, or the question of manning requirements. The non-recognition of boatmaster certificates, not only, but especially from Central and Eastern European EU Member States, on the Rhine could be considered an obstacle to the free movement of workers.

## 2.4. What would happen if things remained as they are?

While the objectives (e.g. harmonised legislation) may still be achieved in the current framework, this will come at higher aggregate costs and within longer time spans than might be possible otherwise<sup>12</sup>. Combining the efforts and resources of the different actors in a more institutionalised way might lead to a situation in which a more effective output can be achieved with the same amount of resources.

Without major efforts to modernise of the framework, regulatory harmonisation between the different legal systems would continue to progress at a slow pace. Rather than on common rules, the regulatory environment would be based on mutual recognition of standards or legislation adopted under the respective legal framework and according to the relevant working methods of each individual organisation. The legal situation for navigation on the Danube would remain fragmented. The recognition of Community certificates for navigation on the river Rhine would continue to depend on four EU Member States and Switzerland. Consequently, market barriers would dissolve more slowly and the potential of the Internal Market in inland waterway transport would not be used to its full economic potential. For example, if today compared to the Rhine only 10% of the capacity of the Danube is utilised<sup>13</sup>, this is not least due to an inefficient and fragmented legal and administrative framework.

At the same time, valuable resources required for the coordination of different legal frameworks could not be used for a strategic policy development for inland waterway transport.

## 2.5. Why should the EU act?

The European Union's right to act is based on its competence for a common transport policy under Title V "Transport" of the EC Treaty. In particular, Article 71, paragraph 1, empowers it to adopt common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States, to decide on the conditions under which non-resident carriers may operate transport services within a Member State, on measures to improve transport safety, as well as on any other appropriate provisions. The applicability of Title V to transport by inland waterway is explicitly stipulated in Article 80.

The need for action by the European Union is also justified with respect to the principle of subsidiarity. A great number of the current EU legislation in the area of inland waterways is based on standards which have been developed in the framework of the CCNR. For historical reasons, most of the same legislation allows that certificates established under the relevant EU legislation are not recognised for

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<sup>12</sup> For example, the revision process for Directive 82/714/EEC, which aimed to introduce harmonised technical requirements on all Community waterways, including the Rhine, lasted almost a decade (proposal COM(1997) 644, submitted by the Commission in 1997, entry into force of Directive 2006/87/EC in 2006), not least because of the fragmentation of the institutional framework at international level.

<sup>13</sup> COM(2006) 6 final of 17 January 2006.

navigation on the Rhine. While such a situation may have been justified when almost the entire inland waterway network of the Community was situated on the territory of the Member States which are also member states of the CCNR, the circumstances have changed substantially with the 2004 and 2007 enlargement of the Union.

As already described in the 2001 White Paper on Transport<sup>14</sup>, the interlinked waterway network on the territory of the Community is divided into different legal systems, one for the Rhine (4 MS) and a Community system for other inland waterways such as the Danube (6 MS), the Oder and the Elbe. In total, 18 out of 27 Member States have inland waterways. It is difficult to think of a reason why there should be different rules or standards regarding the safety of inland waterway transport – e.g. technical requirements for vessels, professional qualifications, etc. – within an interlinked waterway network. Furthermore, the free movement of goods and of persons within the internal market requires common – or at least mutually recognised – rules.

### 3. OBJECTIVES

The major purpose of the initiative would be to modernise and possibly simplify the organisational structure of inland waterway transport in Europe, with the aim to fully integrate the single market in the area of inland navigation, to create a better regulatory and business environment and thereby to contribute to growth and enhanced competitiveness in the inland waterway transport sector.

Another purpose would be to concentrate available knowledge and resources, and to avoid double/parallel work in different organisations. The envisaged solution should facilitate decision-making, allow the participation of interested third countries (members of the Rhine and Danube Commissions), and facilitate regulatory harmonisation at European scale.

Furthermore, the objective would be a shift from a rather regulatory policy approach to a more strategic inland navigation policy, by creating synergies and coherence, e.g. through the establishment of common rules at the appropriate level.

Ideally, the modernisation of the organisational structure should also lead to the coordinated execution of a number of specific tasks, e.g. monitoring the legislative “acquis”, in particular technical standards, carry out a continuous market observation, or manage databases, overseeing the registration of vessels and certificates.

Any solution should ensure an adequate participation of all actors concerned.

A modernisation of the organisational structure for inland waterway transport is in line not only with the NAIADES Action Programme but also with the EU’s transport policy in general. The Commission’s 2001 White Paper on Transport<sup>15</sup> already raised

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<sup>14</sup> White Paper “European transport policy for 2010: time to decide”, COM(2001) 370 final of 12.9.2001.

<sup>15</sup> Idem.

the issue of coexisting legal systems and the “problems concerning the issue of certificates, protection of crews and gaseous emissions”, a discrepancy “likely to increase with enlargement”. The midterm review of the White Paper<sup>16</sup> confirms the Commission’s intentions in this regard and foresees a case-by-case review of “the EU’s interaction with international cooperation mechanisms, ranging from better policy coordination over an enhanced observer status to EU membership in relevant international organisations or even special relationships between the EU and such organisations”.

More generally, the modernisation of the organisational structure for inland waterway transport in Europe should ensure the full application and integration of the internal market in the area of inland waterway transport, namely by guaranteeing the recognition of Community certificates on all inland waterways in the European Union, including the Rhine and the Danube.

#### 4. POLICY OPTIONS

The standard reference option – the so-called “do-nothing” option – has been discarded from the start, because in any case the organisational framework for inland waterway transport in Europe does not stand still but evolves continuously. The main question to be examined is whether or not the *institutional* framework needs to be adapted in order to modernise the organisational structure.

Against this background, instead of the “do-nothing” option, the reference option will be based on an increased cooperation between all relevant actors but “no change” in the institutional setting.

The 2006 Commission’s Communication on the promotion of inland waterway transport identified the four options which had been under discussion over the past few years:

- Option 1: Increased cooperation but no change in the institutional framework
- Option 2: Adhesion of the Community to the Rhine and the Danube Commissions
- Option 3: Pan-European Convention
- Option 4: A stronger role for the Community to strategically address the development of inland waterway transport in Europe.

These options have served as a basis for the impact assessment. For the purpose of analysing their impacts, they have been further specified as follows:

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<sup>16</sup> Commission Communication “Keep Europe moving - Sustainable mobility for our continent” Mid-term review of the European Commission’s 2001 Transport White Paper, COM(2006) 314 final of 22.06.2006.

#### **4.1. Option 1: Increased cooperation but no change in the institutional framework**

The reference option of further increasing the cooperation between the European Commission and the international river commissions would maintain the existing framework and working methods but entail increased coordination between the works of these organisations. Such cooperation can already be observed between the European Commission and the CCNR in the area of harmonisation of legislation regarding technical requirements for vessels. Other areas are being explored, and the cooperation has started to also include other international river commissions. Under this option, the fragmented legal bases for inland waterway transport and the different sets of rules for different geographical areas within the single market would remain untouched.

#### **4.2. Option 2: Adhesion of the European Community to the Rhine and the Danube Commissions**

The adhesion of the European Community to the Rhine and the Danube Commissions<sup>17</sup> would strengthen the Community's participation in the international river commissions beyond its current observer status. The Community is already a member of the international river *protection* commissions. If the Community adhered to the river commissions the latter would maintain their intergovernmental character. Such an accession would nevertheless more truly reflect the fact that the Community already today has exclusive competence in a number of areas.

#### **4.3. Option 3: Pan-European Convention**

The creation of an intergovernmental Pan-European Inland Navigation Organisation<sup>18</sup>, on the basis of a new international convention, would aim to involve all European countries and organisations interested in inland waterway transport in a single coordinating body. Establishing such an organisation would require signature and ratification of all parties concerned. It is not assumed that such a Convention would replace the existing international agreements. While raising political attention for and the strategic policy profile of inland waterway transport, the Pan-European Inland Navigation Organisation would therefore still require rendering coherent different sets of rules.

#### **4.4. Option 4: European Agency**

Another option would be to entrust the European Union to strategically address the development of inland waterway transport in Europe. For the purposes of this impact assessment, this "strategic approach" has been further specified to the hypothesis of a single European inland waterway transport structure, which could be set up as an Agency of the European Union, either by establishing a new agency or by extending the tasks of an existing agency<sup>19</sup>. Generally speaking, EU Agencies can have

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<sup>17</sup> As proposed by the Commission in 2003, cf. footnote 5.

<sup>18</sup> This option has been suggested in the own-initiative opinion of the European Economic and Social Committee on The institutional framework for inland waterway transport in Europe, cf. footnote 8.

<sup>19</sup> E.g. by establishing an "inland waterway branch" of the European Maritime Safety Agency (EMSA).



different tasks of regulatory or executive character<sup>20</sup>. An EU Agency would function on the basis of an EU regulation. Given that the EU inland waterway market is connected to third countries (Switzerland, Croatia, Serbia, Moldova, Ukraine, Russia), the interest of which should be taken into account, these countries could participate in such an Agency on the basis of agreements, to be concluded between the European Community and those third countries.

## 5. ANALYSIS OF IMPACTS

The following impacts have been taken into consideration:

- Regulatory impacts (legislation, institutional framework);
- Budgetary / administrative impacts (administrative costs, budgets, human resources, efficiency);
- Competitiveness impacts (competition between operators from different river basins, competition with other transport modes, market integration);
- Environmental impacts (overall environmental performance of the transport system, infrastructure, emissions, safety);
- Social impacts (employment, mobility, job quality, social rights, size of the labour force, salary levels).

### 5.1. Regulatory impacts

#### 5.1.1. *Option 1: Increased cooperation but no change in the institutional framework*

In the reference situation or “no change” option the institutional framework would not be affected. Different legal frameworks would continue to coexist. In order to achieve the mutual recognition, let alone the harmonisation of standards, this option would require increasing the coordination between the preparatory and legislative work of the organisations involved. Legislative instruments of the European Union, of the CCNR and of the Danube Commission would have to be closely coordinated in order to avoid unfair competition. Given that such a legislative harmonisation between different legal frameworks could not be legally enforced, the risk of different sets of rules for different geographical areas within the single market would remain. Because of the resources which are required for the coordination of different sets of rules, legislative harmonisation would continue to be reached at a relatively low pace.

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<sup>20</sup> The European Aviation Safety Agency (EASA) has specific regulatory and executive tasks in the field of aviation safety. The European Railway Agency (ERA) has the mission of reinforcing safety and interoperability of railways. The European Maritime Safety Agency (EMSA) is tasked with the enhancement of the overall maritime safety system. The Executive Agency for Competitiveness and Innovation (EACI) works inter alia for the promotion of intelligent energy, through project management and the organisation of events.

### 5.1.2. *Option 2: Adhesion of the European Community to the Rhine and the Danube Commissions*

In August 2003 the Commission proposed to the Council to grant a mandate to the Commission for negotiating the European Community's membership of the CCNR and of the Danube Commission.

Under the “accession” option, the legislative framework would essentially remain unchanged. Different legal frameworks would continue to coexist. As for option 1, this option would also require increasing the coordination between the preparatory and legislative work of the organisations involved. In this context, the use of already established working and decision-making mechanisms could speed up the harmonisation process. Legislative harmonisation in different areas might be facilitated because the membership of the Community in the river commissions would create a clearer legal basis for decisions of the river commissions regarding Community legislation.

Even if the above argumentation is valid for both the CCNR and the Danube Commission, the current circumstances, in particular the ongoing revision of the Belgrade Convention, imply different impacts with regard to the European Community's membership in the respective river commissions.

The revision process of the Belgrade Convention, which is already going on since a number of years, is aimed at modernising the Danube Commission. It strives to convert the Danube Commission into a more efficient international organisation, inter alia by allowing it to adopt binding decisions in the future. Given that EU Member States have transferred a number of competences in the area of inland waterway transport to the European Community, they are no longer authorised to contract with third countries obligations affecting these rules, whether they act individually or even collectively<sup>21</sup>. Decisions in these areas can only be taken in a Community framework.

In addition, on those stretches of the Danube which lie within the territory of EU Member States, binding EU legislation prevails over the recommendations which have been adopted in the framework of the Danube Commission. As a consequence, there is a risk that different rules could apply on different sections of the river. This needs to be avoided. The accession of the European Community to the Danube Commission in areas of its competence would reflect the internal distribution of competences vis-à-vis the other members of the Danube Commission. This clarification might also trigger an agreement on other outstanding questions in the context of the revision of the Belgrade Convention. It would therefore not only facilitate and speed up the revision of the Belgrade Convention, but also facilitate the adoption of harmonised rules with regard to inland waterway transport on the Danube.

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<sup>21</sup> Judgment of the Court of 31 March 1971: Commission of the European Communities v Council of the European Communities, European Agreement on Road Transport (AETR), Case C-22-70, European Court reports 1971, p. 263.

With regard to the CCNR, the risk of different rules on the Rhine is smaller, on the one hand because four out of five members of the CCNR are also EU Member States, which have to respect Community law, on the other hand because the equivalence of the rules applied on the Rhine and in the Community is in the process of being established in certain areas – e.g. technical requirements for vessels or River Information Services – even if in others the need for harmonisation still exists.

The accession of the European Community to the Danube Commission is therefore a priority matter. On 7 June 2007, the Council of Ministers of the EU has adopted a decision authorising the European Commission to negotiate the conditions and arrangements for the signature and conclusion by the European Community of an Amending Protocol to the Belgrade Convention.

#### 5.1.3. *Option 3: Pan-European Convention*

Through the establishment of a Pan-European Convention, the principles of existing conventions, treaties and agreements (i.e. Rhine and Danube Conventions, UNECE Conventions), could be gradually brought under the authority of a European Organisation for Inland Navigation. In this option there would clearly be an impact on the distribution of tasks and responsibilities, because the existing bodies such as the CCNR and the Danube Commission would retain their responsibility only for those tasks which are specific for navigation on their respective river. According to the principle of subsidiarity, legislative competences in those areas which would be better addressed at pan-European level would then be shifted to a new organisation.

However, this scenario, including abandoning existing international organisations or some of their tasks, is more than unlikely, a view which is shared by almost all stakeholders. The establishment of a Pan-European Convention would therefore have an impact on the institutional setting insofar as it would constitute an additional regulatory and institutional layer to the current organisational structure. A similar impact would be registered in legislative terms, because the rules elaborated under this Convention would not replace current or future legislative activities of the EU and of the river commissions, but add a new “legislative layer”, beyond existing legal frameworks.

#### 5.1.4. *Option 4: European Agency*

The establishment of a European Agency for inland waterway transport would have a substantial impact on the institutional framework, because it would create a specific *entity* to the existing organisations in this area. However, independently of whether such an entity were established as a new EU Agency for inland waterway transport, or whether additional tasks would be attributed to an existing agency, it would not constitute an additional administrative *layer*, because as an EU Agency it would be embedded in the existing institutional setting.

In legislative terms, the framework would not change in principle, because the international river navigation conventions would continue to exist. The setting up of an EU Agency (or adding tasks to an existing one) would nevertheless require an EU regulation to be adopted. In case of the participation of third countries, which is one of the overriding objectives of the organisational modernisation, agreements would have to be concluded between the European Community and interested third

countries. Depending on the degree of involvement of third countries in an EU agency, the importance of European Community legislation for harmonised rules on the pan-European inland waterway network could increase. This could also speed up the process of legislative harmonisation in a pan-European perspective.

The regulatory impact of an EU Agency would be very limited, however, if its tasks would repeat, or effectively double, the work of existing international organisations. The international river commissions, through a great number of working groups composed of experts from the national authorities of their member states, have acquired a reputation for their expertise and experience in preparing legislation not only for their respective waterway but for inland waterway transport in general. Given that a great majority of stakeholders insists on the significance of the international river commissions, trying to make the river commissions transfer these tasks would encounter great political resistance. The establishment of an EU Agency in the same area of expertise would lead to a duplication of efforts. It would therefore only have an added value if such an Agency was attributed additional tasks, as described in the objectives (see above, Section 3.)<sup>22</sup>. This consideration is also supported by the stakeholders' view.

In this case, the EU Agency could be attributed certain tasks like monitoring the legislative "acquis", e.g. by carrying out technical inspections of individual vessels, or by granting type-certification of craft and engines, in order to ensure the uniform implementation of inland waterway transport safety legislation in all Member States. In the area of transport, comparable tasks are only carried out by the European Aviation Safety Agency<sup>23</sup>. In all other areas, the harmonised implementation of the legislative "acquis" is ensured by the competent authorities of the Member States.

## **5.2. Budgetary / administrative impacts**

For a clearer understanding and distinction of the different impacts, this section concentrates on an analysis of the budgetary costs, administrative burdens, human resources, and the efficiency resulting from the different options. The economic impacts on the inland waterway transport sector in general have been looked at in terms of impacts on competitiveness and/or market integration (see below, Section 5.3.1.).

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<sup>22</sup> The tasks with which an agency may be entrusted are enumerated in Point 4 of the proposed interinstitutional agreement on the operating framework for the European regulatory agencies (COM(2005)59 of 25.02.2005). In particular, whenever agencies are given the power to implement laws, this power will be limited to applying the rules of secondary legislation to specific cases, in accordance with the institutional system and the case law of the Court of Justice, cf. Judgment of 13.06.58, in case 9/58, Meroni, ECR 1958, p. 11; judgment of 14.05.81, in case 98/80, Romano, ECR 1981, p. 1241.

<sup>23</sup> The European Aviation Safety Agency certifies products from civil aviation altogether, including general and business aviation. It has been established by Regulation No 1592/2002/EC of the European Parliament and of the Council of 15 July 2002, OJ L 240 of 7.9.2002, p.1.

### *1.1.1. Option 1: Increased cooperation but no change in the institutional framework*

In the reference situation or “no change” option there would in principle be no impact in budgetary or administrative terms, because costs and budgets of the different actors would essentially remain the same. In terms of efficiency, the problem description (see above, Section 0.) has already stated that the current framework leaves room for improvement. If different sets of legislation need to be harmonised instead of agreeing on a common set of rules, the objective of harmonised legislation is achieved over longer time spans than might be possible otherwise.

The Commission services conclude that given that no change in the institutional framework would go hand in hand with increased cooperation between the European Commission and the River Commissions, an increase in human resources in the area of inland waterway transport would therefore be required for an efficient and timely coordination between the different organisations. While the precise costs for this coordination may be difficult to estimate, the Commission’s recommendation regarding the Community’s membership of the CCNR and of the Danube Commission from August 2003<sup>24</sup> might help to give a figure, because the coordination tasks would be comparable. In its proposal, the Commission calculated the impact of EC membership in the River Commissions on human resources in the Commission services as 1 AD and 1 AST posts. The total expenditure, including travel costs, for twelve months was estimated at 116.200 € (CCNR) plus 122.125 € (Danube Commission), resulting in a total cost estimate of 238.325 € per year. As a consequence, this option would have a marginal impact on the operating costs of all actors involved.

### *1.1.2. Option 2: Adhesion of the European Community to the Rhine and the Danube Commissions*

As above, there would in principle be no impact in budgetary or administrative terms, because costs and budgets of the different actors would essentially remain the same. The representation needs and the coordination between EU Member States resulting from Community membership in the two River Commissions would nevertheless require an increase in human resources. Even more than for option 1 (see above, section 1.1.1.), the estimation from the Commission’s August 2003 recommendation regarding the Community’s membership in the international river commissions can be used as an indicator. According to the Commission’s proposal the impact of EC membership in the river commissions on human resources in the Commission services would therefore also result in a total cost estimate of 238.325 € per year. Assuming that the use of already established working and decision-making mechanisms would speed up the process of legislative harmonisation (cf. above, Section 5.1.2.), the impact of additional human resources could nevertheless be counterbalanced by an increased efficiency over time.

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<sup>24</sup> SEC(2003) 897 EU restricted, cf. footnote 5.

### 1.1.3. Option 3: Pan-European Convention

The establishment of a European Organisation for Inland Navigation would clearly have an impact in terms of budgetary or administrative costs and need for human resources. Firstly, such an organisation would normally have its own governing body with a specific budget in addition to the existing international organisations<sup>25</sup>. An estimated staff of 15-20 FTE and the need for a suitable location, to be agreed by all countries concerned, would amount to an additional annual budget of roughly € 2.5 million. In addition the organisation would generate expert meetings which would be held in addition to the meetings which usually take place under the existing framework<sup>26</sup>. Another impact would be the time and the resources which would be required not only for the negotiation, signature and ratification of a pan-European convention, but also for the coordination, and thereby the harmonisation of the legal framework, which would follow on from such a new international instrument.

Even if one assumed – independently of the political feasibility of this option – that the existing bodies such as the CCNR and the Danube Commission would continue their activities only in those areas which would be specific for navigation on their respective river, and that the overall balance of human resources would be balanced in this regard, it is still questionable whether the transaction costs of such institutional changes would counterbalance the potential gains in effectiveness.

### 1.1.4. Option 4: European Agency

Establishing an EU Agency for inland waterway transport would entail an increase in human resources and operational costs. Both factors could be substantially reduced if an existing agency was attributed additional tasks to it, using “agency antennas”, which could in theory be attached to the sites of the existing international river commissions<sup>27</sup>. On the other hand, the use of already established working and decision-making mechanisms could speed up the harmonisation process, which would constitute a more efficient use of human resources<sup>28</sup>.

The importance of the impact on human resources would clearly depend on the tasks which would be attributed to the EU Agency, and which are currently not executed by other bodies. As discussed above, and as supported by the majority of stakeholders (see Section 5.1.4.), the establishment of an Agency would not be viable unless it was attributed tasks which constitute an added value to current activities<sup>29</sup>. Depending on the extent of these tasks, which would need to be more clearly

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<sup>25</sup> For orientation purposes, the budgets of the current international organisations are estimated at € 2.0 million for the CCNR, at € 1.5 million for the Danube Commission, and at € 0.6 million for the UNECE (source: Final report of the impact assessment study by ECORYS, Rotterdam, 31 January 2007 (see above, Section 1.2.1.).

<sup>26</sup> Both the CCNR and the Danube Commission currently hold an average of 50 expert meetings per year.

<sup>27</sup> While the European Maritime Safety Agency is located in Lisbon, Portugal, the Central Commission for Navigation on the Rhine has its seat in Strasbourg, France (on the Rhine), and the Danube Commission has its seat in Budapest, Hungary (on the Danube).

<sup>28</sup> For example, the number of expert meetings (travel costs and working time) at the level of the river commissions (see also footnote 26) could be reduced significantly.

<sup>29</sup> See also above, footnote 22.

defined, the total costs of such an activity could be calculated at a total amount between € 2.0 million and € 2.6 million per year<sup>30</sup>. Depending on the tasks, this increase in costs might however be counterbalanced by concentrations or savings in Member States' inland waterway administrations who might transfer certain tasks to the Agency.

### 5.3. Competitiveness, environmental, and social impacts

The impacts of the different options in terms of competitiveness, the environment, or the social situation of the inland waterway transport sector have been grouped in a single section because they share the following characteristics:

- Firstly, if at all, they are rather likely to be measurable in the long run,
- Secondly, it is nevertheless difficult to quantify such long term effects,
- Thirdly, it appears evident that the shape of the organisational structure is not the determining factor for developments in those areas. Stakeholders largely agree with this statement.

This means that the impacts in these three areas will not differ significantly according to whichever option will be chosen. An analysis would have to be based on assumptions with a great degree of uncertainty, and would be disproportionate to the potential impacts.

#### 5.3.1. Competitiveness impacts

With regard to the competition with other transport modes, the modal split is mainly influenced by economic, structural, political, hydrological and other factors, and only to a very limited extent to the organisational structure. Some of the stakeholders think that establishing a new European organisation might have an indirect positive influence because of a better promotion of the sector. Other stakeholders however underline that promotion of IWT should be done by the sector itself. While it is expected that a more powerful and improved promotion of the inland waterway transport sector as well as the follow up of other specific tasks of the NAIADES Action Programme will have positive effects on the transport performance of inland waterway transport in Europe, these measures do not necessarily require a change in the organisational structure.

As to the question whether the current framework causes a fragmentation of the internal market because it forces vessels to stay within the territorial scope of the

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<sup>30</sup> This calculation is based on the following estimation and assumptions: The staff of the European Aviation Safety Agency currently amounts to about 300 FTE. Given the comparably small size of the sector, the staff required for an Inland Waterway Transport Agency “antenna” with comparable tasks (limited to inspection, monitoring, certification, etc. – tasks which normally fall under the responsibility of Member States’ administrations) would be estimated at 15-20 FTE. Based on an average cost per FTE of 130.000 € (Proposal for a Regulation of the European Parliament and of the Council establishing a European Maritime Safety Agency, COM(2000) 802 final of 8 December 2000), the total costs of these services could be calculated between € 2.0 million and € 2.6 million per year.

respective legal framework only (i.e. either on the Rhine, on the East-West-corridor, on the North-South corridor or on the Danube<sup>31</sup>), disagreement between the stakeholders can be observed.

A number of stakeholders do not consider this argument relevant, as they state that the determining factor in this regard is not the legislative framework, but the existence of specific markets, thus apparently there is not much demand for cross-river transport (e.g. regarding Rhine and Danube there is not much inter-river cargo transport, cargo mainly comes either from Rotterdam and is transported up the Rhine, or comes from Constanta and is transported up the Danube).

Other stakeholders believe that due to the current fragmented legal framework, market integration of inland waterway transport in Europe can not be realised, so that the current legal framework causes inland vessels to stay within the territorial scope of the respective legal basis. It is nevertheless generally doubted that this situation would be influenced by the choice of one of the different options at institutional level.

The Commission services tend to agree with the latter opinion. While it is clear that the share of vessels which will effectively sail from Rotterdam to Constanța would be minimal, and the economic consequences of the fragmented legislative framework therefore less significant and highly difficult to quantify, being able to participate in the Rhine market is not only a competitive advantage, but also an asset in terms of safety which an inland waterway transport operator can claim towards his customers. This is relevant for vessels, but even more so for boatmasters who wish to benefit from the liberties of the EU's single market. Because of the non-recognition of their certificates for navigation on the Rhine, the entire North-Western inland waterway market is closed to them. Even if the organisational framework may not be the determining factor, this underlines the necessity of common rules for the entire European waterway network.

In addition, the Commission services consider that independently of connections between different market areas, the economic potential of the Internal Market in inland waterway transport *within* the respective market areas is important in itself<sup>32</sup>. Even if the Danube's unused potential (see above, section 2.4.) may before all be a consequence of past slow economic development, as well as navigation difficulties through the two crises in former Yugoslavia, the inefficiency of the legal framework also plays a role here. As a consequence, the relative speed of legislative

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<sup>31</sup> The PINE Study (cf. above, Section 1.2.1) in 2004 identified the following four main inland waterway transport corridors: (1) the Rhine and its tributaries (Netherlands, mid-western Germany, north of Belgium, Luxembourg, France and Switzerland); (2) the East-West corridor (northern and eastern Germany, Poland and Czech Republic); (3) the Danube corridor (south-eastern Germany, Austria, Slovakia, Hungary, Romania, Bulgaria) and (4) the North-South corridor (parts of the Netherlands and Belgium, France).

<sup>32</sup> For example, the "COLD" Study (Container Liner Service Danube – available at [www.via-donau.org/en/cold](http://www.via-donau.org/en/cold)) has assessed the Danube's potential in the three countries of Austria, Hungary and Slovakia at around 0.65 to 1.15 M TEU until 2010, and at between 1.3 and 2.4 M TEU by 2020. The Rhine currently registers yearly movements of more than 2 M TEU. The increased use of the port of Constanța as a container hub for the Danube could offer a cost advantage for inland waterway transport.



harmonisation under the different options would have an influence on competitiveness at least in the medium term. The development would be more favourable within those options where legislative harmonisation would be slightly facilitated or sped up (Options 2 and 4).

### 5.3.2. *Environmental impacts*

Stakeholders' opinions diverge whether environmental concerns regarding inland waterway transport lack attention due to the current organisational structure, although most of them believe that this is not the case. A modernisation of the organisational structure is believed to have no effect on environmental matters, because efforts are already ongoing in the relevant fora or working groups.

With regard to *emission limits*, however, it should be noted that due to its relatively small size, stricter rules for the inland waterway transport are not proposed and introduced as quickly as might be necessary in order to keep up with improvements in other modes, in particular road transport. A strengthening of emission rules is considered necessary in order for the sector to keep its image as a relatively "clean" mode of transport. As a consequence, an impression of stagnation of this important file seems to prevail among a number of stakeholders. Another example for environmental impacts is the sulphur content of fuel for inland waterway vessels<sup>33</sup>. While improving the environmental performance of the sector has been identified by as "one of the key files where the EC should take the lead with the aim to speed up the process towards harmonisation"<sup>34</sup>, a modification of the current organisational framework is not considered necessary for this purpose.

The stakeholders' impression that progress in the area of emission rules for inland waterway transport is rather slow can also be due to parallel activities within the CCNR and the European Union. The Commission services agree nevertheless that in order to "take the lead", as suggested by the consultant, a modification of the current organisational framework is not necessary.

### 5.3.3. *Social impacts*

All stakeholders believe that modifying the current organisational framework will not have any significant social impact (i.e. with regard to employment, mobility, job quality, social rights, size of the labour force, or salary levels).

With regard to job mobility between the different corridors within the inland navigation sector, the question of professional qualifications is considered to be of primary importance. This includes the harmonisation of boatmasters' certificates as

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<sup>33</sup> The proposal amending, inter alia, Council Directive 1999/32/EC, as regards the specification of fuel used by inland waterway vessels (COM(2007) 18 of 31.1.2007) foresees to reduce the maximum permissible sulphur content of gas oils to the same level as for road transport by end 2011. In contrast, the inland waterway transport sector is in favour of an earlier introduction of lower sulphur levels as from end 2009, i.e. two years earlier.

<sup>34</sup> Final report of the impact assessment study by ECORYS, Rotterdam, 31 January 2007 (see above, Section 1.2.1.).

well as recognition of other professional qualifications and harmonised manning requirements between the Rhine, the Danube and the Community. Whereas progress in these areas has been slow over a number of years, this is regarded as another area “where the EC should take the lead”<sup>35</sup>. Potential impacts with regard to the free movement of labour have already been looked into (see above, section 5.3.1.). If legislative harmonisation in the area of technical requirements for vessels<sup>36</sup> was taken as an example, several years of negotiations would delay the realisation of the free movement of workers. As for environmental aspects, a modification of the current organisational framework is not considered necessary for this purpose. A regular monitoring of the implementation of the legislative framework in this area would nevertheless be welcomed.

## **6. COMPARING THE OPTIONS**

### **6.1. Option 1: No change in the organisational structure**

The reference option to leave the organisational structure unchanged, but to increase the existing operation between the different actors, would have no impact on the legislative and institutional framework. The Commission services consider that increased cooperation between the European Commission and the River Commissions would however require an increase in human resources and therefore have marginal impacts on operating costs. Even if the objective of entirely harmonised regulations will be reached over time – the timeframe depending on the available resources –, impacts on competitiveness, the environment or the social situation of the inland waterway transport sector are either too hypothetical or too marginal to be quantified.

Conclusion on option 1: The objective of entirely harmonised regulations could be reached over time without changing the existing organisational structure. Without further measures, the objective of strategic promotion and stronger political attention would not necessarily be reached under this option.

### **6.2. Option 2: Adhesion of the European Community to the Rhine and the Danube Commissions**

In general terms, whilst having a marginal impact on the institutional framework, the legislative framework would essentially remain unchanged as in the “no change” option, even if the alignment of rules adopted in the two river commissions to EU legislation might be facilitated through the accession of the European Community.

The impact assessment has identified a clear difference between the regulatory impacts of the Community’s membership in the CCNR or in the Danube Commission (see above, Section 5.1.2.):

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<sup>35</sup> Idem.

<sup>36</sup> I.e. the revision process for Directive 82/714/EEC, cf. footnote 12.

- With regard to the CCNR, the respect for EU legislation and the harmonisation of standards between EU legislation and the rules applied on the Rhine might be relatively well guaranteed without the EC becoming a member of the CCNR.
- With regard to the Danube Commission, it will be important to avoid that different rules would apply on different sections of the river. In addition, the perspective of EC membership will not only facilitate the adoption of harmonised rules with regard to inland waterway transport on the Danube, but also help to facilitate and speed up the revision of the Belgrade Convention.

The representation needs and the coordination between EU Member States resulting from Community membership in the river commissions would require a marginal increase in human resources. The use of already established working and decision-making mechanisms could speed up the harmonisation process in comparison to the “no change” option, where effective cooperation would still need to be established in a number of areas, and would thus constitute a more efficient use of human resources.

Even if the objective of entirely harmonised regulations would be achieved earlier than under the “no change” option, impacts on competitiveness, the environment or the social situation of the inland waterway transport sector would be either too hypothetical or too marginal to be quantified.

Conclusion on option 2: Under the adhesion-option, the use of established working and decision-making mechanisms could slightly speed up the harmonisation process in comparison to option 1. With regard to the Danube Commission, the adhesion of the Community is legally justified by the specific circumstances of the revision of the Belgrade Convention and will contribute to a more stringent harmonisation of rules for navigation on the Danube. This option would require a marginal increase in human resources. Without further measures, however, the objective of strategic promotion and stronger political attention would not necessarily be reached under this option.

### **6.3. Option 3: Pan European Convention**

The abandoning of existing international organisations is more than unlikely. The establishment of a Pan-European Convention would therefore have an impact on the institutional setting insofar as it would constitute an additional layer to the current organisational structure. A similar impact would be registered in legislative terms, because the rules elaborated under this Convention would not replace legislative activities of the EU and of the River Commissions. Its impact in terms of costs/budget and need for human resources would be higher than the first two options, because firstly such a convention would need a governing body with an extra budget, and secondly additional expert meetings and coordination mechanisms would be required. Another impact would be the time needed not only for the negotiation, signature and ratification of such a pan-European convention, but also for the coordination, and thereby the harmonisation of the legal framework.

Even if a dedicated institution could increase the political attention for IWT - and be in charge of its strategic promotion –, impacts on competitiveness, the environment

or the social situation of the inland waterway transport sector would be either too hypothetical or too marginal to be quantified.

Conclusion on option 3: In addition to creating an additional administrative layer at pan-European level, and in comparison with options 1 and 2, this option might complicate and therefore slow down the process of legislative harmonisation. The increase in human resources would therefore not be justified by an increase in efficiency. On the other hand, the objective of stronger political attention might be reached more easily under this option, even if further measures would be required.

#### **6.4. Option 4: European Agency**

Similarly to the pan-European Convention option, the establishment of a European Agency would have a substantial impact on the institutional framework. However, instead of creating an additional administrative layer as in option 3, an EU Agency would be embedded in existing institutions or organisations. This would be independent of whether it were established as a new EU Agency for inland waterway transport, or whether an additional task would be attributed to an existing agency (e.g. an “inland waterway branch” of the European Maritime Safety Agency (EMSA)). In legislative terms, the framework would not change in principle, because the International River Navigation Conventions would continue to exist. However, depending on the degree of involvement of third countries in such an agency, the importance of European Community legislation for harmonised rules on the pan-European inland waterway network could increase.

Establishing an EU Agency for inland waterway transport would entail an increase in human resources and operational costs. Both factors could be substantially reduced if additional tasks were attributed to an existing agency and “antennas” were to be created, which could in principle be attached to the sites of the existing international river commissions. Similarly to option 2, the use of already established working and decision-making mechanisms could speed up the harmonisation process in comparison to the “no change” option, and would thus constitute a more efficient use of human resources.

Even if a dedicated inland waterway transport agency could increase the political attention for IWT – e.g. by also being attributed the task of its strategic promotion –, or if it would also be assigned monitoring tasks, impacts on competitiveness, the environment or the social situation of the inland waterway transport sector would be either too hypothetical or too marginal to be quantified.

Conclusion on option 4: Under the agency-option, the impact on human resources and operational costs would be more significant than under the other options. If the existing expert bodies and organisations would be maintained, however, this might not constitute a more efficient use of human resources, unless such an Agency would be attributed additional executive tasks to ensure the uniform implementation of inland waterway transport safety legislation in all Member States, an activity which is normally entrusted to the competent authorities of Member States. Using established working and decision-making mechanisms could slightly speed up the harmonisation process in comparison to option 1. The objective of strategic promotion and stronger political attention might be reached more easily under this option, even if further measures would be required.

## 6.5. Impact overview table

The following table aims to give a synoptic overview of the different impacts.

<b>Impacts</b>	<b>Option 1</b> “no change”	<b>Option 2</b> “Adhesion”	<b>Option 3</b> “Pan-European Convention”	<b>Option 4</b> “European Agency”
<b>Regulatory</b>	no impact on legislative / institutional framework; slow progress	marginal impact on legislative / institutional framework; progress slightly sped up	likely substantial impact (additional legislative and administrative layer); progress slowed down	substantial impact (embedded in existing institutions), depending on tasks; progress slightly sped up
<b>Budgetary / administrative</b>	€ 238.325 per year	€ 238.325 per year	up to € 2.5 M per year	between € 2.0 M and € 2.6 M per year
<b>Competitiveness</b>	hypothetic/ contingent on other matters	hypothetic/ contingent on other matters, but quicker use of economic potential	hypothetic/ contingent on other matters	hypothetic/ contingent on other matters, but quicker use of economic potential
<b>Environmental</b>	hypothetic/ contingent on other matters	hypothetic/ contingent on other matters	hypothetic/ contingent on other matters	hypothetic/ contingent on other matters
<b>Social</b>				

## 6.6. Conclusion

The comparison of the impacts of the different options shows that the objective ”to fully integrate the single market in the area of inland navigation, to create a better regulatory and business environment and thereby to contribute to growth and enhanced competitiveness in the inland waterway transport sector”<sup>37</sup> could be

<sup>37</sup> See above, section 3.

reached without changing the existing organisational structure (option 1), even if it would take more time than under options with a stronger impact on the institutional setting. In terms of administrative costs, the impact of the “no change” approach would at least be similar to those estimated necessary for option 2. Option 1 could therefore in principle be considered as acceptable. However, in the light of repeated demands for an “institutional change”, which have characterised the institutional debate during the past few years, this option on its own would appear inconsistent.

Administrative structures and human resources could be used more efficiently and effectively if the European Community adhered to the international river commissions with regard to matters of its competence (option 2). This option would not modify the institutional setting significantly. While this option would require a marginal increase in human resources, it would allow relying on existing expertise and using established working and decision-making mechanisms. There is a clear difference of the impacts with regard to the CCNR or to the Danube Commission. With regard to the latter, the adhesion of the Community will not only facilitate the adoption of harmonised rules for navigation on the Danube, but also help to facilitate and speed up the revision of the Belgrade Convention. In addition, it is legally justified by the specific circumstances of the ongoing revision of the Belgrade Convention.

In comparison to the two first options, the establishment of a Pan-European Convention (option 3) would mean an additional administrative layer, which might complicate and therefore slow down the process of legislative harmonisation. It would generate extra administrative costs which would be significantly higher than the two first options, but the increase in human resources would not be justified by an increase in efficiency. This option would however have the advantage of attracting stronger political attention, which might make it easier to achieve the objective of strategic promotion.

Establishing an EU Agency for inland waterway transport – or an inland waterway transport “antenna” of an existing agency – (option 4) would be the option with a similar impact on human resources and operational costs (even if the latter could be reduced in case of an “antenna”). This option would be consistent with the European Union’s policy with regard to other modes of transport or with promoting the intelligent use of energy<sup>38</sup>. But the establishment of an EU Agency *in addition* to the existing international river commissions might not constitute a more efficient use of human resources, unless such an Agency was attributed executive tasks to ensure the uniform implementation of inland waterway transport safety legislation in all Member States. However, given that this activity is normally entrusted to the competent authorities of Member States, the proportionality of the transfer of such tasks would be questioned. In addition, the Commission services consider that dissolving existing expert bodies and organisations would neither be in line with the Commission’s objective to respect the existing international organisations established under international law, nor would it be politically acceptable. Using established working and decision-making mechanisms could nevertheless speed up

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<sup>38</sup> For examples of EU agencies’ activities in these areas, cf. footnote 20.

the harmonisation process in comparison to option 1 and to option 3. The objective of strategic promotion and stronger political attention might be reached more easily under this option, even if further measures would be required.

All options which have been analysed have in common that without further measures, the impacts of any option as a stand-alone measure on competitiveness, the environment, or the social situation of the inland waterway transport sector would be either too hypothetical or too marginal to be quantified.

The Commission services conclude from the above that the impact assessment shows no clear advantage of a particular option in terms of the impacts assessed. Even if the current organisational structure situation may be regarded as “a patchwork of resources and efforts, with a fragmented legitimacy and a system-inherent reduced effectiveness” (see above, Section 2.1.), the modification of the organisational structure, *as such*, would apparently not provide a sufficient contribution to dissolving the obstacles for the development of inland waterway transport in Europe.

As a result, it appears that, under the current circumstances, it can be preferable to base the organisational framework on the existing institutional actors, and to improve and modernise their working methods wherever possible. Against this background, a combination of options 1 and 2 – increased coordination of the existing institutional actors combined, at an early stage, with Community membership in the Danube Commission to speed up its reform and the revision of the Belgrade Convention – can offer the best value at this moment. The Commission services do not intend to propose the creation of any additional structures to the existing framework. As requested by the stakeholders, this should go hand in hand with an even stronger commitment from the European Commission services within the existing organisational framework.

The full integration of the single market in the area of inland navigation, as well as the creation of a better regulatory and business environment will require many different steps and measures of legislative, political and financial character, as outlined in the “NAIADES” Action Programme. These should be addressed jointly by all the actors concerned and wherever possible in a coordinated action.