



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 13 May 2013

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**TRANS 218
ENV 379**

NOTE

from: Council General Secretariat

to: delegations

No. Cion prop.: 5150/09 TRANS 10 ENV 11

Subject: Proposal for a Council decision on the conclusion, of behalf of the European ~~Community~~ **Union**, of the Protocol on the Implementation of the Alpine Convention in the field of Transport (Transport Protocol)

In view of the Intermodal Working Party on 17 May 2013, delegations will find attached the above-mentioned proposal revised in the light of the entry into force of the Lisbon Treaty.

Compared to the Commission proposal, changes are indicated in **bold** (new text) and ~~striketrough~~ (deleted text).

Proposal for a
COUNCIL DECISION
on the conclusion, of behalf of the European ~~Community~~ Union, of the Protocol on the
Implementation of the Alpine Convention in the field of Transport
(Transport Protocol)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty **on the Functioning of** ~~establishing~~ the European ~~Community~~ **Union**
and in particular Article ~~71~~ **91** in conjunction with Article ~~300(2)~~ **218(6)(a)(v)**, and the first
paragraph of Article 218 (8) ~~first sentence of the first subparagraph~~ thereof,

Having regard to the proposal of the Commission¹,

Having regard to the ~~opinion~~ **consent** of the European Parliament²,

Whereas:

- (1) The Convention on the protection of the Alps (Alpine Convention) was concluded on behalf of the European Community with Council Decision 96/191/EC of the 26th February 1996³.
- (2) The Council decided on the signature, on behalf of the European Community, of the Protocol on the implementation of the Alpine Convention in the field of transport (Transport Protocol) by Council Decision 2007/799/EC on 12 October 2006.⁴

¹ OJ

² OJ

³ OJ L 61, 12.3.1996, p. 31.

⁴ OJ L 323, 8.12.2007, p. 13.

- (3) The Protocol is an important step in the implementation of the Alpine Convention, and the European ~~Community~~ **Union** is committed to the objectives of this Convention.
- (4) Economic, social and ecological cross-border problems of the Alps remain a major challenge to be addressed in this highly sensitive area.
- (5) The Transport Protocol provides a framework, based on the precautionary principle, the preventive principle and the polluter-pays principle, for ensuring sustainable mobility and protection of the environment, for all modes of transport, in the Alpine region in the light of article 2 of the Alpine Convention.
- (6) The provisions of the Transport Protocol are in line with the ~~Community's~~ **Union's** Common Transport Policy and fully support the Commission's "Greening Transport" approach ~~recently adopted~~⁵ **in 2008**.
- (7) The ratification of the Transport Protocol would strengthen trans-border cooperation with the non-EU countries Switzerland, Liechtenstein and Monaco. This would help to ensure that goals of the European ~~Community~~ **Union** are shared by regional partners and that such initiatives cover the whole Alpine region.
- (8) It is thus appropriate that this Protocol be approved by the European ~~Community~~ **Union**.

⁵ COM (2008) 433 final

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol on the Implementation of the Alpine Convention in the field of Transport, signed on 31 October 2000 in Luzern, is hereby approved on behalf of the European ~~Community~~ **Union**.
The text of the Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the ~~Community~~ **Union**, the instrument of approval with the Republic of Austria in accordance with Article 24 of the Protocol-, **and make the following declaration:**

"As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to 'the European Community' or to 'the Community' in the text of the Protocol are, where appropriate, to be read as to 'the European Union' or to 'the Union'."

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council

The President

PROTOCOL
ON THE IMPLEMENTATION OF THE ALPINE CONVENTION OF 1991
IN THE FIELD OF TRANSPORT
(TRANSPORT PROTOCOL)

Preamble

The Federal Republic of Germany,

The French Republic,

The Italian Republic,

The Principality of Liechtenstein,

The Principality of Monaco,

The Republic of Austria,

The Swiss Confederation,

The Republic of Slovenia,

and

The European Community –

In accordance with their task, arising from the Convention on the Protection of the Alps (Alpine Convention) of 7 November 1991, of pursuing a comprehensive policy for the protection and the sustainable development of the Alpine region;

In compliance with their obligations under Article 2(2) and (3) of the Alpine Convention;
Aware that the ecosystems and landscapes of the Alpine region are particularly sensitive, that its geographical conditions and topography are likely to increase pollution and noise and that it contains unique natural resources and a unique cultural heritage;

Aware that, without appropriate measures, transport and the environmental damage which it causes will continue to increase owing to the further integration of markets, socio-economic development and leisure activities;

Convinced that the local population must be able to determine its own social, cultural and economic development plan and take part in its implementation in the existing institutional framework;

Aware that transport is not without an environmental impact and that the environmental damage it causes produces increasing negative effects on and risks to the ecology, health and safety, which need to be tackled through a common approach;

Aware that enhanced safety measures are needed during the transport of hazardous materials;
Aware of the need to make comprehensive arrangements for observation, research, the provision of information and consultation in order to establish the links between transport, health, environment and economic development and to make clear the need to reduce environmental damage;

Aware that, in the Alpine region, a transport policy based on the principles of sustainability is in the interests of both the Alpine and extra-Alpine populations and that it is also necessary to preserve the Alpine regions as both a habitat and a natural and economic region;

Aware that on the one hand the present potential of modes of transport is to some extent not used sufficiently and on the other hand not enough account is taken of the importance of infrastructures for more environmentally-friendly transport systems (such as railway transport, shipping and combined transport) or of the transnational compatibility and operability of the various means of transport, and that it is therefore necessary to optimise such transport systems by a major strengthening of the networks inside and outside the Alpine region;

Aware that regional-planning and economic-policy decisions taken inside and outside the Alpine region have major repercussions for the development of Alpine transport;

Desiring to make a decisive contribution to sustainable development and to improvement of the quality of life by reducing the volume of traffic, managing transport in a more environmentally-friendly manner and increasing the effectiveness and efficiency of existing transport systems;

Convinced that it is necessary to balance economic interests, social needs and environmental requirements;

With due regard for the bilateral and multilateral conventions concluded between the Contracting Parties and the European Community, in particular in the field of transport;

Convinced that certain problems can only be resolved in a cross-border framework and require joint measures on the part of the Alpine States –

Have agreed as follows:

Chapter I

General provisions

Article 1

Objectives

1. The Contracting Parties undertake to pursue a sustainable transport policy which will:
 - (a) reduce the negative effects of and risks posed by intra-Alpine and transalpine transport to a level which is not harmful to people, flora and fauna and their environments and habitats, inter alia by transferring an increasing amount of transport, especially freight transport, to the railways, in particular by creating appropriate infrastructures and incentives in line with market principles;
 - (b) contribute to the sustainable development of the habitats and economic areas in which people living in the Alpine region dwell and work by implementing a transport policy which encompasses all modes of transport and is harmonised between the various Contracting Parties;
 - (c) help to reduce and, as far as possible, avoid any impact which might endanger the role and natural resources of the Alpine region, the importance of which goes beyond the boundaries of the Alpine areas, and threaten its natural and cultural heritage;
 - (d) ensure the movement of intra-Alpine and transalpine transport at economically bearable costs by increasing the efficiency of transport systems and promoting modes of transport which are more environmentally-friendly and more economic in terms of natural resources;
 - (e) ensure fair competition between modes of transport.

2. The Contracting Parties undertake to develop the transport sector while observing the precautionary principle, the preventive principle and the polluter-pays principle.

Article 2

Definitions

For the purposes of this Protocol:

"Transalpine transport" is transport made up of journeys whose points of departure and arrival are outside the Alpine region.

"Intra-Alpine transport" is transport made up of journeys whose points of departure and arrival are inside the Alpine region (inland transport) including transport made up of journeys whose points of departure or arrival are inside the Alpine region.

"Bearable negative effects and risks" are negative effects and risks to be defined through environmental-impact assessment and risk analysis with the aim of putting an end to any further increase in negative effects and risks and, where necessary, reducing them by means of appropriate measures in the case of both new building works and existing infrastructures which have a significant impact on the land.

"External costs" are costs which are not borne by the user of goods or services. They include the costs of infrastructure where use is free, the costs of environmental pollution and noise and the costs of damage to people and property caused by transport.

"New, large-scale building works, or major alterations or extensions of existing transport infrastructures" are infrastructure projects having effects which, in accordance with national impact assessment legislation or international conventions in force, are subject to an environmental impact assessment.

"Large-capacity roads" are all motorways and roads with two or more lanes, without intersections, or any road the traffic impact of which is similar to that of a motorway.

"Environmental quality objectives" are objectives which describe the environmental quality level to be attained, with due regard for the effects on ecosystems. They lay down (updateable) quality criteria for the protection of the natural and cultural heritage from a material, geographical and time-related viewpoint.

"Environmental quality standards" are specific standards which enable the environmental quality objectives to be met. They determine the objectives applicable to certain parameters, the measuring procedures or the overall requirements.

"Environmental quality indicators" are indicators which make it possible to measure or evaluate the present state of environmental damage and to forecast any change.

"The precautionary principle" is the principle whereby measures intended to avoid, control or reduce serious or irreversible effects on health and the environment should not be postponed by arguing that scientific research has not yet strictly proven the existence of a cause-and-effect relationship between the substances concerned and their potential harmfulness to health and the environment.

"The "polluter-pays" principle", including the acceptance of liability for effects caused, is the principle whereby the costs of preventing, controlling and reducing environmental damage and restoring the environment to an acceptable state are to be paid by polluters. The latter should, as far as possible, pay the entire cost of the impact of transport on health and the environment.

"Advisability study" is an investigation, in accordance with national laws, during the planning of new, large-scale building works, or major alterations or extensions of existing transport infrastructures concerning the advisability of projects from the angle of both transport policy and economic, environmental and socio-cultural impact.

Article 3

Sustainable transport and mobility

1. To enable transport to develop in a sustainable manner, the Contracting Parties undertake to contain, by means of a concerted transport and environmental policy, the negative effects and risks due to transport by taking account of:
 - (a) the importance of the environment so that:
 - (aa) the use of natural resources is reduced to a level which, as far as possible, does not exceed their natural capacity for regeneration;
 - (bb) harmful emissions are reduced to a level which is not detrimental to the absorption capacity of the environments concerned;
 - (cc) the input of substances into the environment is limited so as to avoid harming environmental structures and natural materials cycles;
 - (b) the requirements of the population so as to:
 - (aa) allow accessibility for persons, labour, goods and services, while effectively preserving the environment, saving energy and space and meeting the essential needs of the population;
 - (bb) avoid endangering human health and reduce the risks of environmental disasters and the number and severity of accidents;

- (c) the importance of economic criteria so as to:
 - (aa) increase the profitability of the transport sector and internalise external costs;
 - (bb) encourage optimum use of existing infrastructures;
 - (cc) guarantee employment in undertakings which are performing well in the various sectors of the economy;
 - (d) the need to take enhanced measures against noise because of the special topography of the Alps.
2. In keeping with the national and international transport legislation in force, the Contracting Parties undertake to develop national, regional and local strategies, objectives and measures which:
- (a) take account of the different environmental, economic and socio-cultural data and different needs;
 - (b) make it possible to reduce environmental damage due to transport by putting in place economic tools combined with measures for regional and transport planning.

Article 4

Taking the objectives into account in other policies

1. The Contracting Parties undertake to take account of the objectives of this Protocol in their other policies as well.
2. The Contracting Parties undertake to anticipate and evaluate the effects of other policies, strategies and concepts on transport.

Article 5

Participation of regional and local authorities

1. The Contracting Parties shall encourage international cooperation between the competent institutions in order to find the best possible cross-border harmonised solutions.
2. Each Contracting Party shall define, within its institutional framework, the best level of coordination and cooperation between the institutions and regional and local authorities directly concerned so as to encourage solidarity of responsibility, in particular in order to exploit and develop synergies when implementing transport policies and the resulting measures.
3. The regional and local authorities directly concerned shall be parties to the various stages of preparing and implementing these policies and measures within the limits of their competence and within the existing institutional framework.

Article 6

Reinforced national regulations

In order to protect the ecologically sensitive Alpine region and without prejudice to international conventions in force, the Contracting Parties may take measures going beyond those provided for in this Protocol because of special situations relating in particular to their natural areas or on grounds of public health, safety or protection of the environment.

Chapter II

Specific measures

A) Strategies, concepts, projects

Article 7

General transport policy strategy

1. In order to ensure sustainability, the Contracting Parties undertake to promote rational, safe transport management in a harmonised, cross-border network that:
 - (a) ensures coordination between different carriers, modes and types of transport and encourages intermodality;
 - (b) optimises the use of existing transport systems and infrastructures in the Alps, including through the use of electronic data transmission, and charges external and infrastructure costs to polluters in line with the damage caused;
 - (c) encourages, by means of structural and regional planning measures, the transfer of the carriage of passengers and goods to more environmentally-friendly means of transport and to intermodal transport systems;
 - (d) recognises and utilises the opportunities for reducing traffic volume.

2. The Contracting Parties undertake to adopt the necessary measures so as to ensure as far as possible:
 - (a) the protection of communication routes against natural hazards;
 - (b) in areas particularly damaged by transport, the protection of persons and of the environment;

- (c) the gradual reduction of emissions of harmful substances and noise by all modes of transport, including through the use of the best technologies available;
- (d) greater transport safety.

Article 8

Evaluation and intergovernmental consultation procedure

1. In the case of new, large-scale building works and major alterations or extensions of existing transport infrastructures, the Contracting Parties undertake to carry out advisability studies, environmental impact assessments and risk analyses and to evaluate the results in the light of the objectives of this Protocol.
2. The planning of transport infrastructure in the Alps must be carried out in a coordinated, concerted manner. In the case of projects with a significant cross-border impact, each Contracting Party undertakes to carry out, at the latest once the studies have been presented, prior consultations with the other Contracting Parties concerned. These provisions shall be without prejudice to the right of each Contracting Party to construct transport infrastructure which has been adopted in accordance with their internal legal order at the time of adoption of this Protocol or the need for which has been established in accordance with the law.
3. The Contracting Parties shall encourage the increased consideration of transport policy in the environmental management of undertakings in their countries.

B) Technical measures

Article 9

Public transport

In order to maintain and improve the settlement pattern and the economic organisation of the Alps as well as their attractiveness for recreation and leisure purposes in a sustainable manner, the Contracting Parties undertake to encourage the creation and development of user-friendly, environmentally-adapted public transport systems.

Article 10

Rail transport and shipping

1. In order to make better use of the particular suitability of the railways for meeting the requirements of long-distance transport, and use of the railway network for economic activity and tourism in the Alps, the Contracting Parties shall, within the limit of their competences, promote:
 - (a) the improvement of railway infrastructure by constructing and developing the major transalpine railway routes, including connecting routes and suitable terminals;
 - (b) the further optimisation and modernisation of railway undertakings, in particular for cross-border transport;
 - (c) the adoption of measures designed in particular to transfer the long-distance carriage of goods to rail and to further harmonise transport-infrastructure user charges;
 - (d) intermodal transport systems and the further development of rail transport;

- (e) the increased use of rail and the creation of user-friendly synergies between long-distance passenger transport, regional transport and local transport.
2. In order to reduce the volume of transit goods carried by land, the Contracting Parties shall encourage additional efforts to increase the use of shipping.

Article 11

Road transport

1. The Contracting Parties shall refrain from constructing any new, large-capacity roads for transalpine transport.
2. Large-capacity road projects for intra-Alpine transport may be carried out only if:
- (a) the objectives set out in Article 2(2)(j) of the Alpine Convention can be attained by means of appropriate precautionary and compensatory measures as determined by the environmental impact assessment;
 - (b) the transport requirements cannot be met by making better use of existing road and railway capacity, by extending or constructing new railway transport and shipping infrastructures, by improving combined transport, or by any other transport organisation measures;
 - (c) the results of the advisability study have shown that the project is economically viable, the risks are contained and the result of the environmental impact assessment is positive;
 - (d) regional planning and/or programmes and sustainable development are taken into consideration.

3. However, in view of the geography and the settlement pattern of the Alpine region, which cannot always be efficiently served by public transport alone, the Contracting Parties shall recognise the need, in these remote areas, to create and maintain sufficient transport infrastructures for private transport to function.

Article 12

Air transport

1. The Contracting Parties undertake to reduce as far as possible the environmental damage caused by air transport, including aircraft noise, without transferring it to other regions. Taking account of the objectives of this Protocol, they shall make efforts to limit or, where appropriate, prohibit airdrops in places other than airfields. In order to protect the wild fauna, the Contracting Parties shall take appropriate measures to impose time and place limits on non-motorised air transport for leisure purposes.
2. The Contracting Parties undertake to improve public transport systems from airports on the fringes of the Alps to the various Alpine regions so as to be able to satisfy transport demand without further damage to the environment. In this context, the Contracting Parties shall restrict as far as possible the construction of new airports and any major extension of existing airports in the Alps.

Article 13

Tourist facilities

1. The Contracting Parties undertake to evaluate, in the light of the objectives of this Protocol, the transport impact of new tourist facilities and, if necessary, to take precautionary or compensatory measures to fulfil the objectives of this or other Protocols. Priority shall be given in this case to public transport.

2. The Contracting Parties shall support the creation and maintenance of low-traffic and traffic-free areas, the exclusion of cars from certain tourist sites and measures to encourage tourists not to arrive by car or use cars.

Article 14

Real costs

In an attempt to influence the routing of transport by taking greater account of the real costs of the various transport modes, the Contracting Parties agree to apply the "polluter-pays" principle and to support the establishment and use of a system to calculate infrastructure costs and external costs. The objective is gradually to introduce transport-specific charging systems to cover such real costs in an equitable manner and to:

- (a) encourage the use of the most environmentally-friendly modes and means of transport;
- (b) achieve a more balanced use of transport infrastructure;
- (c) provide incentives to make more use of opportunities for the reduction of environmental and socio-economic costs by means of structural and regional planning measures which have an impact on transport.

C) Monitoring and control

Article 15

Supply and use of transport infrastructure

1. The Contracting Parties undertake to record and periodically update in a reference document the state, development, and use of or improvement in large-capacity transport infrastructure and transport systems and the reduction in environmental damage. They shall use a uniform presentation for this purpose.
2. On the basis of the above reference document, the Contracting Parties shall consider the extent to which implementing measures have contributed to the achievement and further development of the objectives of the Alpine Convention and, in particular, this Protocol.

Article 16

Environmental quality objectives, standards and indicators

1. The Contracting Parties shall lay down and implement environmental quality objectives for the establishment of sustainable transport.
2. They agree on the need to have suitable standards and indicators for the specific requirements of the Alpine region.
3. The application of these standards and indicators is intended to measure damage to the environment and health caused by transport.

Chapter III

Coordination, research, training and information

Article 17

Coordination and information

The Contracting Parties agree, where necessary, to hold joint meetings in order to:

- (a) evaluate the impact of measures taken under this Protocol;
- (b) consult each other prior to any major transport-policy decisions which are likely to have an impact on the other Contracting States;
- (c) encourage exchanges of information on the implementation of this Protocol, giving priority to the use of existing information systems;
- (d) reach agreement prior to any major transport-policy decisions, in particular in order to incorporate them in a harmonised cross-border regional planning policy.

Article 18

Research and observation

1. The Contracting Parties shall cooperate closely in encouraging and harmonising research on and systematic observation of the interaction between transport and the environment in the Alps and specific technological developments which will increase the economic efficiency of environmentally-friendly transport systems.

2. The results of the joint research and observation shall be duly taken into account when reviewing the implementation of this Protocol, in particular in order to devise methods and criteria for defining sustainable traffic development.
3. The Contracting Parties shall ensure that the various results of national research and systematic observation are included in a common permanent observation and information system and that they are made accessible to the public under the existing institutional framework.
4. The Contracting Parties shall support pilot projects for the implementation of sustainable transport concepts and technologies.
5. The Contracting Parties shall support research into the applicability of methods for intermodal strategic environmental impact assessment in the Alps.

Article 19

Training and provision of information to the public

The Contracting Parties shall encourage basic and further training and the provision of information to the public on the objectives, measures and implementation of this Protocol.

Chapter IV

Monitoring and evaluation

Article 20

Implementation

The Contracting Parties undertake to ensure the implementation of this Protocol by taking any appropriate measures within the existing institutional framework.

Article 21

Monitoring of compliance with Protocol obligations

1. The Contracting Parties shall regularly report to the Standing Committee on measures taken under this Protocol. The reports shall also cover the effectiveness of the measures taken. The Alpine Conference shall determine the intervals at which the reports must be submitted.
2. The Standing Committee shall examine these reports in order to ensure that the Contracting Parties have fulfilled their obligations arising from this Protocol. It may also ask for additional information from the Contracting Parties concerned or have recourse to other information sources.
3. The Standing Committee shall draw up a report on compliance by the Contracting Parties with the obligations arising from this Protocol, for the attention of the Alpine Conference.
4. The Alpine Conference shall take note of this report. If it finds that obligations have not been met, it may adopt recommendations.

Article 22

Evaluation of the effectiveness of the provisions

1. The Contracting Parties shall regularly examine and evaluate the effectiveness of the provisions of this Protocol. They shall initiate appropriate amendments to this Protocol where necessary in order to achieve objectives.
2. The regional and local authorities shall be associated with this evaluation within the existing institutional framework. Non-governmental organisations active in this field may be consulted.

Chapter V

Final provisions

Article 23

Links between the Alpine Convention and the Protocol

1. This Protocol constitutes a Protocol to the Alpine Convention within the meaning of Article 2 and any other relevant articles of the Convention.
2. Only Contracting Parties to the Alpine Convention may become a party to this Protocol. Any denunciation of the Alpine Convention also implies denunciation of this Protocol.
3. Where the Alpine Conference discusses matters relating to this Protocol, only the Contracting Parties to this Protocol may take part in the vote.

Article 24

Signature and ratification

1. This Protocol shall be open for signature by the signatory States of the Alpine Convention and by the European Community on 31 October 2000 and in the Republic of Austria, as the depositary, from 6 November 2000.
2. This Protocol shall enter into force for the Contracting Parties which have expressed their agreement to be bound by the said Protocol three months after the date on which three States have deposited their instruments of ratification, acceptance or approval.
3. For Parties which later express their agreement to be bound by the Protocol, the Protocol shall enter into force three months after the date of deposit of the instrument of ratification, acceptance or approval. After the entry into force of an amendment to the Protocol, any new Contracting Party to the said Protocol shall become a Contracting Party to the Protocol, as amended.

Article 25

Notification

The depositary shall, in respect of this Protocol, notify each State referred to in the Preamble and the European Community of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;
- (c) any date of entry into force;

- (d) any declaration made by a Contracting Party or signatory;
- (e) any denunciation notified by a Contracting Party, including the date on which it becomes effective.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Lucerne this thirty-first day of October two thousand, in the French, German, Italian and Slovene languages, the four texts being equally authentic, in a single original which shall be deposited in the Austrian State Archives. The depositary shall send a certified copy to each of the signatory States.

For the Federal Republic of Germany,

For the French Republic,

For the Italian Republic,

For the Principality of Liechtenstein,

For the Principality of Monaco,

For the Republic of Austria,

For the Swiss Confederation,

For the Republic of Slovenia,

For the European Community
