

EuropeAid 2012/308-293

IDEA II

Transport Dialogue and Networks Interoperability

Third Interim Progress Report

October 2014



This project is implemented by TRT Trasporti e Territorio
in association with Panteia Group, Dornier Consulting GmbH and Lutsk University



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REPORT COVER PAGE

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17. EC Delegation Kazakhstan	1	1	1	
18. EC Delegation Kyrgyzstan	1	1	1	
19. EC Delegation Moldova	1	1	1	
20. EC Delegation Tajikistan	1	1	1	
21. EC Delegation Turkey	-	1	1	
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List of Abbreviations

ADB	Asian Development Bank
ASMAP	Association of International Road Transport Carriers
BOMCA	European Union's Border Management Programme in Central Asia
CA	Central Asia
CAREC	Central Asia Regional Economic Cooperation Program
CBA	Cost Benefit Analysis
CIS	Commonwealth of Independent States
DEVCO	European Commission, DG for Development and Cooperation
DMS	Document Management System
EaP	Eastern Partnership
EBRD	European Bank for Reconstruction and Development
EC	European Commission
EIB	European Investment Bank
ENP	European Neighbourhood Partnership
ENPI	European Neighbourhood Partnership Instrument
EU	European Union
EUBAM	European Union Border Assistance Mission to Ukraine and Moldova
EUD	Delegation of the European Union
FSU	Former Soviet Union
GIS	Geographic Information System
IBM	Integrated Border Management
IBMSC	Integrated Border Management in South Caucasus
IDB	Islamic Development Bank
IFI	International Financing Institution
IGC	Intergovernmental Commission of TRACECA countries
IMO	International Maritime Organisation
IRU	International Road Union
IFCA	Investment Facility for Central Asia
KAZATO	Union of International Road Carriers of the Republic of Kazakhstan
KE	Key Expert
KPI	Key Performance Indicator
MCA	Multi Criteria Analysis
MLA	TRACECA Multimodal Transport Agreement
MoS	Motorways of the Sea
MoT	Ministry of Transport
MoU	Memorandum of Understanding
MSS	Maritime Safety and Security Project
MTO	Multimodal Transport Operator
NCTS	New Computerized Transit System
NIF	Neighbourhood Investment Facility
NIS	Newly Independent States
Oblast	A type of geographical administrative division in the countries of the FSU
OSCE	Organisation for Security and Cooperation in Europe
OSJD	Organisation of railway cooperation



PAIES	Pre Arrival Information Exchange System
PPP	Public-Private Partnership
PS	(TRACECA) Permanent Secretariat
SG	Secretary General
SCIBM	South Caucasus Integrated Border Management
STEs	Short-term Experts
TA	Technical Assistance
TAEIX	Technical Assistance and Information Exchange instrument
TEN-T	Trans-European Transport Network
ToR	Terms of Reference (of the present project, unless stated otherwise)
TRACECA	Transport Corridor Europe-Caucasus-Asia
TRACECA NS	TRACECA National Secretary,
TRACECA PS	TRACECA Permanent Secretariat
UIC	Union International de Chemin de Fer (International Union of Railways)
UNDP	United Nations Development Program
UNECE	United Nations Economic Commission for Europe
USAID	US Agency for International Development
WB	World Bank
WCO	World Customs Organisation
WG	Working Group



Project Synopsis

Overall Objectives

The main aim of the IDEA II (Transport Dialogue and Networks Interoperability) project is to strengthen economic relations, trade and transport links between the EU and the programme's participating countries. The participating countries are Azerbaijan, Armenia, Bulgaria, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Romania, Tajikistan, Turkey, Turkmenistan, Ukraine and Uzbekistan. The project will contribute to the development and implementation of regional transport policy actions such as the relevant actions of the TRACECA Action Plan 2010-2013 related to infrastructure development, the facilitation of multi-modal transport and the harmonisation of transport legislation.

On operations, measures set out by the Commission aim at ensuring the interoperability between the EU transport systems and those of neighbouring countries. Of the beneficiary countries, Armenia, Azerbaijan, Georgia, Moldova and Ukraine, are part of the Eastern Partnership initiative. Eastern Partnership seeks closer approximation of those countries with the EU.

Results to be achieved, indicators, constraints and assumptions are laid out in Annex 2 of the inception report: Project Logical Framework Matrix. Specific project purposes are as follows:

- Contribute to projects identification, projects definition and appraisal leading to mobilisation of funding. Help to prepare and implement regional infrastructure projects, through providing studies, developing business and master plans, analysing financial and technical feasibility including Public-Private Partnerships.
- Strengthen the political and transport dialogue mechanisms between the European Commission (EC), Eastern Partnership and TRACECA beneficiary countries, other project stakeholders and IFIs, by achieving effective communication and dissemination of activities and results of the TRACECA programme.
- Support the implementation of the IGC Long-Term Strategy until 2015 and related Action Plans, through assistance to the TRACECA Permanent Secretariat and member countries.
- Adapt the regulatory framework with a specific focus on sector reforms in order to facilitate the flows of goods within the beneficiary countries and between the beneficiary countries and outside.

Project starting date:	16 January 2013
Project duration:	Three years (36 months)
Project value:	Total value of the Project is Euro three point five (3.5) million, of which provisions for staffing and related expenditures is Euro two point five (2.5) million and for incidental expenditure Euro one (1) million
Key stakeholders:	Ministries of Transport, Ministries of Trade & Economy, Customs Authorities, IFIs, Commercial Banks, International Road Carriers, Freight Forwarders, NGOs, Transport users at large
Specific activities:	The Project has five work components: <ol style="list-style-type: none"> 1. Ensuring Dialogue and Coordination 2. Infrastructure and network 3. Attracting funds 4. Training and Capacity Building 5. Communication, Visibility and Information



Key-Results

Project Purpose 1 (Projects identification, definition and appraisal leading to mobilisation of funding)

- Update the list of TRACECA priority infrastructure projects on the basis of the TRACECA owned methodology (project pipeline, project screening/selection and listing) and based on Eastern Partnership (EaP) transport Panels / Ministerials.
- Support the countries in selecting and analysing the potential infrastructure projects and advise countries in preparing project proposals for financing.
- Maintain the existing GIS database (together with the TRACECA Permanent Secretariat) and the traffic flows model and update the traffic data accompanied by capacity building based on need, organise further training on the use of the GIS database and the traffic flows model and ensuring its compatibility with the EU TEN-Tec Information System.
- Coordinate with IFIs to mobilise their support for undertaking a minimum of two feasibility studies on short listed priority projects and help the countries to strengthen their cooperation with IFIs. Liaise with the Neighbourhood Investment Facility.
- Draft of pre-feasibility studies, traffic demand studies and master plans: it can also include supporting the countries in the drafting a full set of tender documents providing respective information in trainings.
- Organise further training on GIS database and the traffic flow model and on project appraisal.

Project Purpose 2 (Strengthen the political and transport dialogue mechanisms)

- Organise two coordination meetings per year to discuss progress and results of the EU funded Technical Assistance Projects for transport in the region and the TRACECA Intergovernmental Conference activities.
- Set up working groups between the countries to deal with challenges and bottlenecks in specific areas (including both public and private sector representatives), involving the TRACECA Permanent Secretariat as coordinating body.
- Use the existing TRACECA website liaising with the TRACECA Permanent Secretariat on the best way forward and be in constant communication with the ENPI East Info centre.
- Provide support to national transport policies and assess the extent to which tangible progress was achieved on alignment of national transport policies and legislation with the European and international standards.

Project Purpose 3 (Support the implementation of the IGC Long-Term Strategy until 2015 and related Action Plans)

- Based on progress achieved, organise a maximum of two Regional Ministerial Conferences with the focus on endorsing results and concrete projects that stem from regional cooperation.
- Develop a programme to schedule and deliver thematic working groups during the implementation of the project. This includes supporting the TRACECA Permanent Secretariat in organising and in facilitation of the working groups with the objective of



achieving tangible results linked to achievement of Action Plans and the TRACECA Long Term Strategy.

Project Purpose 4 (Adapting the regulatory framework with a specific focus on sector reforms)

- Support legal approximation and undertake activities to raise awareness of stakeholders of the TRACECA countries about the benefits of approximation for their countries.
- Identify risks in achieving alignment and make recommendations on how to support countries in their efforts.
- Provide training on the methodology and principles of approximation for public officials. Exchange experiences on alignment of legislation between the TRACECA countries.
- Account for the specifics of Eastern Partnership countries and alignment of their legal framework to European legislation.

Preparation of the Report

The report was prepared by the IDEA II Project's key experts and by representatives of its Consortium Members: TRT Trasporti e Territorio srl, Panteia Group, Dornier Consulting GmbH and Lutsk University.

Purpose of the Report

The purpose of this Third Interim Progress Report is to

- present a concise summary of the main issues of the IDEA Project and recommendations of the IDEA-staff for the attention of key decision makers;
- give a precise outlook on the contents, procedures and schedules of the work planned for the next working period of six months.

Format of the Report

This report follows the format proposed by the EC document "Guidelines for Reporting - PCP III Project Inception Report, Interim Report and Final Report", Tacis, Brussels, September 1995, amended June 1998.

Furthermore, the report applied some formats proposed by the EC document "Strengthening project internal monitoring - How to enhance the role of EC task managers", Tools & Methods Series - Reference Document No 3, June 2007, page 19.



1. Executive Summary

1.1 Project background and past progress

The IDEA II (Transport Dialogue and Networks Interoperability) project is funded by the European Commission DG DEVCO within the framework of the TRACECA Programme. The three years project started on January 16, 2013.

The project sets forth further development of the TRACECA route to be an international recognized multi-modal route with increased attractiveness to the industry. Given the Eastern Partnership policy lines, TRACECA is also dealing with renewed European approach to transport cooperation with the regions and countries covered by European Neighbourhood Policy.

Actions are required at all levels of TRACECA functioning, i.e. on the physical corridor as well as at the level of TRACECA institutions and of Technical Assistance projects. Here the IDEA II project task is to facilitate coordination and to target achievement of its results by banking on the underlying principles of the countries ownership.

1.2 Progress during past Work Period

TRACECA experts group meetings

Following the work streams and components of the project, two TRACECA national expert group meetings took place in June 2014: on 2 and 3 June for the projects prioritization process and investment promotion preparation and on 5 and 6 June for the legal harmonization and approximation process.

Both meetings were combined with capacity building activities in form of training workshops. This approach transposes the national expert concept endorsed by the beneficiary countries to train a wider range of technical experts in the TRACECA region and ensure continuity and knowledge transfer.

CAMPUS

The CAMPUS web-based tool integrating and making accessible documents, training courses and other information prepared by the TRACECA TA projects is an efficient tool to increase capacity in the transport sectors of TRACECA countries. During the reporting period, the tender for its technical implementation was finalized and the tool was implemented. Access rights were provided to all participants of capacity building activities and workshops held by IDEA II.

TRACECA website

Due to the scarce cooperation of the PS, it was decided to implement a TA projects website related to the activities of projects financed by the European Commission as part of the TRACECA Programme. The new TRACECA TA projects website is being developed by a specialised company selected through a tendering process. The technical implementation is undergoing and the developer works on multiple options for the future use of the website, including the link to the current TRACECA website managed by the IGC.

The training course on Typo 3, back-end application for the TRACECA website management, for all TA projects was held by the PS webmaster at IDEAs premises in Kiev at the beginning of the third period, 18 and 19 February 2014.



Legal approximation and harmonization

As part of component 1 of the project's ToR, IDEA II follows up the subject of legal approximation and harmonization. Two underlying documents were finalized and will be applied over the life span of the IDEA II project for expert group activities: the Working Book on Legal Approximation Methodology and the Working Paper on Legal Framework.

Traffic flow data

IDEA II will continue data collection in dependence of the requirements for traffic flow analyses over the project life cycle. Depending on needs for modelling and training activities, the project updates the data to provide appropriate and fresh information to the beneficiaries of the project compatible with the EU TEN-Tec Information System.



2. Project status at time of reporting - Coordination activities

At the beginning of the third reporting period, on January 23rd 2014, a coordination meeting with the EC programme manager and the three active TA-projects (LOGMOS, MSS, IDEA II) took place in Kiev. IDEA brought forward the development of the CAMPUS tool to integrate and make accessible documents, training courses and other information of all TA projects. An important point of discussion was the implementation of the LOGMOS master plan and its impact on the work of IDEA II and other projects. The three components of IDEA II in relation to investment activities, legal harmonization and approximation as well as transport sector development will incorporate recommendations and projects developed in the Master Plan of the LOGMOS project. Further issues discussed at the meeting were the organization and structure of the upcoming final LOGMOS event in Tbilisi, April 2014 as well as how to make best use of the existing TRACECA website.

Over the whole reporting period, regular personal meetings, communication during events and telephone conversations and email communication on a permanent basis guaranteed close coordination with the mentioned projects as well as with the newly commenced Road Safety and Security project (RSS).

During the Tbilisi conference (2-3 April 2014), communication between IDEA and the TRACECA countries represented by the National Secretaries was essential to reach a common understanding on the National Expert Concept. The concept was conditionally endorsed by the countries, who requested countable results after its implementation until autumn 2014.

The IDEA II Team Leader together with the colleague from LOGMOS participated at the "TRANSEURASIA" conference during the Astana Economic Forum held on 19-23 May 2014. At the Forum, the National Secretary of Kazakhstan arranged a TRACECA session to which participants of the conference were invited. Deputy Ministers from five TRACECA countries were present, Georgia, Kazakhstan, Tajikistan, Turkey and Azerbaijan. During this session, the EU ambassador took the chance to underline the outstanding role of the EC by significantly supporting TRACECA through the TA projects. Apart from the discussion of the prestigious Silk Wind project, LOGMOS and IDEA II projects experts had the opportunity to give an overview on the Master Plan implementation assistance and prioritization process in preparation of the TRACECA Investment Forum 2015.

As far as the cooperation of the TRACECA countries is concerned, the IDEA II project faced different levels of cooperation especially in preparation of the two expert group meetings in June in Chisinau. The preparation of the two meetings continued to face challenges for the logistic preparation due to scarce cooperation and poor communication from some countries.



3. Progress and Performance to date

The table on the following page displays past and envisaged progress towards achieving the objectives as laid out by the Project's Terms of Reference (ToR). This progress is measured in terms of activities that are either currently underway, or planned for the next six-month period, or projected to be undertaken during the remainder of the Project.

This Progress Report applies percentages to the progress achieved or projected, but rather sets a scale of no, low, medium and large input in terms of activities. This is because progress in 'soft' activities, such as policy dialogue, one can hardly measure by hand of 'hard' figures. The IDEA II team assumes all activities to be completed over the entire Project period, hence every input (every row of the graphic) sums up to a hundred per cent.

Component 1 (Ensuring dialogue and coordination) includes the issues of legal harmonization and approximation, which were brought forward during the reporting period (the documentation related to methodology, applications, table of concordance etc. is finalized and attached to this report).

Another aspect included in this component is the coordination with other TA projects. The new Road Safety and Security project (RSS) TA project started on 15 January 2014. The discussion about common topics for planned RSS workshop in Kazakhstan in autumn gives evidence for the fact that the coordination with IDEA II is ensured. During the coordination meetings between the TA projects, the application of Campus as well as topics related to the border-crossing benchmarking activity of IDEA were discussed.

In addition both projects, Maritime Safety and Security II and Road Safety and Security II, may potentially contribute in terms of output and work with the beneficiary countries to the capacity building and support activities of the IDEA II project. Developing topics like soft measures that need further follow-up or financing or may accompany capital investments in the road or maritime sector can result in project proposals which can be further developed with support of IDEA II.

As the LOGMOS project ends in September 2014, IDEA II will cater for continuation of the Master Plan implementation assistance as agreed earlier between both projects and the European Commission. Accordingly, the main exercises for **component 2 (Infrastructure and network planning)** were also shifted beyond the third period and will start with a combined workshop and training on benchmarking cross-border effectiveness and transport planning to be held in August 2014.

Activities related to **component 3 (Attracting funds)** started with a workshop on prioritization and cost benefit analysis (CBA) on June 2nd to 6th 2014. Documentation templates in preparation of the prioritization and evaluation process were prepared, discussed and distributed to all TRACECA countries' experts and NS. The communication with IFIs and financial markets is permanently undergoing and will be intensified in the next period. At present, the IDEA II project maintains personal contacts to banks and financial institutions, while mainly focusing on internet research and update of publicly available information related to investment activities in TRACECA countries.

Analysing investment promotion activities in the TRACECA countries it is worth noticing that different stakeholders like IFIs and various donors organisations have produced their specific pipelines of potential investment projects. Those pipelines were built up according to the needs and methodologies of the specific stakeholder. In agreement with the EC, IDEA II will therefore support the countries to follow up undergoing specific investment activities rather than duplicate the existing pipelines with an additional TRACECA investment pipeline.

The IDEA II project activities related to prioritization and investment promotion will then become part of the infrastructures component 2 and coordination component 1 and accompanied by capacity building exercises.



The **capacity building process (component 4)** is linked to the expert groups meetings and their results. On the one side, the experts convey the topics for discussions and development in the expert groups, while on the other side, deeper analysis into issues that need further elaboration in turn creates training needs that lead then to capacity building activities. This happened already for the meetings held in Kiev (in the second reporting period) and in Chisinau (in the last period).

The TRACECA CAMPUS is in place. It's the technical tool that will support sustainability of training know-how and will provide a unique platform for trainees to make use of web-based multi-media. Access is given to all participants of IDEA II events and workshops.

Training Need Assessment (TNA) has become a regular exercise of any IDEA II event to screen training needs and professional background of participants. IDEA II applies a unified questionnaire and builds up a database that will serve as reference for training decisions.

As part of **component 5 (Communication, visibility and information)**, the importance of an appropriate website presenting the TRACECA TA projects work to the public is an issue that will be settled in the next period. All necessary technical steps are undertaken. The final implementation, promotion, additional training (if required), discussion of formats and communication structure between the TA projects and the countries need further attention.



This project is funded by the European Union



Past and envisaged progress towards achieving objectives (in terms of activities)

No.	Specific Objective	Activities			
		previous Periods	past Period	next Period	beyond next Period
Objectives 2 and 3 in relation to Work Component 1 - Ensuring Dialogue and Coordination					
1	Support legal approximation		25	25	50
2	Undertake activities to raise awareness		25	25	50
3	Programme to schedule and deliver thematic working groups	25	25	25	25
4	Organise two coordination meetings per year	50		25	25
5	TRACECA Intergovernmental Conference activities.	50		25	25
6	Two Regional Ministerial Conferences				100
Objectives 1 in relation to Work Component 2 - Infrastructure and network					
7	Update the list of TRACECA priority infrastructure projects		25	50	25
8	Support the countries in selecting and analyzing the potential infrastructure projects		25	50	25
9	Support and advise countries in preparing project proposals for financing			50	50
10	Update and maintain the GIS database and model	25		25	50
11	Traffic flows model		25	25	50
12	Update traffic data	25		25	50
Objectives 1 in relation to Work Component 3 - Attracting funds					
13	Finding financing for projects that have been prioritized			50	50
14	Drafting of pre-feasibility studies				100
15	Drafting a full set of tender documents				100
16	Strengthen their cooperation with IFI's	25		25	50
17	Organize a meeting with beneficiary countries to show case project proposals.				100
18	Coordinate with IFI's to mobilize their support for undertaking a minimum of two feasibility studies			25	75
Objective 1 and 4 in relation to Work Component 4 - Training and Capacity Building					
19	GIS database and project data including data from the Eastern Partner countries to the Commission TEN-Tec system		25	25	50
20	Project investment appraisal		25	25	50
21	Supporting the preparation of project proposals for financing by the IFIs		25		75
22	Border-Crossing issues		25	25	50
23	Regional approach to network planning development		25	25	50
24	Training on the methodology and principles of approximation for public officials		25	25	50
Objective 2 in relation to Work Component 5 - Communication, Visibility and Information					
25	Communication plan and press strategy towards local and EU media.	50		25	25
26	Constant communication with the ENPI East Infocentre		25	50	25
27	TRACECA website	25	25	25	25
28	Coordination point for all TRACECA projects' activities	25	25	25	25





3.1 Activities

3.1.1 Experts groups meetings

Following the national experts concept, IDEA II has built up an experts' pool of more than 90 technical specialists from the beneficiary countries, including representatives of most modal agencies ministries throughout the TRACECA region.

Following the work streams and components of the project, two TRACECA national expert group meetings took place in the last reporting period: on 2 and 3 June for the projects prioritization process and preparation of investment promotion events on 5 and 6 June for the Legal Harmonization and Approximation process.

Both meetings were combined with capacity building activities in form of training workshops. This approach transposes the national expert concept endorsed by the beneficiary countries to train a wider range of technical experts in the TRACECA region and ensure continuity and knowledge transfer.

Training need assessment (TNA) exercises were performed during both expert group meetings and will help IDEA to assess appropriate capacity building measures tailor-made for the needs of individual experts or groups of experts.

The trainings and presentations were captured and will be provided to all beneficiary countries on the TRACECA CAMPUS after dubbing, translation and final adjustments for self-training purposes. IDEA arranged access information (login, password, link) and informed all experts accordingly.

Projects prioritization process and investment promotion preparation: 2-3 June 2014

The first day focused on three main points: the introduction of TRACECA National Expert Concept, the projects prioritization methodology and the core requirements for TRACECA investment projects.

- Introduction of TRACECA National Expert Concept
During the expert group meetings it turns out that most participants are not acquainted with general approach and work principles of IDEA and in some cases even of TRACECA. An introductory presentation helped to overcome those deficiencies.
- TRACECA projects prioritization methodology
The participants discussed all steps of the projects prioritization process and received a hands-on training based on the documentation that will be applied over the next months during the prioritization process. A guest speaker from Turkey presented a potential investment project and the expert group discussed structure, information, format etc.
- Core requirements for TRACECA investment projects
The principles and core requirements for investment projects are foundation for the entire prioritization process. The presentation informed the participants and underpinned the necessity of the countries to search for appropriate investment projects to be presented to the financial public.

The set of Prioritization Documents comprises of Russian and English versions of

- Action Plan Prioritization 2014
- Core requirements of TRACECA investment projects
- Project prioritization methodology, including Template of Project Fiche



- Criteria Pairing Judgment Form (Weighting of 5 Criteria)
- Project Identification Form (Pre-Screening)
- Project Evaluation Form (from Long List to Short List)
- Transport projects appraisal manual

The second day was a capacity building activity mainly based on a lecture on Cost Benefit Analysis and including case studies and practical application of the presented topics. The assessment of economic project feasibility is an important pillar for the decision of applying countries as well as financing institutions whether to promote an infrastructure investment project and hence requires serious attention of the countries in preparation of the investment project short list.

To ensure an efficient communication the personal email-addresses were exchanged and made available among the members of the national experts group. The fact that some countries send a group of delegated experts regularly might certainly help to install centres of excellence for specific issues, as envisaged in the capacity building approach of IDEA II. E.g. Ukraine could become a centre of excellence for border-crossing benchmarking by combining know-how of IDEA experts with experience of Ukrainian technical experts. Moldova, being very active in the field of investment, could contribute its knowledge in a centre of excellence related to those topics.

It was agreed that the experts would closely coordinate their work with their National Secretaries, whose role is to accompany the search of investment projects in the countries and contribute their knowledge where this is required. The PS IGC TRACECA will cater for the respective technical support.

Positive feedback from four countries showed their commitment since the initial stage.

Legal Harmonization and Approximation: 5-6 June 2014

The objective of the second Legal Experts Group meeting were to discuss following documents

- Regulatory Impact Assessment (RIA): main aspects, key terms, information, benchmarks;
- Methodology for harmonisation and approximation: questionnaire/check list, tables of concordance;

and work on

- Definition / discussion of further expert group topics aiming at legal gap analyses;
- Training needs assessment.

The two days meeting was attended by participants from Armenia, Azerbaijan, Georgia, Moldova, Ukraine, Kazakhstan, Kirgizstan, Tajikistan, Turkey, Uzbekistan and the PS. They were experts from the Ministries of Transport and agencies, dealing with legal approximation and regulatory drafting issues.

The first day was mainly devoted to the presentation of the toolbox, i.e. the technical instruments developed for and with TRACECA for common work:

- Description of function, structure and application of the legal toolbox.
For application of the toolbox, a two-narrowed approach was implemented to separate Eastern Partnership countries from Central Asian ones.
- Regulatory Impact Assessment



Participants determined the scope of the legal framework (criteria, aquis communautaire, international conventions and agreements) and the steps required to complete legal harmonization reflecting the Bulgarian experience. Furthermore, specifics and differences of RIA in comparison with traditional impact assessments, usually provided by national law were discussed

- Methodology for legal harmonisation

During this session the experts elaborated on the typology of the European Community and its legal acts (regulations, directives, decisions, case law), the purpose of the methodology, main stages of legislative tasks and applicable tools (questionnaire, table of concordance).

During the second day, the proposed methodology was applied with practical exercise on legal acts for road and railway transport. The participants learnt about new TEN-T guidelines and their implications for the network development comprising a dual-layer structure consisting of comprehensive and core network. A discourse on law implementation and enforcement was held as well as the application of the principles of the scoreboard for corridor assessment of the European Union.

In reply to the request of the PS IGC TRACECA from June 2014, the IDEA II experts will assess the possibility to include the continuation of the previous Work Group on Road Development (2009-2011) national experts' group activities.

3.1.2 TRACECA CAMPUS: foundation for full cycle capacity building

The CAMPUS is an efficient tool to increase capacity in the transport sectors of TRACECA countries. It is a platform for communication and exchange of information and knowledge on transport and trade facilitation in the TRACECA countries.

During the reporting period, the tender for technical implementation of the CAMPUS was finalized and the technical activities were started. The system is now implemented and access rights were provided to all participants of capacity building activities and workshops held by IDEA II.



The IDEA II project is currently exploring the interest of other TRACECA experts to use the material stored on Campus. Both, the MSS II and RSS II TA projects will need to screen their training material on its appropriateness to be published on the website as well as for processing it in forms of presentations and workshops.



The screenshot displays the 'Appraisal Training I' page. The main content area is titled 'Appraisal Training I' and 'Тренинг по Оценке I'. It includes instructions in both English and Russian to read the curriculum before starting the training session. Below this, there are sections for 'Training Curriculum I' and 'Обписание курсов обучения I'. A sidebar on the left lists various categories like 'Appraisal Training I', 'Freight Forwarding 2007', and 'Investment Appraisal Handbooks'. On the right, there is a calendar for August 2014, an 'Events Key' with icons for Global, Course, Group, and User, and an 'Online Users' section showing 'Dettef Pulask' as the last user 5 minutes ago.

The provided material is produced bilingually. All stored presentations and information can be used for self-study and training by any user. Apart from topics related to transport, legal issues and finance, CAMPUS also covers management skills, provides a chat and the opportunity to have on- line forums.

Maintenance of the CAMPUS is a continuous process that consists of permanent uploading of material, but also requires commitment from the national experts to become a living tool and application. IDEA II experts are currently working on the development of the TRACECA universities network implementation to ensure its sustainability beyond 2015.

It is important to note that the combination of the TRACECA experts' pool, CAMPUS and TRACECA TA projects website will raise synergies leading to a sustainable know how transfer extended over the life cycle of individual TA projects.

3.1.3 Improvement of the TRACECA website

The current TRACECA web site (www.traceca-org.org) is 50% funded by the EC but is fully managed by the IGC PS in Baku. It is not an effective tool for the promotion and dissemination of the activities and results of the EU-funded TA-projects.

Despite many attempts made by the IDEA II experts to improve the situation, the scarce cooperation of the PS has led to the decision to implement a new website to inform about the activities of the TRACECA EU funded TA projects and to increase visibility of EC actions.

The new TRACECA website will have the following main functions:

- Update the user interface to show the site updates
- Improve EC visibility
- Allow linkage to social and professional media web sites (Linkedin / Facebook / Twitter / VK)
- Allow leverage to the EC project to steer the content and publications to reflect the EC communication Toolkit
- Motivate the countries to upgrade their content and target the transport industry as client of TRACECA corridor
- Promote Investment opportunities
- Activate communication platform for the Expert Groups
- Allow linkage with TRACECA campus
- Include all content of the TA projects.



The new TRACECA TA website is being developed by a specialised company selected through a tendering process. The website will be based on the same software code of one managed by the PS and will also adopt similar structures and database systems to make use of the knowledge already gathered by the TA projects experts. The same database structure and design will be used to allow for a direct link with the IGC TRACECA website.

The technical implementation of the new website is undergoing and the developer works on multiple options for the future use of the website. The IDEA II project will manage the TA-website.

3.1.4 Legal Approximation and Harmonization

As part of component 1 of the project's ToR, IDEA follows up the subject of legal approximation and harmonization. Two underlying documents are finalized and will be applied over the life span of the IDEA II project:

- Working Book on Legal Approximation Methodology
- Working Paper on Legal Framework.

The next experts group meetings will head to capacity building activities as well as to actions that are required for improvement of bilateral and multilateral setups in the legal framework of TRACECA countries (similar to what was practiced in Chisinau on June 2014).

The Toolbox on Approximation and Harmonization aims to contribute to the development and implementation of regional transport policy actions, such as the relevant actions related to infrastructure development, the facilitation of multi-modal transport and the harmonization of transport legislation. Two of the specific purposes are:

- a) to support the implementation of the TRACECA Long-Term Strategy
- b) to work on adapting the regulatory framework with a specific focus on sector reforms

The steps envisaged by the methodology include:

- 1) Develop understanding of current state,
- 2) Conduct Gap Analysis,
- 3) Find and prioritize gap closure recommendations.

The expected result is then a short- and long-term road map for legal harmonization/approximation in the different modes of transport for each TRACECA country.

3.1.5 Traffic data collection and storage

IDEA II started the process of supporting and coordinating with the LOGMOS project to prepare a fluent integration of the TRACECA Master Plan into future activities of TRACECA, with main attention to the prioritization process. The activities have been closely coordinated between the two TA projects.

IDEA will continue the data collection in dependence of the requirements for traffic flow analyses over the project life cycle. Depending on needs for modelling and training activities, the project updates the data to provide appropriate and fresh information to the beneficiaries of the project.

3.2 Resources and Budget

During the third period, budget resources have been allocated for covering the:

- costs related to the project experts' fees; and
- incidental expenditures.



Until the end of the third reporting period, the IDEA II project has spent 50% of the overall total budget allocated for the heading related to the expert person-days. More specifically, the Project has approximately used:

- 53% of the available resources for the Key Experts;
- 25% of the available resources for the senior Short-Term Experts;
- 13% of the available resources for the junior Short-Term Experts.

With regard to the incidental expenditures, and besides the expenses borne for covering the office renting and running costs, the large part of the budgeted resources for the third period has been used for covering two groups of costs:

- Experts Group Meetings and
- Missions of experts (travel tickets and "per diem").

The first group of costs refers to the organisation and preparation of the meetings that took place in Chisinau from 2nd to 6th June 2014. These costs include both the logistics (hotel accommodation, catering, dining) and the coverage of travel costs (tickets, VISA and transfer from/to the Kiev airport) and per diems of the TRACECA national experts that attended the meeting.

The second group costs are inherent to the missions of Key and Short-Term Experts. In total, three missions were conducted during the period. Again, such costs include the travel costs) and the reimbursement of per diems.

Together, the budget headings of these two groups represent about 62% of the total budget resources for incidental expenditures spent during the third period. Overall, 22% of the total project resources for incidental expenditures has been spent.



4. Work Plan for the next working period

4.1 *Support of investment promotion activities – using existing pipelines of different stakeholders*

The projects prioritization process was planned as part of comprehensive preparation activity for displaying TRACECA investment projects to the public. It envisaged an integrated exercise with EaP prioritization related to TEN-T extension, applying NIF/IFCA and IFI methodology. The planned prioritization process and the strategic document of the LOGMOS Master Plan should go hand in hand as foundations for investment activities in TRACECA.

IDEA II developed the minimum qualification requirements for potential investment projects based on the prioritization methodology and conveyed them to the countries after the discussions in the experts groups meeting.

IDEA II experts reviewed the scoring for the five criteria and their sub-values. As a parallel process that is still undergoing, the TRACECA countries are requested to fill the pipeline with potential investment projects. IDEA supported this process by the already described expert group activities.

On the technical level, National Secretaries will be supported by national experts, who are part of the on expert groups integrated in the entire process. The National Secretaries cater for endorsement and integration of projects in the national strategies and development plans on political level. Following this line, the ownership of the process as well as of the projects later proposed to the financial markets is guaranteed.

The countries were invited to provide their votes for the weighting of criteria beginning June 2014; the feedback is not fully satisfactory and put at stake an on-time processing of the data before the evaluation sessions in autumn 2014.

On a special coordination meeting between different DGs of the European Commission and the LOGMOS and IDEA projects, the appropriateness of a TIF 2015 as visibility event for TRACECA investments was discussed. As a result of the analysis of different factors and perspectives the decision was taken not to hold such an event during the life cycle of IDEA II.

Instead, a more efficient approach will be applied for the following 3 working periods of the project. IDEA II will reinforce a participatory national approach for investment promotion based on facilitating the countries communication with the international financing institution and private sector operators where appropriate. This approach will focus on supporting the individual countries; based on their spelled out needs.

4.2 *Master Plan implementation assistance*

The LOGMOS project, which developed a Master Plan that requires implementation by the TRACECA countries, will be completed in September 2014. Their recommendations for the Master Plan implementation shall then be taken into consideration in the future IDEA II activities.

IDEA II understands that the project will assist the beneficiaries based on proposed individual road maps that the LOGMOS project will present at a coordination meeting in Brussels in September 2014. These road maps will include priority projects, measures for their implementation and recommendations for the TRACECA stakeholders

4.3 *Legal approximation*

The legal experts group shall screen the TRACECA transport legal base to define where differences and common points in transport legislation of the countries are. Based on the the tools given to the experts during the trainings on legal harmonisation (as described earlier in



3.1.1 “Expert Groups”), the experts shall identify the level of implementation in the countries of different international conventions and agreements as the first step.

The IDEA II project will prepare and provide web-based trainings on Modules 3, 4 and 5 of Training Concept on Legal Approximation and Harmonization attached to this report:

Module 3: Transport solutions addressing non-physical obstacles to transport,

Module 4: Transport infrastructure and Public-Private Partnership,

Module 5: Interoperability of transport networks.

The first draft on the roadmap on legal harmonisation for all TRACECA countries as result and foundation for further work shall be prepared in the next reporting period. It will be based on the outcomes of the activities above, discussions with experts during web-based sessions of the national experts as well as on results of additional missions of the Legal Key Expert to the relevant beneficiary countries,

4.4 TRACECA border-crossing benchmarking

Soft measures accompanying capital investments are an important part of transport corridor development. In the 3rd reporting period, IDEA II has screened the undergoing activities of different stakeholders in this specific field in TRACECA countries. As agreed with the EC programme manager, the manifold exercises of EU-funded programmes like EU-BAM and the Eastern Partnership Integrated Border Management Flagship Initiative, financial institutions like ADB and World Bank or bilateral programmes undergoing should not be repeated.

Building on the successfully applied TRACECA Attractiveness Index (TRAX) in the IDEA I project, the project experts will develop a benchmarking methodology and respective tools to verify and compare the attractiveness of border-crossings in the TRACECA region. The methodology will be discussed with the countries on technical level, and further developed in the next reporting period.

4.5 Capacity building

Further activities of the national expert groups will include workshops, web-based trainings and other forms of capacity building. This work will cover content related to the components of IDEA II (legal, invest, transport, visibility).

During the recent expert group meetings, it became obvious that the basic knowledge of GIS as well of forecast model need improvement throughout TRACECA. The awareness for the existence of the website or e.g. the forecast model is very low under technical experts in TRACECA. It seems obvious that the communication within TRACECA countries in many cases does not meet the needs of the nominated technical experts. The dissemination of knowledge and information often relies on the work of TA projects only, although it was agreed to have close cooperation between National Secretariats and national experts.

In preparation of future investment promotion events the project plans capacity building activities that will directly support the countries in the preparation of investment project documentation for publication.

The CAMPUS is undergoing a permanent process of update and is installed as main tool for online training, self-training of experts and data base for sustainable provision of training material. All active TA projects will provide publicly accessible (free of copyrights) materials, captured lessons and lectures and presentations. IDEA facilitates the process of uploading, full technical implementation and ultimate take-over of the tool by a university in a TRACECA country for further deployment over the life span of specific TA projects.



CAMPUS utilizes web technology to disseminate the capacity building / training measures of TRACECA technical assistance projects beyond physical training. It can also be used as platform for communication and exchange of information and knowledge in the TRACECA countries in freight transport, trade facilitation and ultimately transport safety. Other fields of training are related to legal harmonization and approximation, financial evaluation and investment policy.

Training programmes should become easily available taking stock of what has already been made available by the previous (and current) Technical Assistance projects capitalizing on the positive experience of other applied e-learning methods so as to allow unlimited access for TRACECA stakeholders to modern knowledge in all components covered by this project and by other EU-funded TRACECA projects.

CAMPUS shall serve the sustainability of the capacity strengthening beyond the TA projects life cycle and optimize the use of the resources through widening the dissemination to a broader diameter of professionals in the beneficiary countries.

4.6 TRACECA TA projects website

IDEA is currently developing the TA projects website and will promote it in the next reporting period as communication tool for projects, the EC and other stakeholder of TRACECA. Two major tasks will be reached by the new website.

Technical embedding of the CAMPUS and increased visibility of the Technical Assistance provided to TRACECA by the European Union.

In light of investment activities and events, the website shall also cater as information platform for IFIs and the private sector by providing documentation, work plans, reports etc.

The newsletters that IDEA II is producing on a regular basis (currently sent out directly to national secretariats, PS and experts) and that are available on the current TRACECA website will be uploaded to the new website together with any information provided by all other TA-projects or the TRACECA countries.

4.7 Work Programme (for entire Project period)

Annex 1 depicts the distribution of tasks among the IDEA-project's three key experts, while Annex 2 illustrates the distribution of the activities over the entire Project duration of three years. A number of activities is due over the entire life cycle of the project and is expressed as continued line.

4.8 Resource Schedule and Budget

Similar to the budgeted resources that have been used during the previous project periods, those scheduled for the next six-month period (July 2014-January 2015) will be dedicated to the coverage of the (i) costs related to the project experts' fees, and (ii) incidental expenditures (Annex 3).

Costs related to the experts (key, senior and junior short-term) are expected to considerably increase due to the gradual intensification in activities as foreseen for the various project components; The Key Experts will be shouldered by Short Term Experts according to the specific competences that will be required for the task implementation.

4.9 Plan of Operations (for the fourth period)

A timetable of the activities is given in Annex 4. The plan of operations for the next Period is derived from the work programme and determined by the deliverables and results outlined in the ToR.



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5. Annexes to the Progress Report



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Annex 1: Responsibility Matrix of Key Experts

	Responsible Key Expert		
	Detlef Pulsack TL	Dr. Ashraf Hamed, KE 2	Elena Kostadinova KE 3
Component 1			
Support legal approximation			■
Undertake activities to raise awareness on approximation issues			■
Programme to schedule and deliver thematic working groups	■	□	□
Organise two coordination meetings per year	■	□	□
TRACECA Intergovernmental Conference activities	■	□	□
Two Regional Ministerial Conferences	■	□	□
Component 2			
Update the list of TRACECA priority infrastructure projects	□	■	
Support the countries in selecting and analysing the potential infrastructure projects	□	■	□
Support and advise countries in preparing project proposals for financing	□	■	
Update and maintain the GIS database and model		■	
Traffic flows model		■	
Update the traffic data		■	
Component 3			
Finding financing for projects that have been prioritised	■		
Drafting of pre-feasibility studies	■	□	
Drafting a full set of tender documents	■		
Strengthen their cooperation with IFI's	■	□	
Organise a meeting with beneficiary countries to showcase project proposals.	■	□	□
Coordinate with IFI's to mobilise their support for undertaking a minimum of two feasibility studies	■	□	
Component 4			
GIS database and project data including data from the Eastern Partner countries to the Commission TEN-Tec system		■	
Project investment appraisal	■		□
Supporting the preparation of project proposals for financing by the IFIs	■	□	
Border-Crossing issues		□	■
Regional approach to network planning development	□	■	□
Training on the methodology and principles of approximation for public officials			■
Component 5			
Communication plan and press strategy towards local and EU media.		■	□
Constant communication with the ENPI East Infocentre	□	■	
TRACECA website		■	
Coordination point for all TRACECA projects' activities	■	□	□



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Annex 2: Work Programme

	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16		
Workplan IDEA II and Milestones																																							
Component 0 - Inception																																							
Project Mobilisation	fulfilled																																						
TA Coordination Meeting				fulfilled												fulfilled																							
TRACECA leaflet / 20 years - Document								fulfilled																															
Component 1 - Ensuring Dialogue and Coordination																																							
Support legal approximation																																							
Undertake activities to raise awareness on approximation issues																																							
Programme to schedule and deliver thematic working groups																																							
Organise two coordination meetings per year																																							
TRACECA Intergovernmental Conference activities																																							
Two Regional Ministerial Conferences																																							
Component 2 - Transport Demand Forecast and Investment Appraisal Tools																																							
Update the list of TRACECA priority infrastructure projects																																							
Support the countries in selecting and analysing the potential infrastructure projects																																							
Support and advise countries in preparing project proposals for financing																																							
Update and maintain the GIS database and model																																							
Traffic flows model																																							
Update the traffic data																																							
Component 3 - Attracting Funds																																							
Finding financing for projects that have been prioritised																																							
Drafting of pre-feasibility studies																																							
Drafting a full set of tender documents																																							
Strengthen their cooperation with IFI's																																							
Organise a meeting with beneficiary countries to showcase project proposals.																																							
Coordinate with IFI's to mobilise their support for undertaking a minimum of two feasibility studies																																							
Component 4 - Training and Capacity Building																																							
GIS database and project data including data from the Eastern Partner countries to the Commission TEN-Tec system																																							
Project investment appraisal																																							
Supporting the preparation of project proposals for financing by the IFIs																																							
Border-Crossing issues																																							
Regional approach to network planning development																																							
training on the methodology and principles of approximation for public officials																																							
Component 5 - Analysis of infrastructure and service financing methods																																							
Communication plan and press strategy towards local and EU media																																							
Constant communication with the ENPI East Infocentre																																							
TRACECA website																																							
Coordination point for all TRACECA projects' activities																																							
Reports																																							

fulfilled | planned | Milestone



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Annex 3: Resource Utilisation Report (updated annual resource schedule and budget)

<u>Project title :</u> Transport Dialogue and Networks Interoperability	<u>Project number :</u>	EuropeAid 2012/308-293	<u>Consortium</u> TRT, Panteia, DoCo, LNTU	<u>Countries :</u>	all TRACECA member countries
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Planning period: January 2014 – July 2014

Prepared: October 2014

RESOURCES/INPUTS	TOTAL PLANNED	PREVIOUS PERIOD	THIRD PERIOD	TOTAL REALISED	AVAILABLE FOR REMAINDER
PERSONNEL					
Key Experts	1500	499	298	797	703
Senior Short-Term Experts	682	106	65	171	511
Junior Short-Term Experts	510	25	41	66	444
TOTAL (person days)	2692	630	404	1034	1658
Incidental Budget (EURO)	1 000 000,00	136.142,50	79.953,06	216.095,6	783.904,44



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Annex 4: Plan of Operations (for the fourth period)

	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15
Workplan IDEA II and Milestones						
Component 0 - Inception						
Project Mobilisation						
TA Coordination Meeting						
TRACECA leaflet / 20 years - Document						
Component 1 - Ensuring Dialogue and Coordination						
Support legal approximation						
Undertake activities to raise awareness on approximation issues						
Programme to schedule and deliver thematic working groups						
Organise two coordination meetings per year						
TRACECA Intergovernmental Conference activities						
Two Regional Ministerial Conferences						
Component 2 - Transport Demand Forecast and Investment Appraisal Tools						
Update the list of TRACECA priority infrastructure projects						
Support the countries in selecting and analysing the potential infrastructure projects						
Support and advise countries in preparing project proposals for financing						
Update and maintain the GIS database and model						
Traffic flows model						
Update the traffic data						
Component 3 - Attracting Funds						
Finding financing for projects that have been prioritised						
Drafting of pre-feasibility studies						
Drafting a full set of tender documents						
Strengthen their cooperation with IFI's						
Organise a meeting with beneficiary countries to showcase project proposals.						
Coordinate with IFI's to mobilise their support for undertaking a minimum of two feasibility studies						
Component 4 - Training and Capacity Building						
GIS database and project data including data from the Eastern Partner countries to the Commission TEN-Tec system						
Project investment appraisal						
Supporting the preparation of project proposals for financing by the IFIs						
Border-Crossing issues						
Regional approach to network planning development						
training on the methodology and principles of approximation for public officials						
Component 5 - Analysis of infrastructure and service financing methods						
Communication plan and press strategy towards local and EU media						
Constant communication with the ENPI East Infocentre						
TRACECA website						
Coordination point for all TRACECA projects' activities						
Reports						

fulfilled
 planned
 Milestone



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Annex 5: Working Paper

Toolbox for Legal Harmonization



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4.2 Conduct a Gap Analysis exercise	8
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1. Preamble

The Toolbox Legal Harmonization document has been prepared by the EU funded TRACECA project "Transport Dialogue and Networks Interoperability II (IDEA 2)". The project aims to contribute to the development and implementation of regional transport policy actions, such as the relevant actions of the TRACECA Action Plan 2010-2013 related to infrastructure development, the facilitation of multi-modal transport and the harmonization of transport legislation.

Two of the specific project purposes are as follows:

- 1) to support the implementation of the TRACECA Long-Term Strategy until 2015 and related Action Plans, through the provision of assistance to the TRACECA Permanent Secretariat and member countries;
- 2) to work on adapting the regulatory framework with a specific focus on sector reforms in order to facilitate the flows of goods within individual beneficiary countries and between the beneficiary countries and beyond their borders.

Based on European transport policy, particularly road and railways modes and TEN-T, and in recognition of the related Action Plans for implementation of TRACECA Long-Term Strategy, the present document has been developed to introduce a toolbox including methodological guidelines for legal harmonization.

The Toolbox is intended to provide substantially to the specific objectives of the project above. Therefore, the document aims to address the key challenges facing law harmonization/approximation in TRACECA countries by providing concrete methodology in order to facilitate the clear understanding of the context and rationale of international law and *acquis communautaire*.

The Toolbox has four sections and two annexes.

- Section 2, the Introduction, presents the last instruments, framed legal harmonization in line with Eastern Partnership (EaP) after the Vilnius Summit (November 28 2013), where the goals to be attained by the Partnership by 2015 were settled.
- Section 3, the Description part of the Toolbox, underlines the two-narrowed approach of the legal harmonization/approximation as a complex, medium-term process for Eastern Partnership countries and Central Asian countries depending on their targets.
- The steps required to complete the legal harmonization process are described subsequently in Section 4, Application and Process.
- Section 5, the Overview, shows how the Toolbox will be increasingly applied to enable tangible results for the individual countries.

Two annexes to this document are real tools and provide guidance on where and how these tools are to be implemented.

Annex I, the Working Book on the Legal Framework, has two key functions:

- 1) promote basic EU legal acts in the field of road and railways transport operation and infrastructure, and provide an interpretation and summary of the main objectives;



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- 2) meet the challenge for TRACECA countries of legal harmonization along the corridor. There are a number of international agreements and conventions the countries have to access in order to perform as planned in TRACECA Action Plans.

The EU *acquis communautaire* and international conventions and agreements are the benchmark where the process of legal harmonization starts. Therefore, a thorough knowledge and understanding of the texts are a prerequisite to implementation. The selection and prioritization of the specific legal regulations was made by the TRACECA community in former projects.

Annex II, the Working Book on Methodology, aims to create tools for legal harmonization. They could be used by any country, which would adapt them to its own legislative process. At the same time, these instruments have the potential to be used by experts in PS TRACECA for future implementation of Action Plans for preparation of analyses on international conventions and agreements or EU *acquis communautaire*.

The methodology employs gap analyses for the purpose of comparison in-between national legislation and the fundamental principles of the EU legislation and international conventions and agreements. The gap analyses are the main instrument that can be implemented to identify the gaps between *acquis communautaire*, or any piece of international law, and national legislation.



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2. Introduction

With the launch of the Eastern Partnership in 2009, the EU stepped up its involvement in Eastern Europe and the South Caucasus. The offer of a closer relationship with Eastern neighbours is contingent upon partner countries converging with EU norms and standards. Effective regulatory approximation in the economic sector is essential to anchor the reform process in partner countries and to foster further progress in EU-Eastern neighbours' relations. There was no specific mention of transport in the Joint Declaration of the Eastern Partnership Summit that was held in Prague on 7 May 2009.

The Joint Declaration of the Eastern Partnership Summit (Warsaw, 29-30 September 2011) stated that the infrastructure network of the EU and partner countries should be linked more tightly to facilitate the transport of peoples and goods¹. This can be achieved through closer market integration and improved infrastructure links.

The participants of the Summit also agreed to strengthen cooperation on transport, in particular in the framework of the Eastern Partnership multilateral track.

On 28 November 2013, in Vilnius, the Heads of State or Government and representatives of the Republic of Armenia, the Republic of Azerbaijan, Georgia, the Republic of Moldova and Ukraine, the Republic of Belarus, the representatives of the European Union and the Heads of State or Government and representatives of its member states met within the framework of the Eastern Partnership Summit. The President of the European Parliament and representatives of the Committee of the Regions, the European Economic and Social Committee, the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD), the Conference of Regional and Local Authorities of the Eastern Partnership (CORLEAP) and the Euronest Parliamentary Assembly were also present at the Summit.

The fundamental goal of the EU's bilateral co-operation within the Eastern Partnership framework is to make its bilateral relations with the individual partner countries closer. To this end, the EaP envisages negotiations and the implementation of Association Agreements, and the creation of strong and comprehensive free trade areas between the EU and the partner states.

The Association Agreements are set to replace the Partnership and co-operation Agreements which the partner states concluded with the EU in the late 1990s. This will establish a framework for co-operation on a wide range of issues. The Association Agreements are also aimed at bringing the partner countries closer to EU standards of governance. Each country negotiates its agreement individually with the EU.

The Association Agreements contain four parts, each representing the main areas of co-operation. The first three are a) political dialogue and foreign and security policy; b) justice, freedom and security; c) economic and sectorial co-operation.

The fourth part is a Deep and Comprehensive Free Trade Agreement (DCFTA), which is negotiated separately. The DCFTA surpasses a traditional free trade agreement. It concerns not only the liberalization of trade in all areas, by lifting customs barriers and trade quotas, but

¹ <http://www.easternpartnership.org/announcement/joint-declaration-warsaw-eastern-partnership-summit-warsaw-29-30-september-2011>



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involves the harmonization of the legislation with EU standards and the *acquis communautaire*².

The participants of the Vilnius Summit set goals to be attained by the Partnership by 2015, *inter alia*:

- deepen relations and cooperation between the EU and partners;
- seek further regulatory approximation in all transport areas and implement transport infrastructure projects, along the Eastern Partnership transport network through existing EU programmes and instruments, seeking closer involvement of European and International Financial Institutions and prioritizing projects that improve connections with the TEN-T core network.

In this context, the successful implementation of the Association Agreements and the gradual economic integration of partner countries' economies in the EU internal market will strengthen the capacity of partner countries to participate effectively in international markets. This, in turn, will bring immediate benefits for consumers, as well as domestic and foreign investors and entrepreneurs, due to the modernization of public services and the approximation to EU norms and standards on competition policy, intellectual property, food safety, consumer protection, customs, public procurement, services and road safety among others. The next steps in transport cooperation will focus on regulatory convergence in all transport modes and implementation of priority projects with the help of European Union and International Financial Institutions (Item 34 in Joint Declaration of the Eastern Partnership Summit, Vilnius, 28-29 November 2013, "Eastern Partnership: the way ahead")³.

Transport is a long-established area of cooperation between the EU and the Central Asia countries as the extension of trans-European transport networks and the approximation of transport regulations would facilitate transport and trade flows between the EU and Central Asian countries. Moreover, Central Asia has a potential to be a transit region for the increasing traffic flows between the EU and Far East.

However, it is vital to emphasize that the approximation of the TRACECA countries' legislation to the EU transport legislation does not imply an exact replication of the *acquis communautaire*, but rather a careful reshaping of the national transport legislation with the goal of converging with the general concept and overall essence of the *acquis communautaire* while taking into consideration the unique characteristics of the different TRACECA countries.

² Membership of the World Trade Organisation is a precondition for entering negotiations on the DCFTA.

³ Joint Declaration of the Eastern Partnership Summit, Vilnius, 28-29 November 2013, "Eastern Partnership: the way ahead".



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3. Approach and rationale

Legislative drafting follows the political-decision making process.

Law harmonization/approximation is a complex and medium term process which involves the alignment of policies, the correct harmonization/transposition of applicable laws, the updating of such laws where appropriate, the establishment and resourcing of necessary institutional structures and the pursuit of reasonable and objectively verifiable implementation and enforcement.

In particular, the Toolbox sets out to:

- analyze and describe the current situation in TRACECA countries, in the context of existing commitments and potential new agreements, as regards progress, practical realities, laws, institutions etc.;
- examine the harmonization/approximation challenges by providing a comprehensive overview of:
 - international conventions and agreements, the EU policy and legal and regulatory framework in transport;
 - the primary law provisions and concepts;
 - processes typically required for harmonization, including the most influential acts to be transposed;
 - best practice institutional solutions and recent developments and ongoing challenges in international law and EU policy in the sector.
- provide strategic analysis and key recommendations for the further medium-term development in the field of transport legislation.

In that regard, it also has to be noted that there are several ongoing EU-funded technical assistance projects under TRACECA Programme which also require consideration from the beneficiaries' side:

- Logistic Processes and Motorways of the Sea II;
- Maritime Safety and Security II;
- Road Safety II.

In the field of civil aviation there are two projects:

- TRACECA Civil Aviation II, and
- TRACECA Civil Aviation Safety / EASA.

The current Toolbox aims to avoid duplication in the legal framework. International conventions and agreements, recommended by the projects above, provide an integrated framework and outline the instruments needed to implement them in practice.

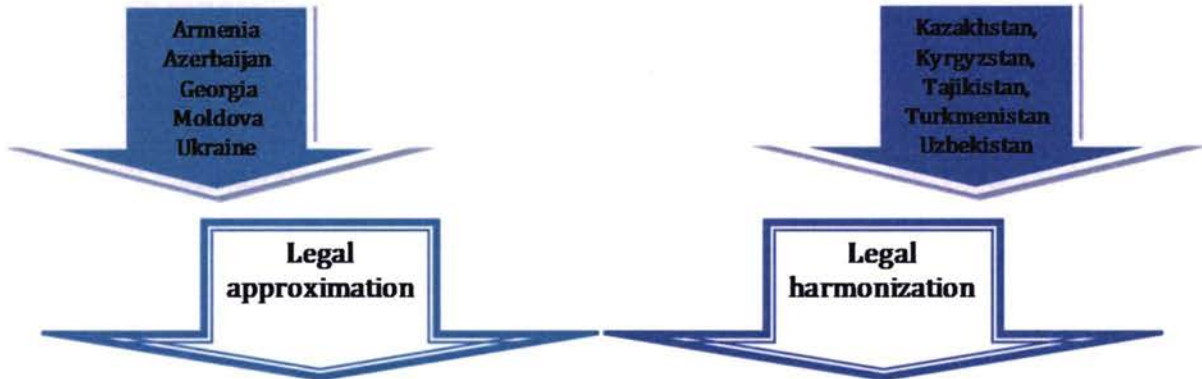
Taking into consideration the fact that the beneficiary countries of the project are Armenia, Azerbaijan, Georgia, Republic of Moldova and Ukraine, as well as Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, a two-narrowed approach shall be implemented – to Eastern Partnership countries and Central Asian countries (see Figure 1).



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Figure 1: Two-narrowed approach by country



To speed up the overall process of legal harmonization and ensure that the format and content meet the needs of the beneficiaries, the attention in Central Asian countries shall be focused at international legal harmonization to strengthen the multilateral and bilateral international legal framework as well as implementation of national legal measures where possible.

The second focus aims legal approximation with the *acquis communautaire*, following an examination of the required level of harmonization in beneficiary countries implementing bilateral agreements for legal approximation with the EU.

Emphasis on these two points is considered, and the Toolbox instruments are designed to accomplish the envisaged goals during the process of legal harmonization and/or approximation.



4. Application and process

The steps required to complete legal harmonization process include:

- develop a clear understanding of the current state of the international and national legal and regulatory framework for the transport sector;
- conduct a Gap Analysis exercise between the international and national legal and regulatory framework;
- prioritize the findings of the Gap Analysis exercise, present gap closure recommendations and elaborate a legal approximation and harmonization strategy.

4.1 Develop a clear understanding of the current state

The process of international legal approximation and legal harmonization starts with an understanding of the international and national legal and regulatory framework for the transport sector.

In this context, legal harmonization/approximation must be understood as a process of accession to and implementation of international conventions and agreements including the United Nations' Conventions and other international and regional agreements. Approximation of law means that countries must align their national laws, rules and procedures in order to give effect to the entire body of EU law contained in the *acquis communautaire*.

This report sets out to provide fundamental understanding of the essence of the EU laws and regulations (EU *acquis communautaire*) in the field of transport as well as international conventions and agreements and the status of the legal and regulatory framework of the TRACECA member states (see Annex I).

It is necessary to emphasise that the EU *acquis communautaire* is constantly evolving. International law is not fixed and never stops developing so the legal approximation process, once started, remains an ongoing process. Therefore, Annex I is a key document, which should be regularly updated by the Legal Expert Group.

4.2 Conduct a Gap Analysis exercise

The legal gap analysis between international and national laws and regulations affecting the transport sector is an important element of the legislative process.

Once identified, these gaps can provide a first step towards harmonizing different regulatory frameworks. To evaluate the level of compliance of national laws and regulations to international legal instruments, a proper methodology is needed.

This document, the Working book on international legal harmonization methodology (Annex II), presents a toolbox that can be used to examine and identify gaps in the current legal and regulatory systems of TRACECA countries.



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4.3 *Prioritize the findings from the Gap Analysis exercise into gap closure recommendations*

The purpose of the previous two steps is to encourage further progress in legal harmonization/approximation by looking ahead to the priorities of the next 4 to 5 years. This facilitates better planning and a more strategic approach.

The end product of the assessment shall be a report for consideration by decision makers that lists the identified deficiencies and recommends aspects of transport regulatory systems that should be developed, improved or subjected to closer investigation.

Implementation of the refinement methodology as a final result will provide each country tangible results and proposals for the development of the legal and regulatory framework addressing both physical and non-physical obstacles to transport.

Finally, recommendations for each country shall be given in the form of a strategy and short- and long-term road map for legal harmonization/approximation in the different modes of transport.



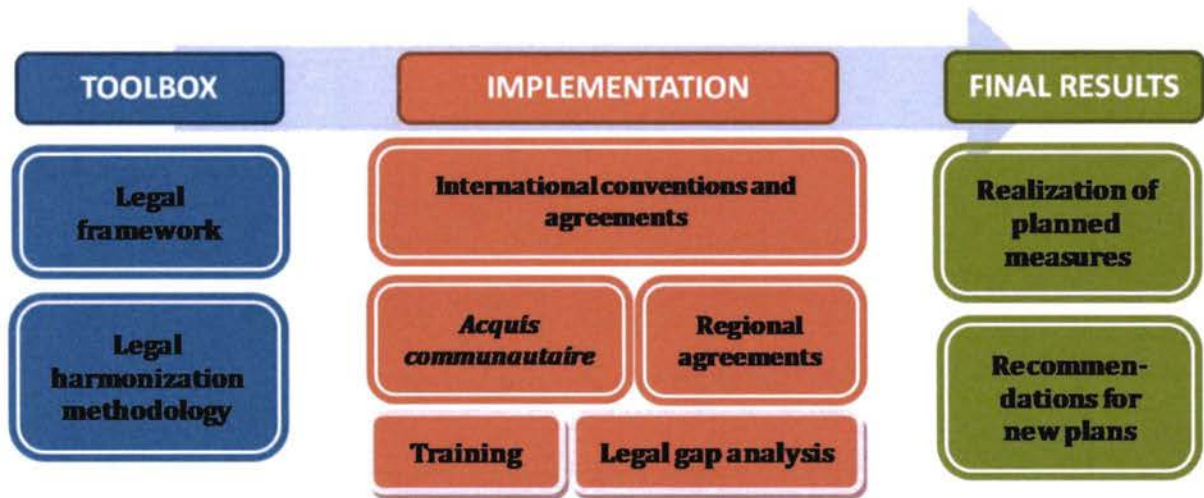
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5. Overview

The following Figure 2 shows how the Toolbox will be increasingly applied to enable tangible results for the individual countries.

Figure 2: Toolbox implementation



The planned activities are designed in such a way that the legal gap analysis will result in a strategy or/and action plan for legal and regulatory approximation and harmonization based on information and setups in the beneficiary countries.



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Annex I - Working Book

Legal Framework



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1 Introduction

The Working Book on the Legal Framework is intended to promote, for the experts in beneficiary countries and other interested parties, an understanding of Community transport legislation.

The EU *acquis communautaire* and international conventions and agreements are the benchmark where the process of legal harmonization starts. Therefore, a thorough knowledge and understanding of the texts are a prerequisite to implementation.

The *acquis communautaire* is the accumulated body of EU law and obligations from 1958 to date, estimated to be around 80.000 items. It is a French expression, *acquis* meaning “that which has been acquired” or “achieved”, and *communautaire*, meaning “of the community”. The notion of the *acquis* originated during the EU accession negotiations with Denmark, Ireland, Norway and the UK (1969-1972).

The *acquis communautaire* comprises all the EU's treaties and laws (directives, regulations and decisions), declarations and resolutions, international agreements and the judgments of the Court of Justice. It also includes measures that EU governments decide together in the area of Justice and Home Affairs (Freedom, Security and Justice) and the Common Foreign and Security Policy. However, it excludes decisions set up through “enhanced cooperation” arrangements.

The Working Book on the Legal Framework provides an interpretation and summary of the main objectives of the basic EU legal acts in the field of road and railways transport operation and infrastructure. The main EU legal acts are described in terms of their main objectives and relevant amendments and alterations, which are listed chronologically. The description also includes issues that link to other legal acts of the *acquis communautaire* system. In this way, it will be possible to analyze the project in terms of the national law and pinpoint priorities and future steps of the process.

The second key issue of the Working book on the Legal Framework is to meet the challenge for TRACECA countries of legal harmonization along the corridor. There are a number of international agreements and conventions the countries have to access in order to perform as planned in TRACECA Action Plans. The international agreements and conventions are described in the document in tables with general data, subject matters, objective of agreement, main content and annexes. During implementation of the Legal harmonisation Toolbox, the national legislation shall be evaluated on the level of implementation by countries.

The level of legal approximation and harmonisation in TRACECA countries depends on their common targets, agreed in the Strategy for the development of transport corridor Europe – the Caucasus – Asia (2006, Sofia), as well as on their individual targets, agreed with the EU and planned in their National plans. The legal harmonisation as a result of accession to the international conventions and agreements is relevant for all TRACECA countries. For the European Neighbourhood countries, the legal approximation with the *acquis communautaire* on deeper level has high importance, while for Central Asia countries the level of harmonisation is limited to the main principles of the EU transport law. There might be also some regional for Central Asia countries transport agreements.



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2 Approach

To speed up the overall process of legal harmonization and to ensure that the format and content of the Working paper meets the needs and expectations of the beneficiaries concerned, a two-steps approach has been conducted.

As a first step, the Working book provides an explanation of the International Conventions and Agreements (IC/A) of common interest to all the TRACECA countries as they were prioritized by the decisions of the IGC TRACECA:

- Strategy of the IGC TRACECA for the development of transport corridor Europe – the Caucasus – Asia (TRACECA), respectively the Action Plans for periods 2010–2012 and 2013–2015 on the implementation of the Strategy of the IGC TRACECA for development of the international transport corridor “Europe – the Caucasus – Asia” (TRACECA) for the period up to 2015, and
- Plan of Measures for the implementation of the Concept of Development of International Road Traffic along the Transport Corridor Europe – the Caucasus – Asia, Increase of Competitiveness and Attractiveness of the TRACECA Road Routes.

As a second step, following the conclusion of the initial discussions and considering the desired level of harmonization in beneficiary countries implementing bilateral agreements with the EU (Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine), the *acquis communautaire*, related to the TEN-T, is listed and explained. These countries are partners with the EU within the European Neighbourhood Policy (ENP)⁴ and the Eastern Partnership (EaP)⁵. The Partnership and Cooperation Agreements (PCA) provide a comprehensive framework for cooperation between the EU and individual country in all key areas of reform, including the transport sector.

Association agreements with countries of the Eastern Partnership are marked by objectives aimed at establishing an extensive and comprehensive free trade area, the possibility of establishing a visa-free regime, cross-border and regional cooperation, and other objectives. The Association Agreements are set to replace the Partnership and co-operation Agreements which the partner states concluded with the EU in the late 1990. The establishment of a deep and comprehensive free trade area would imply approximation of national laws and standards in line with the EU *acquis communautaire*.

The national plans for implementation of multilateral and bilateral agreements in the field of transport legislation approximation, related to road and railways transport, shall be discussed in the following project phases by the established legal experts group.

Exploratory discussions were launched during the First meeting of Legal Experts Group (9/12/2013 in Kiev, Ukraine). These discussions aimed to assess the commitment of the countries to strengthening the multilateral and bilateral legal framework and implementing national legal measures.

⁴ http://www.eeas.europa.eu/enp/index_en.htm

⁵ http://www.eeas.europa.eu/eastern/index_en.htm



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The level of implementation of international conventions/agreements for each one of the beneficiary countries is an ongoing process and will also be an object of implementation during the following project phases.

In collaboration with other ongoing TRACECA Programme projects and in reflection of their final results and recommendations, the current Working Book shall be further developed during the next stage of the project.



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3 International Conventions and Agreements

Action Plans for implementation of the Strategy of the IGC TRACECA for development of the international transport corridor “Europe – the Caucasus – Asia” (TRACECA), for the period up to 2015 incorporate the planned International Convention and Agreements (IC/A) for accession to/by the TRACECA countries.

The Action Plans are based on a two-year term. The tenth Annual IGC meeting (Dushanbe, 17 September 2013) approved the Action Plan for 2013-2015. To evaluate the progress and assess the implementation at the national level during the next phase of the project, the Working Book also takes into consideration the previous Action Plan for 2010-2012.

The table presents different sectors on the Action Plans above, and a brief description of the planned actions.

Table 1: Sectors on the Action Plans and planned actions

Sector	Action Plan for 2010-2012	Action Plan for 2013-2015
Road transport	Customs Convention on International Transport of Goods under cover of TIR Carnets and AETR.	Accession and implementation of the requirements and standards deriving from the European conventions/agreements in the field of road transport.
Railway transport	Accession and implementation of the “Rules for International Railway Carriage of Dangerous Goods” (RID).	Accession and implementation of Annex C, COTIF Convention “Rules for International Railway Carriage of Dangerous Goods” (RID).
Border-crossing procedures	Joining and implementing the requirements and standards of the International Conventions recommended by the UN ECE (ADR Conventions and SAD application).	<p>Joining and implementing the requirements and standards of the International Conventions recommended by the UN ECE (ADR Conventions and SAD application).</p> <p>Implementation of the systems of the automated customs procedures and declarations as well as preliminary information exchange (PAIES).</p> <p>Transition from a “single window” concept to the “one stop shop”.</p>

This document follows the description of the features of the main UN Agreements and Conventions related with Road Transport, Railway Transport and Border Crossing Procedures. Below are only those of the accession countries, which are also beneficiaries of the project to determine the need for further planning and actions for accession and implementation.



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3.1 Road Transport

International conventions and agreements in the field of road transport targeted by the TRACECA Action plans are the main subject of Road Safety II ongoing project, started in February 2014:

- European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), Geneva, 30 September 1957
- Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions, 1958
- Convention on Road Traffic, Vienna, 8 November 1968
- Convention on Road Signs and Signals, Vienna, 8 November 1968
- European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR), of 1 July 1970 (Consolidated text dated 20 September 2010)
- European Agreement on main international traffic arteries (AGR), Geneva, 15 November 1975
- Agreement concerning the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of such Inspections, Vienna, 13 November 1997

The IDEA II project turns the attention of the TRACECA countries at some more legal instruments with a purpose to further enhance the process of international harmonisation as follows:

- 1975, TIR Convention;
- 1998, Global Agreement (GTR) or Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ("Parallel Agreement");
- 1970, ATP Agreement.

TIR convention⁶ is mentioned in TRACECA Action Plan 2010-2012 as a common goal.

There is a general target in the TRACECA Action Plan 2013-2015 for accession and implementation of the requirements and standards deriving from the European conventions/agreements in the field of road transport. That's why the GTR and ATP are recommended and included in the present document.

⁶ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-A_16&chapter=11&lang=en



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ATP Agreement⁷ has been updated through amendment a number of times and as of 2013 has 48 state parties, most of which are in Europe and Central Asia. ATP applies to transport by road and by rail, but it does not apply to transport within the borders of a single country.

Global Agreement (GTRs)⁸ or Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ("Parallel Agreement"), which may also cover countries which are not contracting parties to the 1958 Agreement, entered into force in August 2000.

This agreement applies in parallel to the 1958 Agreement, and like the latter it operates under the auspices of the UNECE. Both instruments have the same scope as far as the establishment of harmonised technical regulations on motor vehicles and parts is concerned, but the Global Agreement does not provide for the mutual recognition of approvals granted on the basis of global technical regulations. With regard to the decision-making process, the Global Agreement is based on consensus, as a general rule, whereas the 1958 Agreement relies on majority voting for the adoption of regulations. In addition, unlike the regulations adopted under the 1958 Agreement, those adopted under the Global Agreement do not have direct effect in the Contracting Parties' legal systems.

General data for each one agreement, subject matters, objective, main content and annexes are presented in relevant table (Appendix A).

3.2 Railway Transport

On 26 February 2013 in Geneva (on the jubilee occasion of the 75th session of the Inland Transport Committee serviced by UNECE) 37 Transport Ministers and other high-level government representatives signed a Joint Declaration that could pave the way towards negotiation of an unified railway law (URL) making rail freight transport between Asia and Europe, and later the whole world, easier, faster and cheaper. The Declaration contains the commitment of countries along Euro-Asian rail transport lines to work together to establish unified legal conditions for railways that compare to the regulations that have served other modes (road, air, inland water and sea) for many years.

Standard legal objectives, principles and operational rules would provide transport of goods and containers by rail across countries with a single transport contract, a single consignment note and under a single liability and claims system⁹.

The situation with TRACECA member countries, which perform different international conventions (COTIF or SMGS) illustrates the necessity of a common regulatory instrument. The majority of the member states of OSJD, which are sometimes also members of OTIF, apply both of these conventions.

The geographical scope of COTIF and its appendices is illustrated by the map below.

⁷ http://www.unece.org/fileadmin/DAM/trans/main/wp11/wp11doc/ATP-2013_e.pdf

⁸ http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29glob_registry.html

⁹ <http://www.unece.org/index.php?id=32361>



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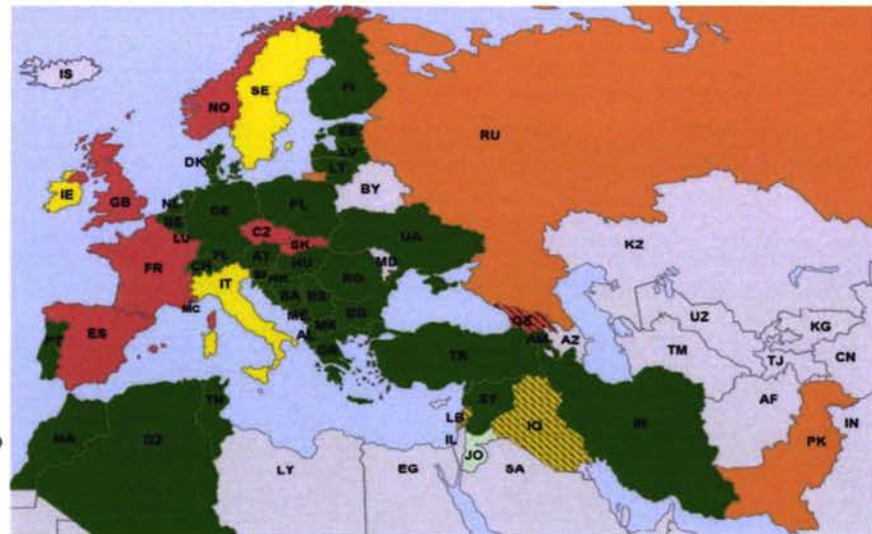
Figure 3: Geographical scope of COTIF



Champ d'application géographique de la COTIF et ses appendices
Geografischer Anwendungsbereich des COTIF und dessen Anhänge
Geographical scope of COTIF and its appendices

Etat au 1^{er} septembre 2013
 Stand 1. September 2013
 Situation on 1 September 2013

- Tous les appendices de la COTIF (33)
 Alle Anhänge des COTIF (33)
 All COTIF appendices (33)
- Sans ATMF (1)
 Ohne ATMF (1)
 Without ATMF (1)
- Sans CUI/APTU/ATMF (6)
 Ohne CUI/APTU/ATMF (6)
 Without CUI/APTU/ATMF (6)
- Sans CUV/CUI/APTU/ATMF (1)
 Ohne CUV/CUI/APTU/ATMF (1)
 Without CUV/CUI/APTU/ATMF (1)
- Sans CV/RID/CUV/CUI/APTU/ATMF (2)
 Ohne CV/RID/CUV/CUI/APTU/ATMF (2)
 Without CV/RID/CUV/CUI/APTU/ATMF (2)
- COTIF 1999 pas encore ratifiée (3)
 COTIF 1999 noch nicht ratifiziert (3)
 COTIF 1999 not yet ratified (3)
- Suspension de la qualité de membre (2)
 Ruhen der Mitgliedschaft (2)
 Membership suspended (2)
- Membres associés (1)
 Assoziierte Mitglieder (1)
 Associate Members (1)



The TRACECA Action Plan for 2013-2015 provides accession to and implementation of Annex C to the COTIF Convention "Rules for International Railway Carriage of Dangerous Goods" (RID). The Legal Expert Group shall make an assessment of the legal possibilities for accession to one Appendix solely and not to the main text of the convention.

3.3 Border-Crossing Procedures

The report "Proposals for Improvement of Legal Environment for MoS and Logistics" (Draft LOGMOS Master plan – Annex I), (October, 2013), produced by the LOGMOS II project, contains clarification of the existing situation and proposes recommendations for countries in the field of Border-Crossing Procedures (single window concept, electronic advance declaration).

International conventions and agreements, which are an object of study by Road Safety II project, covered by the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), should also be acknowledged.

Avoiding any duplication, but in addition to these, mentioned above and analysed by these projects, two more conventions are recommended as benchmarks:

- International Convention on the Harmonization of Frontier Controls of Goods (Geneva, 21 October 1982), and
- Customs Convention on Containers (Geneva, 2 December 1972).

These two conventions are presented with their general data, subject matters, objective of the agreement, main content and annexes are presented in relevant table in Appendix A, mentioned above.



4 TEN-T Network and EU Legislation

The purpose of this part of the Working Book is to describe the EU regulatory instruments related to the development of TEN-T. This involves a presentation of the scopes of regulations, a summary of the key stipulated principles and relationships to other documents.

Each one of the legal documents presented is named as it is published in the Official Journal of the EU, with a reference in the footnote to the EU's website where the full text and other related documents can be found with links to the consolidated versions after amendments and corrections.

However, it is vital to emphasize that the approximation of the TRACECA countries' legislation to the EU transport legislation does not imply an exact replication of the *acquis*, but rather a careful reshaping of the national transport legislation with the goal of converging with the general concept and overall essence of the *acquis* while taking into consideration the unique characteristics of different TRACECA countries.

Over the next project period, when the main tools, i.e. questionnaires and tables of concordance on legal approximation, are implemented in close collaboration with the Legal Expert Group, the individual country National Action plans shall also be considered.

4.1 TEN-T Network Regulation

The first set of the EC guidelines for the development of the TEN-T were published in 1996. They were revised in 2001 and 2004, and recast in 2010¹⁰. There were proposals to repeal the Guidelines and replace them with a Regulation. The Decision No 661/2010/EU was repealed by new Regulation (EU) No 1315/2013.

Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU Text with EEA relevance, OJ L 348, 20.12.2013, p. 1–128¹¹.

The subject matter of the Regulation is to:

- establish guidelines for the development of a trans-European transport network comprising a dual-layer structure consisting of the comprehensive network and the core network, the latter being established on the basis of the comprehensive network;
- identify projects of common interest and specify the requirements to be complied with by the management of the infrastructure of the trans-European transport network;
- establish priorities for the development of the trans-European transport network, and

¹⁰ Decision No 661/2010/EU of the European Parliament and of the Council of 7 July 2010 on Union guidelines for the development of the trans-European transport network Text with EEA relevance, OJ L 204, 5.8.2010, p. 1–129, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0661:EN:NOT>

¹¹ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU Text with EEA relevance, OJ L 348, 20.12.2013, p. 1–128, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32013R1315:EN:NOT>



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- provide measures for the implementation of the trans-European transport network. The implementation of projects of common interest depend on the degree of maturity, the compliance with Union and national legal procedures, and the availability of financial resources, without prejudging the financial commitment of a Member State or the Union.

The scope of the TEN-T network covers the transport infrastructure and telematic applications, as well as measures promoting the efficient management and use of such infrastructure and permitting the establishment and operation of sustainable and efficient transport services.

The infrastructure of the trans-European transport network consists of infrastructure for:

- railway transport;
- inland waterway transport;
- road transport;
- maritime transport;
- air transport, and
- multimodal transport.

The parts above are determined in the relevant sections of Chapter II of the Regulation. Each mode of transport has been defined with its own infrastructure components, infrastructure requirements and priorities for infrastructure development.

The main objective of the trans-European transport network is to strengthen the social, economic and territorial cohesion of the Union and to contribute to the creation of a single European transport area which is efficient and sustainable, increases benefits for its users and supports inclusive growth.

The objectives are laid out in the following four categories:

- a) create cohesion through: the accessibility and connectivity of all regions of the Union, including remote, outermost, insular, peripheral and mountainous regions, as well as sparsely populated areas; the reduction of infrastructure quality gaps between Member States; the interconnection between transport infrastructure for both long-distance traffic as well as regional and local traffic, for both passenger and freight traffic; the creation of a transport infrastructure that reflects the specific characteristics of different parts of the Union and provides a balanced coverage of all European regions;
- b) create efficiency through: the removal of bottlenecks and the bridging of missing links, both within the transport infrastructures and at connecting points between these, within Member States' territories and between them; the interconnection and interoperability of national transport networks; the optimal integration and interconnection of all transport modes; the promotion of economically efficient, high quality transport contributing to further economic growth and competitiveness; the efficient use of new and existing infrastructure; the cost-efficient application of innovative technological and operational concepts;
- c) achieve sustainability through: the development of all transport modes in a manner consistent with ensuring transport is sustainable and economically efficient in the long-term; contribution to the objectives of low greenhouse gas emissions, low-carbon and clean transport, fuel security, reduction of external costs and environmental protection;



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the promotion of low-carbon transport with the aim of achieving a significant reduction in CO₂ emissions by 2050, in line with the relevant Union CO₂ reduction targets;

- d) increasing the benefits for its users through: meeting the mobility and transport needs of its users within the Union and in relation to third party countries; ensuring safe, secure and high-quality standards, for both passenger and freight transport; supporting mobility even in the event of natural or man-made disasters, and ensuring accessibility to emergency and rescue services; the establishment of infrastructure requirements, in particular in the field of interoperability, safety and security, which will ensure quality, efficiency and sustainability of transport services; accessibility for elderly people, persons of reduced mobility and disabled passengers.

The planning, development and operation of TEN-T contribute to the attainment of key Union objectives, as set out in, inter alia, the Europe 2020 Strategy and the Commission White Paper entitled "Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system" (the White Paper)¹², which includes the smooth functioning of the internal market and the strengthening of economic, social and territorial cohesion. Their objectives also include allowing the seamless, safe and sustainable mobility of persons and goods, ensuring accessibility and connectivity for all regions of the Union, and contributing to further economic growth and competitiveness in a global perspective.

The Regulation stipulates development of the TEN-T through a dual-layer structure consisting of a comprehensive network and a core network based on a common and transparent methodology.

Cooperation with neighbouring and third party countries is necessary in order to ensure connection and interoperability between the respective infrastructure networks. Therefore, the EU should, where appropriate, promote projects of common interest with those countries (32).

The TEN-T must ensure efficient multi-modality in order to provide better and more sustainable modal choices to be made for passengers and freight, and in order to enable large volumes to be consolidated for transfers over long distances. This will make multi-modality economically more attractive for passengers, users and freight forwarders.

Member States and other project promoters should carry out environmental assessments of plans and projects as provided for in Council Directive 92/43/EEC, Directive 2000/60/EC of the European Parliament and of the Council, Directive 2001/42/EC of the European Parliament and of the Council, Directive 2009/147/EC of the European Parliament and of the Council and Directive 2011/92/EU in order to avoid or, where avoidance is not possible, to mitigate or compensate for negative impacts on the environment, such as landscape fragmentation, noise pollution, soil sealing and air and water pollution and to protect biodiversity effectively.

The core network should be a subset of the comprehensive network overlaying it. It should represent the strategically most important nodes and links of the trans-European transport network, according to traffic needs. It should be multi-modal in that it should include all transport modes and their connections, as well as relevant traffic and information management systems (40).

The Regulation introduces a new instrument for the implementation of the trans-European transport network, i.e. core network corridors, as a strong means of realising the potential of

¹² http://ec.europa.eu/transport/themes/strategies/2011_white_paper_en.htm



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stakeholders, of promoting cooperation between them and of strengthening complementarity of actions by Member States.

Core network corridors should help to develop the infrastructure of the core network in such a way as to address bottlenecks, enhance cross-border connections and improve efficiency and sustainability. They should contribute to cohesion through improved territorial cooperation.

Core network corridors should also address wider transport policy objectives and facilitate interoperability, modal integration and multi-modal operations. This should allow specially developed corridors which are optimized in terms of emissions, thus minimizing environmental impacts and increasing competitiveness, and which are also attractive on account of their reliability, limited congestion and low operating and administrative costs. The corridor approach should be transparent and clear, and the management of such corridors should not create additional administrative burdens or costs (43).

The core network corridors should be in line with the rail freight corridors set up in accordance with Regulation (EU) No 913/2010 of the European Parliament and of the Council, and the European Deployment Plan for the European Rail Traffic Management System (ERTMS) provided for in Commission Decision 2009/561/EC.

The interests of regional and local authorities, as well as those of local civil society joined by common interest, should be taken into account in the planning and construction phase of projects.

In addition to the Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013, Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 was also approved which established the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 Text with EEA relevance, OJ L 348, 20.12.2013, p. 129–171¹³.

This Regulation establishes the Connecting Europe Facility (“CEF”), which determines the conditions, methods and procedures for providing Union financial assistance to trans-European networks in order to support projects of common interest in the sectors of transport, telecommunications and energy infrastructures and to exploit potential synergies between those sectors. It also establishes the classification of resources to be made available under the multi annual financial framework for the years 2014-2020.

Actions in third party countries may be supported through financial instruments if those actions are necessary for the implementation of a project of common interest.

Regulation (EC) No 680/2007 and Regulation (EC) No 67/2010 have been repealed as of 1 January 2014.

4.2 Road Transport

Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonization of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (Text with EEA relevance) – Declaration, OJ L 102, 11.4.2006, p. 1–14¹⁴.

¹³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32013R1316:EN:NOT>

¹⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R0561:en:NOT>



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The Regulation aims to improve social conditions for employees who are covered by it, as well as improve road safety in general. It does so mainly by means of the provisions pertaining to maximum driving times per day, week and fortnight. The provision obliges drivers to take a regular rest periods (at least once per fortnight), and the provisions which stipulate that under no circumstances should a daily rest period be less than an uninterrupted period of nine hours. Since those provisions guarantee adequate rest, and when taking into account experience with enforcement practices over the past years, a system of compensation for reduced daily rest periods is no longer necessary.

The subject matter and scope of the Regulation cover:

- crews, driving times, breaks and rest periods;
- liability of transport undertakings;
- exceptions and
- control procedures and sanctions.

In light of the increase in the cross-border carriage of goods and passengers, it is advisable, in the interest of road safety and enhanced enforcement, for roadside checks and checks at the premises of undertakings to cover driving times, rest periods and breaks undertaken within other Member States or third party countries and to determine whether the relevant rules have been fully and properly observed.

This Regulation shall apply to the carriage by road of goods where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 3.5 tonnes, or for passengers of vehicles which are constructed or permanently adapted for carrying more than nine persons including the driver, and are intended for that purpose.

The AETR shall apply to international road transport to vehicles registered in:

- the Community or in countries which are contracting parties to the AETR, for the whole journey;
- a third country which is not a contracting party to the AETR, only for the part of the journey on the territory of the Community or of countries which are contracting parties to the AETR.

The Regulation defines the main principles. There are some imperatives where the countries have to apply the rules as they are prescribed by the article. There are also some dispositive articles which establish recommendations rather than obligations so that the countries may adapt the issue according their national system.

This Regulation amended Regulation (EEC) No 3821/85 and Regulation (EC) No 2135/98.

The Regulation (EEC) No 3820/85 is repealed and replaced by this Regulation.

Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (Text with EEA relevance), OJ L 300, 14.11.2009, p. 72–87¹⁵.

¹⁵ <http://eur-lex.europa.eu/Notice.do?val=503917:cs&lang=en&list=503917:cs,&pos=1&page=1&nbl=1&pgs=10&hwords=&hecktexte=checkbox&visu=#texte>



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According to the Regulation, the establishment of a common transport policy entails, *inter alia*, establishing common rules to access to the market in the international carriage of goods by road within the territory of the Community, as well as establishing the conditions under which non-resident hauliers may operate transport services within a Member State. Those rules must be laid down in such a way as to contribute to the smooth operation of the internal transport market.

To ensure a coherent framework for international road haulage throughout the Community, this Regulation should apply to all international carriage on Community territory. Carriage from Member States to third countries is still largely covered by bilateral agreements between the Member States and those third countries. Therefore, this Regulation should not apply to that part of the journey within the territory of the Member State of loading or unloading, as long as the necessary agreements between the Community and the third countries concerned have not been concluded.

It should apply to the territory of a Member State crossed in transit.

The provisions of this Regulation are aligned with the general scope of application of Community road transport rules, and only provide for an exemption for vehicles with a maximum laden mass of up to 3,5 tonnes.

The scope of the Regulation covers the international carriage of goods by road for hire or reward for journeys carried out within the territory of the Community. In the event of carriage from a Member State to a third country and vice versa, this Regulation shall apply to the part of the journey on the territory of any Member State crossed in transit.

An exemption permits not applying to the Regulation for that part of the journey on the territory of the Member State of loading or unloading, as long as the necessary agreement between the Community and the third country concerned has not been concluded.

Pending the conclusion of the agreements above, this Regulation does not affect provisions relating to the carriage from a Member State to a third country and vice versa that are included in the concluded bilateral agreements:

- by Member States with those third countries; or
- between Member States, which allows loading and unloading in a Member State by hauliers, not established in that Member State under either bilateral authorizations or liberalization arrangements.

There are regulated key principles for international carriage, community licence, driver attestation and verification of conditions.

The general principle stipulated is that international carriage shall be carried out subject to possession of a Community licence and if the driver is a national of a third country, in conjunction with a driver attestation.

Furthermore, in regards to cabotage, the laws, regulations and administrative provisions create the same conditions for non-resident hauliers as well as hauliers established in the host Member State, therefore preventing any discrimination on grounds of nationality or place of establishment.



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Member States shall assist one another in ensuring the application and monitoring of this Regulation. They shall exchange information via the national contact points established pursuant to Article 18 of Regulation (EC) No 1071/2009¹⁶.

Regulation (EC) No 1072/2009 repeals Regulations (EEC) No 881/92 and (EEC) No 3118/93 and Directive 2006/94/EC.

Directive 1999/62/EC of the European Parliament and of the Council of 17 June, 1999 on the charging of heavy goods vehicles for the use of certain infrastructures, OJ L 187, 20.7.1999, p. 42–50¹⁷.

In the EU, a degree of harmonization of levy systems has already been achieved. This has occurred through the adoption of Council Directive 92/81/EEC of 19 October 1992 on the harmonization of the structures of excise duties on mineral oils(5) and Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils (6).

By the judgment of 5 July 1995 in Case C-21/94 European Parliament v. Council (7) the Court of Justice of the European Communities annulled Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and user charges for the use of certain infrastructures (8) while preserving the effects of that Directive until the Council had adopted a new Directive. Therefore, Directive 93/89/EEC is replaced by this Directive.

The Directive covers vehicle taxes, tolls and user charges imposed on motor vehicles or articulated vehicles which have a permissible laden weight (combined of used and intended weight) of over 3,5 tonnes.

Member States may apply reduced rates or exemptions for:

- vehicles used for national or civil defence purposes, by fire services, police and other emergency services, and for vehicles involved in road maintenance;
- vehicles, which travel occasionally on the public roads of the Member State of registration and are used by natural or legal persons whose main occupation is not the carriage of goods, provided that the transport operations carried out by these vehicles do not cause distortions of competition. This is subject to the Commission's agreement.

Infrastructure tolls and user charges are differentiated according to a vehicle's emission category ("EURO" classification) and the level of damage it causes to roads and the environment, the time it takes and the amount of congestion it contributes. This makes it possible to tackle the problems of traffic congestion, including damage to the environment, on the basis of "user pays" and "polluter pays" principles.

¹⁶ Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October, 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:300:0051:01:EN:HTML>

¹⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31999L0062:en:NOT>



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4.3 Railway Transport

Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight, OJ L 276, 20.10.2010, p. 22–32¹⁸.

The Regulation outlines rules for the establishment and organization of international rail corridors for competitive rail freight with a view to the development of a European rail network for competitive freight. It sets out rules for the selection, organization, management and indicative investment planning of freight corridors. The Regulation applies to the management and use of railway infrastructure included in freight corridors.

International and national rail freight services must be able to benefit from a good quality and sufficiently financed railway infrastructure. Freight transport services have to be provided under good conditions in terms of commercial speed and journey times and to be reliable, namely that the service it provides actually corresponds to the contractual agreements entered into with the railway undertakings. The establishment of international rail corridors, where freight trains can run under good conditions and easily pass from one national network to another, would allow for improvements in the conditions of use of the infrastructure.

The initiatives already taken for railway infrastructure show that the establishment of international corridors, which meet specific needs in one or more clearly identified segments of the freight market, is the most appropriate method. The design of freight corridors should seek to ensure continuity along the corridors by enabling the required interconnections between existing railway infrastructure.

The Regulation determined the “freight corridor” is defined as all designated railway lines, including railway ferry lines, on the territory of, or between, Member States, and, where appropriate, European third countries, which links two or more terminals along a principal route and, where appropriate, diversionary routes and sections connecting them, including the railway infrastructure and its equipment and related rail services in accordance with Article 5 of Directive 2001/14/EC¹⁹.

To that end, the coordinated development of the networks is essential, particularly the integration of the international corridors for rail freight into the existing TEN-T and ERTMS corridors. Harmonizing rules that relate to those freight corridors should also be established (10).

The aim of this Regulation is to improve the efficiency of rail freight transport relative to other modes of transport.

In order to meet market needs, the methods for establishing a freight corridor should be presented in an implementation plan, which should include identifying and setting a schedule for measures which would improve the performance of rail freight. Furthermore, to ensure that planned or implemented measures for the establishment of a freight corridor meet the needs or expectations of all freight corridor users, the applicants likely to use the freight corridor must be regularly consulted in accordance with procedures defined by the management board (14). The development of intermodal freight terminals should also be considered necessary to support the establishment of rail freight corridors.

¹⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010R0913:EN:NOT>

¹⁹ For Article 5 of Directive 2001/14/EC:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0014:EN:HTML:NOT>



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Freight trains running on the freight corridor should be able to enjoy, as far as possible, sufficient punctuality in the event of disturbance with respect to the needs of all types of transport.

The Regulation defines the designation of initial freight corridors and the criteria for further freight corridors in the Annex. The selection of further freight corridors takes into account the following criteria, *inter alia*:

- the consistency of the freight corridor with the TEN-T, the ERTMS corridors and/or the corridors defined by RNE;
- the integration of TEN-T priority projects into the freight corridor;
- the balance between the socio-economic costs and benefits stemming from the establishment of the freight corridor;
- the consistency of all of the freight corridors proposed by the Member States in order to set up a European rail network for competitive freight;
- the development of rail freight traffic and major trade flows and goods traffic along the freight corridor;
- if appropriate, better interconnections between Member States and European third countries, and
- the existence of good interconnections with other modes of transport, due, in particular, to an adequate network of terminals that include maritime and inland ports.

The freight corridor is managed by a management board for a freight corridor. The board shall designate or set up a joint body for applicants to make requests and receive answers, in a single place through a single operation regarding infrastructure capacity for freight trains crossing at least one border along the freight corridor (hereinafter referred to as a "one-stop shop").

The one-stop shop will, as a coordination tool, also provide basic information concerning the allocation of the infrastructure capacity. It shall display the infrastructure capacity available at the time of request and its characteristics in accordance with pre-defined parameters, such as speed, length, loading gauge or axle load authorized for trains running on the freight corridor.

The management board will draw up, regularly update and publish a document containing:

- all the information contained in the network statement for national networks regarding the freight corridor, drawn up in accordance with the procedure set out in Article 3 of Directive 2001/14/EC;
- the list and characteristics of terminals, in particular information concerning the conditions and methods of accessing the terminals;
- information concerning the procedures referred to in Articles 13 to 17 of this Regulation, and
- the implementation plan.

The management board of the freight corridor promotes compatibility between the performance schemes along the freight corridor and monitors the performance of rail freight services on the freight corridor, publishing the results of this monitoring once a year.



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Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, Official Journal L 343, 14/12/2012 P. 0032 - 0077²⁰.

The subject-matter and scope of the Directive is to determine:

- the rules applicable to the management of railway infrastructure and to rail transport activities of the railway undertakings established or to be established in a Member State as set out in Chapter II;
- the criteria applicable to the issuing, renewal or amendment of licences by a Member State intended for railway undertakings, which are or will be established in the Union as set out in Chapter III, and
- the principles and procedures related to the establishment and collection of railway infrastructure charges and the allocation of railway infrastructure capacity as set out in Chapter IV.

This Directive applies to the use of railway infrastructure for domestic and international rail services.

Some areas are excluded from the scope as the Directive is not applicable to railway undertakings, which only operate urban, suburban or regional services on local and regional stand-alone networks for transport services on railway infrastructure, or on networks intended only for the operation of urban or suburban rail services.

Member States may exclude from the application of the Directive undertakings which only operate:

- rail passenger services on local and regional stand-alone railway infrastructure;
- urban or suburban rail passenger services;
- regional rail freight services, and
- freight services on privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations.

Member States may exclude the following networks from the application:

- local and regional stand-alone networks for passenger services on railway infrastructure;
- networks intended only for the operation of urban or suburban rail passenger services;
- regional networks for regional freight services solely by a railway undertaking not covered under paragraph 1, until capacity on that network is requested by another applicant, and
- privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations.

²⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:343:0032:01:EN:HTML>



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The Directive further defines the basic principles for development of the railway sub-sector related to:

- management independence - Independence of railway undertakings and infrastructure managers and management of the railway undertakings according to commercial principles;
- separation of infrastructure management and transport operations and different types of transport operations;
- financing of the infrastructure manager;
- access to railway infrastructure and services - conditions of access, limitation of the right of access and of the right to pick up and drop off passengers, as well as the conditions of access to services;
- general principles for cross-border agreements;
- licensing of railway undertakings - licensing authority, conditions for obtaining a licence, validity of the licence;
- charges for the use of railway infrastructure and allocation of railway infrastructure capacity - general principles, infrastructure and services charges, allocation of infrastructure capacity, and
- regulatory body - functions of the regulatory body, cooperation between regulatory bodies;
- directives 91/440/EEC, 95/18/EC and 2001/14/EC are repealed with effect from 15 December 2012.



Appendix A. International conventions and agreements

1975, TIR Convention

General data	
Type of Agreement	Multilateral
Place of Signature	Geneva
Date of Signature	14/11/1975
Entry into Force	20/03/1978
Duration	Indefinite
Depositary	United Nations
Subject matters	
	Customs
Participants	
	Armenia
	Azerbaijan
	Georgia
	Kazakhstan
	Kyrgyzstan
	Republic of Moldova
	Ukraine
	Uzbekistan
Objective of Agreement	
	This Convention applies to the transport of goods without intermediate reloading (in road vehicles or in combinations of vehicles or containers) across one or more frontiers between a Customs office of departure of one Contracting Party, and a Customs office of destination of another or the same Contracting Party provided that some portion of the journey between the beginning and the end of the TIR operation is made by road.
Main Content	
	Chapter II - Issue of TIR carnets; liability of guaranteeing associations Chapter III - Transport of goods under TIR carnet a - Approval of vehicles and containers b - Procedure for transport under cover of a TIR carnet c - Provisions concerning transport of heavy or bulky goods Chapter IV - Irregularities Chapter V - Explanatory notes Chapter VI - Miscellaneous provisions Annex 1 Model of TIR carnet Annex 2 Regulations on technical conditions Annex 3 Procedure for the approval of road vehicles Annex 4 Model certificate of approval for a road vehicle Annex 5 TIR plates Annex 6 Explanatory notes Annex 7 Regarding approval of containers Annex 8 Composition and rules of procedure of the administrative committee



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1998, GTR Agreement

General data	
Type of Agreement	Multilateral
Place of Signature	Geneva
Date of Signature	25/06/1998
Entry into Force	25/08/2000
Duration	Indefinite
Depositary	United Nations
Subject matters	
Technical standards harmonisation	
Participants	
Azerbaijan	
Objective of Agreement	
<p>To establish a global process for developing technical regulations and to achieve high levels of safety, environmental protection, energy efficiency, and anti-theft performance for wheeled vehicles.</p> <p>The Agreement was adopted by the Inland Transport Committee of the Economic Commission for Europe of the United Nations at its one-hundred-and fifteenth Session, held from 23 to 26 June 1998.</p> <p>The Agreement introduces a system for listing global technical regulations of this kind in a global compendium and creates an institutional framework for cooperation between the parties.</p> <p>It revised the previous Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (Geneva, 20/03/1958)</p>	
Main Content	
<ul style="list-style-type: none"> Purpose Contracting parties Executive Committee Criteria for technical regulations Registry of global technical regulations Annex A Definitions Annex B Composition and rules of procedure of the executive committee 	



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1970, ATP Agreement

General data	
Type of Agreement	Multilateral
Place of Signature	Geneva
Date of Signature	01/09/1970
Entry into Force	21/11/1976
Duration	Indefinite
Depositary	United Nations
Subject matters	
Food transportation	
Participants	
Georgia	
Kazakhstan	
Kyrgyzstan	
Republic of Moldova	
Tajikistan	
Ukraine	
Uzbekistan	
Objective of Agreement	
<p>This agreement establishes a set of rules and standards that are to be applied to the international transport of certain perishable foods (fruit and vegetables are outside the scope of the agreement). It provides a multi-lateral agreement between Signatory Countries (Contracting Parties) for overland cross-border carriage of perishable foodstuffs. Its purpose is to facilitate international traffic by setting common internationally recognized standards. It is an Agreement between States, and there is no overall enforcing authority. In practice, highway checks are carried out by Contracting Parties, and non-compliance may then result in legal action by national authorities against offenders in accordance with their domestic legislation. ATP itself does not prescribe any penalties. It applies to transport operations (excluding air transport) performed on the territory of at least two of the Contracting Parties.</p>	
Main Content	
<p>Chapter I - Special transport equipment. Chapter II - Use of special transport equipment for the international carriage of certain perishable foodstuffs. Chapter III - Miscellaneous provisions. Annex I Definitions of and standards for special equipment for the carriage of perishable foodstuffs. Annex 2 Selection of equipment and temperature conditions to be observed for the carriage of quick (deep-frozen and frozen) foodstuffs. Annex 3 Selection of equipment and temperature conditions to be observed for the carriage of chilled foodstuffs.</p>	



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International Convention on the Harmonization of Frontier Controls of Goods

General data	
Type of Agreement	Multilateral
Place of Signature	Geneva
Date of Signature	21/10/1982
Entry into Force	15/10/1985
Duration	Indefinite
Depositary	United Nations
Subject matters	
Border crossing	
Participants	
Armenia	
Azerbaijan	
Georgia	
Kazakhstan	
Kyrgyzstan	
Republic of Moldova	
Tajikistan	
Ukraine	
Uzbekistan	
Objective of Agreement	
Facilitation and improvement of the international movement of goods by simplifying formalities and reducing the number and duration of border controls, in particular by increased international cooperation and national and international coordination of control procedures and their methods of application.	
Main Content	
<p>CHAPTER II – Harmonization procedures CHAPTER III – Provisions concerning transit CHAPTER IV – Miscellaneous provisions Annex 1 Harmonization of customs controls and other controls Annex 2 Medico-sanitary inspection Annex 3 Veterinary inspection Annex 4 Phytosanitary inspection Annex 5 Control of compliance with technical standards Annex 6 Quality control Annex 7 Rules of procedure of the administrative committee referred to in article 22 of this convention Annex 8 Facilitation of border crossing procedures for international road transport</p>	



1972, Customs Convention on Containers

General data	
Type of Agreement	Multilateral
Place of Signature	Geneva
Date of Signature	02/12/1972
Entry into Force	06/12/1975
Duration	Indefinite
Depositary	United Nations
Subject matters	
	Custom matters
Participants	
	Armenia
	Azerbaijan
	Georgia
	Kazakhstan
	Kyrgyzstan
	Ukraine
	Uzbekistan
Objective of Agreement	
	The objective of the Agreement is to permit the fast, easy movement of containers and their temporary admission to countries open to international trade.
Main Content	
	CHAPTER II - Temporary admission CHAPTER III - Approval of containers for transport under Customs seal CHAPTER IV - Explanatory notes ANNEX 1 - Provisions concerning the marking of containers ANNEX 2 - Temporary admission procedure under Article 7 ANNEX 3 - Use of containers in internal traffic ANNEX 4 - Regulations on technical conditions applicable to containers which may be accepted for international transport under Customs seal ANNEX 5 Procedures for the approval of containers complying with the technical conditions prescribed in Annex 4 ANNEX 6 Explanatory notes ANNEX 7 Composition and rules of procedure of the Administrative Committee



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Appendix B. *Acquis communautaire*

The appendix lists the *acquis communautaire*, as mentioned in the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Republic of Moldova, of the other part, initiated during the Vilnius Conference in November, 2013²¹.

The present appendix illustrates the scope of legal approximation work for this country and presents a clear example of how the process is initiated.

Article 85 of the Association Agreement stipulates that the Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex X and in Annex XXVIII-D of this Agreement, according to the provisions of those Annexes.

The Republic of Moldova will gradually approximate its legislation to the following EU legislation and international instruments within the stipulated timeframes.

Road transport

Technical conditions

Council Directive No 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community.

Council Directive No 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic.

Directive No 2009/40/EC of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers.

Safety conditions

Council Directive No 91/439/EEC of 29 July 1991 on driving licences.

The following provisions of this Directive shall apply:

- introduction of the driving licence categories (Article 3);
- conditions for issuing driving licences (Articles 4, 5, 6 and 7), and
- requirements for driving tests (Annexes II and III) to be replaced at the latest on 19 January 2013 by the relevant provisions of Directive No 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (Recast).

²¹ http://www.eeas.europa.eu/moldova/assoagreement/assoagreement-2013_en.htm



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Directive No 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods.

Social conditions

Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonization of certain social legislation relating to road transport and amending Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport.

Directive No 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive No 88/599/EEC.

Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of a road transport operator and repealing Council Directive No 96/26/EC.

The following provisions of this Regulation shall apply to Articles 3, 4, 5, 6, 7 (without the monetary value of the financial standing), 8, 10, 11, 12, 13, 14, 15 and Annex I of this Regulation.

Directive No 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities.

Directive No 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive No 91/439/EEC and repealing Council Directive No 76/914/EEC.

Fiscal conditions

Directive No 99/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures.

Railway transport

Market and infrastructure access

Council Directive No 91/440/EEC of 29 July 1991 on the development of the Community's railways.

Council Directive No 95/18/EC of 19 June 1995 on the licensing of railway undertakings.

Directive No 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification.



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Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight.

Technical and safety conditions, interoperability

Directive No 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive No 95/18/EC on the licensing of railway undertakings and Directive No 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive).

Directive No 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community.

Directive No 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (Recast).

Directive No 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods.

Combined Transport

Council Directive No 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between member states.

Other aspects

Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) No 1191/69 and No 1107/70.

Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations.

Inland waterway transport

Functioning of the market

Council Directive No 96/75/EC of 19 November 1996 on the systems of chartering and pricing in national and international inland waterway transport in the Community.



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Access to the profession

Council Directive No 87/540/EEC of 9 November 1987 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation.

Council Directive No 96/50/EC of 23 July 1996 on the harmonization of the conditions for obtaining the national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community.

Safety

Directive No 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels.

Directive No 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods.

River Information Services

Directive No 2005/44/EC of the European Parliament and of the Council of 7 September 2005 on harmonized river information services (RIS) on inland waterways in the Community.



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Annex II - Working Book

Legal Approximation Methodology



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1 Introduction

The worldwide transport system is undergoing rapid change. Globalization has created demand for goods and services that improve infrastructure and more efficient transport systems are a precondition of economic development. Appropriate shipping costs, timely delivery and the quality of service are key factors for improving the competitiveness of exports and thus contribute to the welfare of the countries.

Experience shows that countries that adhere to international standards and have a harmonized, integrated and interoperable transport system correspond better with the above factors. The aim of the common transport policy is to remove obstacles at the borders between countries and to facilitate movement of persons and goods. Its primary objectives are to ensure sustainable development, improve safety and develop international cooperation.

Mutual harmonisation is a relatively new way of reconciling the various legal systems that have appeared in abundance in the late 20th century. Usually it is carried out through international mechanisms, including intergovernmental and international organizations and mechanisms. The results of this harmonisation are resolutions and other documents by international bodies and organizations and/or international conventions and agreements. Due to the harmonisation of the legal systems, similar legal acts appear in different countries

According to the legal theory, the legal approximation, which in some literature is obligatory, involves EU member states and the candidate countries achieving concordance between their national legislation and the Community law. The approximation of the national legislation to the *acquis* means the introduction of the necessary level of concordance of the written law, effective implementation and enforcement of a system of measures for non-admission and responses to breaches. Those three components together create the necessary “coordinates” of the functioning of the Community law the national legal systems.

The above definition, coming from the legal theory, is given just for clarification on the topic.

In distinction from the above understanding, in present case the task of the project is not to work on the full approximation of the transport legislation with EU law, but to apply the approach according to the needs of the countries concerned.

As it is mentioned in Introduction Section of the Working book on Legal framework, the level of legal approximation and harmonisation in TRACECA countries depends on their common targets, agreed in the Strategy for the development of transport corridor Europe – the Caucasus – Asia (2006, Sofia). The legal harmonisation as a result of accession to the international conventions and agreements is relevant for all TRACECA countries. There are also individual targets, agreed with the EU and planned in their National plans. For the European Neighbourhood countries, the legal approximation with the *acquis communautaire* on deeper level has high importance, while for Central Asia countries the level of harmonisation is limited to the main principles of the EU transport law. There might be also some regional for Central Asia countries transport agreements.

For the purpose of the project, harmonisation of legislation is defined as a process where the countries mutually undertake to focus their efforts and to take steps for convergence of their national laws, and to apply the international conventions and agreements in a similar manner. This process could also target the identification and elimination of contradictions in the legal systems, resulting in the formation of common principles and procedures in compliance with international conventions and agreements.

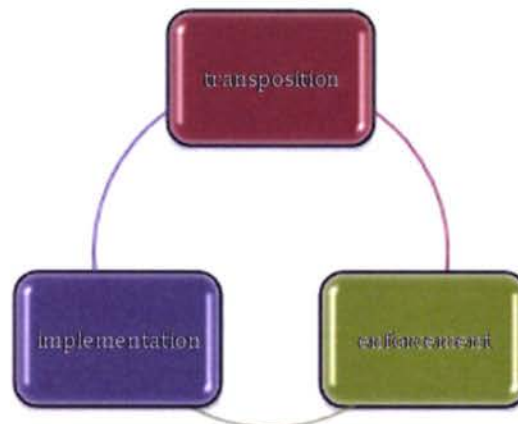


Therefore, all the TRACECA countries (beneficiaries of the project) need a methodology on legal harmonisation, showing the specifics of the legal approximation to the *acquis communautaire* and legal harmonisation as a consequence of implementation of agreed international conventions/agreements. There is not any unified or universal methodology for legal harmonisation/approximation.

In principle, the harmonisation/realignment system consists of three main stages (see Figure 4):

- the transposition of the international standards, established by international conventions and agreements and/or European legislation in the transport sector, into the national legal system by using the relevant national procedures and mechanisms (often laws passed by the Parliament, sometimes Presidential, Governmental or Ministerial Decrees and other normative acts);
- its implementation, by providing the institutions and needed to carry out the laws and regulations, and
- its enforcement, by providing the necessary controls and penalties to ensure that the law is implemented fully and properly.

Figure 4: Stages in harmonisation/realignment system



The methodology, developed and presented here, could be used by state officials in future tasks, laid to the legal assessment and gap analysis not only for European legislation, but regarding any one international convention/agreement where the country participates.

The current methodology is to be applied throughout the process of drafting the legislative framework of the subject matter. Approximation does not only involve selecting a subject matter, identifying the relevant international acts that are to be approximated and drafting the desired national normative acts. Above all, successful approximation involves designing a framework that should fit into the national legal system and accept the approximated national normative acts. This framework makes the simultaneous approximation of a set of normative acts pertaining to related subject matters possible.



2 Regulatory Impact Assessment (RIA)

2.1 RIA in Legal Approximation Context

The Regulatory Impact Assessment in legal approximation context is different from traditional impact assessments, usually provided by national law.

Regulatory impact assessment (RIA) is an information-based analytical approach to determine anticipated costs, benefits, risks, consequences, and side effects of planned policy instruments, such as laws and regulations. The results support the improvement of the quality of policy instruments. The countries and in particular the European Union have practised RIA for the last two decades as a useful tool of regulatory policy.

There are many available and tested methodologies for preparing regulatory impact assessments. Most of them can be found on the internet. For this reason, in general, there is no need to invent new methods for preparing RIAs.

However, in special cases, for example, applying RIA to promote a legal harmonisation process, there is no widely known or accepted methodology.

Furthermore, it is fascinating to observe a slightly different emphasis of EU conditionality.

RIA, as a better policy tool, was made effective by the EU (especially in the Western Balkan and European new neighbourhood context). RIA, in the context of legal harmonisation with the EU, is more dependent on the initiatives of national governments.

The RIA approach boasts some features which specifically relate to the context of legal harmonisation. Firstly, the impact of legal harmonisation (and only this impact) is estimated. When analyzing the impacts of legal harmonisation, one has to compare measures of the already existing national legislation to the measures that will be introduced through European legislation.

The aim of this comparison is to detect legal and institutional differences between the existing regulation and harmonized regulation. These legal and institutional differences exist in terms of requirements, measures, enforcement mechanisms and procedures, and institutional (organizational) arrangements, which are necessary for the enforcement.

In this specific RIA, only the impacts that are attributable to the difference should be highlighted. If a certain impact is found, but can be already attributable to the already existing regulation in force, the RIA may indicate it, but has to mitigate this effect only as an indirect consequence of legal harmonisation.

Second, a “doing nothing” option is not available. Generally, it is expected that, in addition to the assessed regulation, each RIA will list a broad portfolio of other relevant scenarios. In these cases, there is a large potential for regulatory and non-regulatory solutions, including the so-called “doing nothing” option, or, in other words, abstaining from any regulatory interference.

However, where RIA is applied for legal harmonisation, the “doing nothing” option is often not open, due to the international obligations and agreements in force.

In most cases, only the following variations of possible options are available, feasible and meaningful: (a) “partial harmonisation” or (b) “full harmonisation with a substantial delay and preparatory activity”. These options and alternatives should be carefully examined in RIA, in order to facilitate the adaptation process of all stakeholders, including Government, companies and various groups of the society.



2.2 Better Regulation Policy

Political development during the 1980s and 1990s prepared the ground for a comprehensive approach covering the effects of legislation and policies. Various global and European initiatives can be seen in how we formulate current impact assessment policy.

The first decisions to improve the regulatory framework in the EU were made during 1992 meeting of the European Council, which stressed the need for simplification and improvement of the regulatory framework for citizens and businesses.

The two aspects of regulation, existing and planned rule and policies, were covered/improved through a Better Regulation policy.

The first appearance of Better Regulation is modernization and improvement of the existing legislation. The aim is to reduce the compliance costs for companies, citizens and authorities while simultaneously guaranteeing that goals will be achieved by legislative reform.

The second aspect of Better Regulation involves improving the way legislation and policies are prepared. The aim is to improve the quality of new legislative and policy proposals through what is known as evidence-based decision-making, consultation of interested stakeholders and transparent balancing of the possible options through the use of Impact Assessment. Improving the way legislation and policies are being prepared leads to better weighing up of the possibilities during the decision-making phase on the political level.

In June 2002, the College of European Commissioners officially introduced the Integrated Impact Assessment system where the regulatory proposals had to undergo an ex-ante analysis on future social, economic and environmental impacts.

The meaning of “ex-ante” is “before the event”. The Impact Assessment goal is to determine the consequences of Commission proposals before these proposals are implemented in real life.

After revisions in 2005 and 2006, in 2009 the EC published a revised set of Impact Assessment guidelines. These efforts have also been presented under the label of “Better Regulation” (BR) and have been recently re-labelled “Smart Regulation”²².

Smart Regulation policy will attach greater importance than before to the evaluation of the functioning and effectiveness of existing legislation. The process of improving the stock of the EU legislation is narrowed to:

- simplify EU legislation and reducing administrative burdens;
- evaluate benefits and costs of existing legislation;
- ensure that new legislation is the best possible, and
- improve the implementation of EU legislation.

All European Commission impact assessments are published on the website²³ after adoption of the corresponding proposal by the College of Commissioners, so as to be available for the further discussions of the initiative by the European Parliament and the Council. This site also gives access to the Commission's Work Programme that shows for which future proposals impact assessment work is in progress.

²² Commission (EU), ‘Smart Regulation in the European Union’, COM (2010) 543 final, 8 October 2010 <http://ec.europa.eu/governance/better_regulation/documents/com_2010_0543_en.pdf> accessed 21 February 2011.

²³ http://ec.europa.eu/smart-regulation/impact/ia_carried_out/ia_carried_out_en.htm



To ensure that EU action is effective, the Commission assesses the impact of policies, legislation, trade agreements and other measures at every stage - from planning to implementation and review.

2.3 Nature of Impact Assessment Process

The Impact Assessment process is a method for policy analysis, intended to assist policy-makers in the design, implementation and monitoring of the improvement to the regulatory system.

RIA was developed as an instrument to identify the costs of regulation on the business sector, which would be followed by a process of deregulation aimed at reducing the regulatory “burden” on the private sector and thereby improving competitiveness. Over time, the meaning and purpose of RIA has been refined and widened.

First, the focus was shifted from the costs of regulation alone to a consideration of both benefits and costs. Second, the public objectives to which regulation could contribute have been widened beyond the single objective of private sector competitiveness. Typically, RIA will now consider the potential of actual impact (positive and negative) of a regulatory measure in term of the three pillars of sustainable development: economic, social and environment. The regulatory reform shifted the focus from “less regulation” to “better regulation”.

RIA has two narrow aspects that contribute to this process: the outcome and the process dimensions of the policy. By providing a methodological framework of rational policy choice, RIA allows for the outcomes (ex-ante or ex-post) to be assessed against the goals that are set for the regulatory system. The process contribution of RIA can be assessed in terms of the principles of good governance. There is a common understanding that these principles encompass:

- proportionality – the regulation should be relevant to the size of the problem it is intended to address;
- targeting – the regulation focuses on the problem and does not cause unintended consequences in other areas of the economy or society;
- consistency in decision-making – to avoid uncertainty;
- accountability for regulatory actions and outcomes; and
- transparency in decision making.

The framework, which is common to most RIA procedures, can involve a number of tasks to be carried out at each stage of the process:

- description of the problem and the goal of the proposal;
- description of the options (regulatory and non-regulatory) for achieving the goal;
- assessment of the significant positive and negative impacts, including an assessment of the incidence of the benefits and costs on consumers, business and other interests groups;
- consultation with stakeholders and other interested parties, and
- recommendations with accompanying justifications.

As aforementioned, sustainable development is usually defined as being based on three interdependent and mutually supporting pillars:



- Social (People);
- Environmental (Planet);
- Economic (Prosperity).

The three pillars are inextricably linked, and each is equally beneficial. Therefore, it is only possible to achieve significant and sustainable development in one pillar if it does not create a detrimental effect in another. To assist in this process, the Impact Assessment tool has to be designed under the three pillars of sustainable development.

Some regulatory instruments could focus not only on one sub-sector (such as road or railways) but on the transport sector as an entire system.

Therefore, the RIA has to examine not only the direct effects but also the indirect effects. They may occur in parallel or with a delay (second round effects) relative to the direct effects. The indirect effects are beneficial for two reasons. Firstly, they may significantly exceed the primary effects if they affect many sectors in or outside the supply chain. Secondly, they can even reverse the overall expected benefits/costs if they have opposite direct effects.

The RIA tools are defined by legislation on a national level, responding on specific legal system and judicial traditions. In the TRACECA context and in the basic documents, MLA TRACECA and TRACECA Strategy, where the parties reached common agreement for approximation and harmonisation of their legislation in the field of transport though assess to international conventions and agreements, the countries could use existing impact assessment analyses and implement the best practices of other countries.



3 Legal Approximation - Concept

3.1 General Principles

Regardless of the depth of the need for legal approximation, however, the starting point is always a good knowledge of EU law and its legal instruments should be taken as a benchmark. When the goal is full approximation or approximation in a greater extent or only in basic principles, the process always starts on the basis of the EU legal instrument.

This approach is not applicable exclusively to the EU – candidate country. TRACECA countries, where harmonisation objectives are different for the Neighbouring countries and the Central Asia countries, could implement it and reach their specific goals.

During the procedure of national law drafting within the process of legal approximation, there are fundamental principles that are relevant for legal approximation: legislation should be consistent, coherent and clear.

It is necessary to bear in mind that when drafting legislation and deciding if the approximation with *acquis* is needed, the object of legal measure should be taken into account rather than the name or type of norms in the draft.

The object of legal measure is defined not only on the basis of the substance of the norms of the draft but also takes into account the legal implications of its implementation, especially when the methods used are those of deregulation and re-regulation.

Therefore, it is necessary to take into account the provisions of existing legislation that ought to be repealed or amended.

National law drafting must be led by national constitutional norms on the legislative procedure. The essential feature of the legal approximation process is that the approximated measure should be both compatible with the *acquis* and national legal system. A comprehensive account of future implementation and enforcement should be considered when drafting approximated provisions.

Finally, as long as the scope and the priority areas for approximation are defined, approximation should focus primarily on the *acquis* relevant to those areas in order to avoid dispersion of the approximation activity.

The legal approximation process has some peculiarities and specifics. It is a non-reciprocal process as one party is approximating its legislation to that of the other. *Acquis* is a given law, or sometimes called *lex data* - there is no way to influence the adoption of the provisions of the *acquis*. Furthermore, there is a limited, or sometime no, influence on what parts of the *acquis* are to be approximated.

The scope of the approximation is predefined by the regulatory extent of EU law and cannot be negotiated. The only things left to define quite freely are the technical issues like time-schedule, means, methods, techniques, forms of transposition measures and transitional periods. To facilitate this, successful examples from different countries shall be presented during the training sessions of the project.

The process is different in countries that are not associated with the EU and sometimes in those that are associated. Such countries are more flexible in their choice of the scope of approximation as there is no obligation to achieve a positive result. In this respect, it is necessary to recognise the legal effect of different patterns of legal approximation.



The pattern is as follows: the deeper the legal connection to the EU, the lower the freedom to determine the scope of legal approximation, and vice versa, the lower the legal connection, the more there is the freedom to decide. In the end, this freedom is still limited by the desired result.

It is always necessary to emphasise that *acquis* is constantly evolving. This means that EU law is not fixed and never stops developing. That is why, the legal approximation process once started is an ongoing process and the regulatory impact assessment of the current situation has to be done periodically to implement the latest developments.

3.2 Legal Instruments

As it was stated earlier, during the process of legal approximation the entire EU law should be taken into account, comprising general principles of law, primary law, secondary law and the case-law of the CJEU. However, this part is concentrated more on some of the most pertinent elements of the *acquis* with some specificities.

3.2.1 Regulations

Regulations have a unique place in EU law as they are acts that do not require national measures of transposition and are directly effective in the national legal orders.

However, this is mainly the case for member states of the EU. In order to meet all relevant *acquis* requirements, it is necessary to retain the definitions and other provisions of regulations incorporated in the national law of approximating countries.

It is essential to take into account the effect on EU law, to keep the wording as close to regulation as possible, without significant deviation from the meaning of these acts in order to retain the effect of the provisions of regulations and to not undermine the future implementation of national legislation. This suggests that the most appropriate methods for approximation of regulations are copy-out and annex approximation.

3.2.2 Directives

Directives are another peculiar act of secondary law where the EU bind those to whom it is addressed but provides the choice as to forms and methods of its implementation. Therefore, directives are usually less explicit than regulations and leave more freedom for approximation activities.

However in order to make accurate predictions, a number of steps should be taken in the analysis of its text.

First of all, the most relevant benchmark for approximation is the objective the directive aims to reach, this is usually located in the preamble (there is no need to conduct approximation directly with the preamble).

Preamble also indicates whether it pursues minimum or complete harmonisation. Minimum harmonisation allows stricter rules to be applied by countries. Therefore, gold plating might be useful as a method of approximation while total harmonisation precludes it and requires strict adherence to the provisions of the directive and stricter approximation methods should be applied.

Following these actions, the most appropriate means, methods and techniques should be identified in order to achieve the objective and the required level of harmonisation. It should also be clarified if the directive presupposes, prior approximation with other directives.



3.2.3 Decisions

A decision is “binding in its entirety upon those to whom it is addressed”. This means that a decision is addressed to a particular, limited group of institutions or organizations, not to the governments of the member states (as with directives) nor to the EU as a whole (as with regulations).

In practice, EU institutions use decisions to regulate themselves, ratify international and bilateral agreements and clarify aspects of the implementation of regulations and directives.

A decision may not be transposed into national law. Unlike a regulation, a decision does not have “a general effect”, that is, it is not binding for any person outside the specified group.

A decision may or may not be relevant to the implementation and enforcement of a directive. Obviously, where it is used to ratify an international agreement on behalf of the European Union, no action is required from the member states. Where it is used to clarify the obligations of the member state governments under a directive, it is relevant and binding on the governments of the member states.

Typology of the Community legal acts

To present system of the Community legal acts and their scope of regulation and effect we can use a table for typology.



Table 2: Typology of the Community legal acts

Aspect	Directive	Regulation	Decision
Entry into Force	Upon the date specified in the directive or on the 20 th day after publication in the Official Journal.	Upon the date specified in the Regulation or on the 20 th day after publication in the Official Journal.	Upon notification to the persons to whom it is addressed.
Approximation Deadline	Stated in the directive. The same as the date of transposition unless other date(s) is (are) indicated in the directive. From 1 month to 3 or more years, after entry into force. Some directives can have a direct effect if the Member State fails to transpose into national legislation.	Not applicable. Direct application and effect. Enters into force upon notification to the party to whom they are addressed.	Not applicable - direct application and effect. Binding on the parties to whom it is addressed on the date it comes into force.
Usage and Frequency	The most frequently used instruments of EU law.	Are used when a unified policy system is needed: funds, institutions.	Used to specify detailed administrative requirements or update technical aspects of regulations or directives – reporting, ratification of international agreements and protocols.
Legal Obligations of the Member States	Adopt laws, regulations and procedures to give effect to the directive by the transposition deadline.	Establish institutions and procedures; they should repeal any conflicting national provisions.	Binding on the parties to whom they are addressed; these may or may not include the Member States.

Case-law

Sometimes the approximation with Court of Justice of the European Communities (CJEU) rulings is distinguished as a separate activity. The CJEU case-law is a valuable source of interpretation of the Union law which makes it necessary for proper legal approximation. However when case-law is considered, the CJEU is not bound by its previous decisions, and if there is a range of different rulings concerning a similar issue, only the latest should be considered.



3.3 Legal Approximation Actions

Different terminology is used in the literature. For the purposes of this project, the typology is divided into the approximation means, methods and techniques. Each of them will be described in turn in more detail.

3.3.1 Means of Approximation

Deregulation

Deregulation involves repealing national rules because they are either no longer needed or are inconsistent with the *acquis*. Deregulation is widely used within the EU itself, for example, in sectors such as substantive freedoms of free movement as well as in the safety of goods.

Deregulation occurs in the approximation process of third countries to the *acquis*, especially when the process of liberalization is intended. Deregulation occurs immediately after accession to the EU when all the legislation, approximating with the EU regulations, would have to be repealed due to the direct effect of regulations.

Methods of Approximation:

- Re-wording (re-writing)
- Copy-out (one-to-one approximation)
- Gold plating
- Annex approximation
- Standard practice

Re-regulation

Re-regulation is used when an area is already regulated in the national law, but the regulation is outdated and needs adapting to new conditions and to the *acquis*.

In many cases, it is possible to introduce amendments to national legislation in order to regulate certain issues differently, without first introducing new legislation.

Examples of sectors where the re-regulation process is used are competition law, public procurement and legal metrology.

Adoption of new legislation

New legislation is adopted in cases where re-regulation appears to be stressful and/or makes legislation too complex. However, the main function of this means is to include sectors of a country that have never been regulated.

It is particularly relevant during market liberalization of certain “network industries” as railway transportation, telecommunication and postal services.

Accession to international agreements

Many multilateral international agreements are part of the *acquis* and are part of the legal approximation process. Hence it is reasonable to distinguish the accession to the relevant international agreements as a separate means of legal approximation, which is covered with its own rules.



3.2.2 Methods of Approximation

Re-wording (re-writing)

This approximation method allows adjusting terminology and style used in the *acquis* to those that are used frequently in the national legal system. However, this method can also be used in addressing the provisions of an EU law that are not detailed enough by elaborating on them. This method is the most widely used.

Copy-out (one-to-one approximation)

The copy-out method implies that language of an act should be approximated in its copy. In other words, the approximating measure keeps the wording of an act of the *acquis*. This can be done in several ways. Firstly, by means of a simple copy, i.e. the relevant text is copied into the national legislation.

Simple reference to specific relevant provisions can also be made. Such reference can be static, meaning that it refers to provisions as they stand at the moment of referral, or dynamic, which refers to the provision as they stand at the moment and to their future amendments (so to say a form of a “moving target”).

Gold plating

This method is used when the national legislator wishes to go further than that which is required by the provisions under approximation. Other national elements can be added to the legal measure through which the approximation is carried out.

Such national additions may include: extending the scope, not taking full advantage of any derogations which keep requirements to a minimum, providing sanctions, enforcement mechanisms and matters such as a burden of proof which go beyond the minimum needed.

Annex approximation

The annex approximation method means that an act of the *acquis* is directly attached to a national legal act in the form of an annex.

Therefore, the national measure of legal approximation consists of two parts: the first part is a short text that makes reference to both the EU act and the second part, the annex, which includes the act itself. Such a method is useful for countries in the last stages of approximation, when giving legal force to EU regulations that do not have the characteristics of direct effect and applicability in the legal orders of non-member states.

Putting regulations into national legal orders by means of the annex approximation method simplifies the entrance into immediate effect and applicability of regulation after the accession. A country can then simply repeal the measure without any negative consequences.

Moreover, such a method eliminates approximation mistakes and prepares the country's legal system to accession.

Means of Approximation:

- Deregulation
- Re-regulation
- Adoption of new legislation
- Accession to international agreements



However, this method is not recommended to countries without close accession perspective and/or in the early stages of legal approximation. It might create a conflict with the national legal system as regulations might have legal notions and procedures not known to the national legal system, which in its performance will make it unworkable or reduce the efficiency of its effect.

Standard practice

Standard practice is an attractive method of legal approximation proposed in the legal doctrine. It is based on searching for the best practice of legal approximation: several approximating measures of other states are collected and merged into a single new legal act which in the end is an established standard practice.

Consequently, from these results, another legal act is prepared which corresponds to the identified standard practice and then is used as a model to which national legislation is to be approximated.

The main risk of using such method is the inconsistencies that might result in the model created out of collected national acts.

3.3.3 Techniques of Approximation

Postponed (delayed) legal approximation

This technique of legal approximation performs all the necessary approximation work and predicts the future date of when the approximation or its provision will enter into force.

This is particularly useful for the countries when specific legislation ought to take effect or is estimated to be suitable and when entered into force as of the date of accession.

Sequenced (segmented) legal approximation

This technique is based on the principle of gradualism which means that legislation is being approximated successively and not concurrently in bulk.

It allows for a smooth adaptation of the legal system and the country's economic and social environment to the new rules.

This technique of legal approximation occurs before the period where different parts of national legislation, approximated to the *acquis*, enter into force gradually over a period of time.

Structured legal approximation

The technique of structured legal approximation relates to the complexity of certain fields of law, especially when a lot of expertise in the issue is required as is the case for the environmental *acquis*.

Techniques of approximation:

- Postponed (delayed) legal approximation
- Sequenced (segmented) legal approximation
- Structured legal approximation
- Sectorial legal approximation



In such cases, national legislators are not capable of dealing with all relevant regulatory details stemming from the *acquis* and can only produce framework legislation that establishes regulatory principles. Such framework legislation includes enabling provisions (or authorization clauses) authorizing line ministries or local authorities to adopt detailed rules, which is usually done in the form of implementing acts.

Such provisions are used to make the amendments rapidly without going back to parliament. This practice results in the adoption of legislation of different rank and might lead to a complex regulatory framework.

In order to maintain it properly, an efficient interconnection between the legal acts within the framework should be ensured; otherwise legal certainty might be undermined.

Sectorial legal approximation

It is worthy of mention that a draft measure will not always fall into only one area of law. Indeed, there may be different solutions on how to approach the matter.

One solution is to integrate the provisions, e.g. directives into one code, regardless of them belonging to different fields of law.

Another solution is to determine the provisions that belong to different fields of law and incorporate them into separate pieces of national regulation.



4 Legal Approximation Methodology

4.1 Purpose

For the purpose of the present report, the project prepared a methodology for the gap analyses to compare national legislation and the fundamental principles of the EU legislation. In terms of legal approximation, the gap analyses are the main instrument to implement to identify the gaps between *acquis* and national legislation.

This methodology could be used later by national authorities in their future tasks for the legal assessment and gap analysis to aim the objectives:

- legal approximation to the EU law, or
- legal harmonisation as accession to and implementation of international conventions and regional agreements.

There are no significant differences between the legal techniques for the realization of both objectives. Following two-narrowed approach, addressed to EaP and Central Asian countries (in part 5 of the Methodology) they are given, respectively, tools aimed at the accession to and implementation of international conventions and regional agreement.

Experts from different countries could use methods and techniques that are the most suitable for their particular exercise.

4.2 Main Stages

The approximation work on a certain legal measures can be divided into the following steps:

- 1) identification of the applicable national legislation, including subordinate implementing acts. In case there is relevant legislation, it is screened to determine non-compliant provisions that ought to be approximated. This step consists of a side-by-side comparison of the national provision with the provision of the *acquis*;
- 2) choosing relevant means, method and technique according to their relevance. If more than one means, method, or technique is needed a combination can be involved;
- 3) approximation of provisions itself;
- 4) check for inconsistency within the legal measure. This step is especially beneficial when the approximation means chosen is re-regulation;
- 5) making the *acquis* compatible with the draft national act;
- 6) assessing the degree of compliance of the draft act with the relevant *acquis* provisions.

During this process, it is necessary to analyze the primary and secondary law of the EU. For more clarity, it is reasonable to check the way the member states of the EU approximated relevant procedures. Finally, approximation activity should always be guided by and be within the framework of the general principles of the EU law.

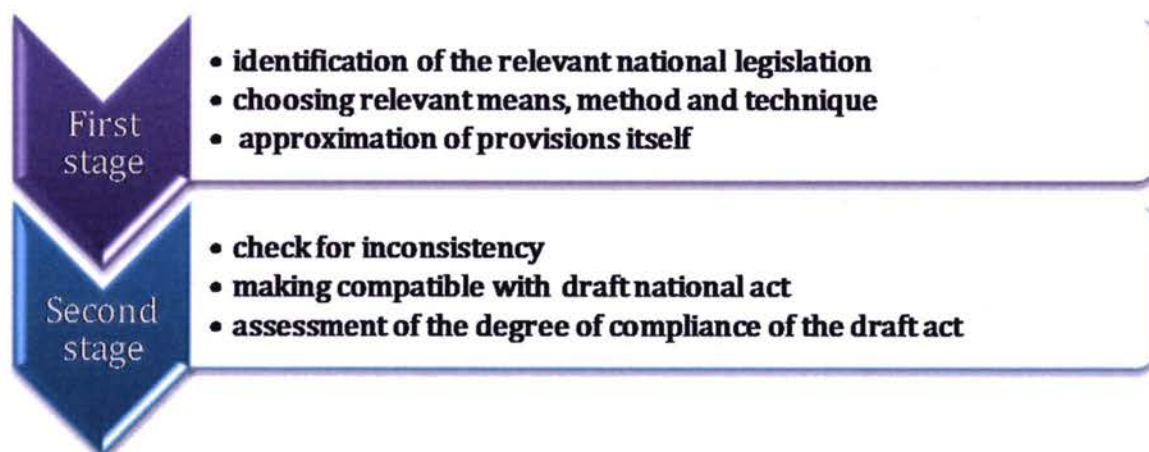
The main challenge in identifying relevant existing national legislation appears when several acts cover similar issue. If this is the case, it is recommended to perform codification using a sectorial legal approximation technique to make the process of approximation easier at the moment of approximation and in later amendments.

Otherwise, when codification is impossible or redundantly complicated the approximation means, such as deregulation (leaving only one national act regulating the issue and repealing the other) or adoption of a new act, can be applied.



Provisionally, these six steps above could be divided into two main stages (see Figure 5).

Figure 5: Main stages in approximation work



4.3 Tools

Each of the two stages has an essential tool to be used for the purpose of legal approximation (see Figure 6).

Figure 6: Tools in the stages of the approximation work



Questionnaire

The **first stage** of the current methodology contains three main tasks:

- 1) identification of the applicable national acts including supplementary implementing acts. In the case of relevant legislation it is screened to identify non-compliant provisions which ought to be approximated. This is done by a side-by-side comparison of the national provision with the provision of the *acquis*;
- 2) choosing means, method and technique according to their relevance. If more than one means, method, or technique is needed a combination can be involved;
- 3) approximation of provisions itself. Here, the goal is a draft-law or draft-regulation to be prepared.



Identification of Applicable National Legislation

The first step in identification of the applicable national legislation is implemented through the questionnaire. The purpose of the questionnaire is to consider if there is any provision in the existing law that regulates the scope of the directive or the regulation.

A simple answer of “yes” or “no” shows whether the regulation exists in domestic law or not. In addition to this answer, the questionnaire shall clarify if there is any inconsistency with the existing article on the national legislation.

The assessment of the results detects legal and institutional differences between the existing EU regulation and national regulation and submits the gaps in the existing law to be developed.

The questionnaire is developed as a table, making it easy to use.

1. Title of the EU legislation and the subject and objective of its regulatory scope			
2. Title of the legislation and the subject and objective of its regulatory scope			
3. Existence of the matter of EU legislation (secondary source of law) in national legislation			
The main provisions of the EU legislation	Yes	No	Notes (Contradiction)
a)	b)	c)	d)

The base of the questionnaire is the text of the *acquis*. The skeleton of the questionnaire is developed from the EU directive or regulation that is being considered.

Row 1 requires the full title of the regulatory act, the name of the EU institutions that passed it, its numerical designation, the issue number of the Official Journal (OJ) of the European Communities in which it was published and a brief statement on the subject of the act’s regulatory scope.

Row 2 requires the full title of the national legislation, regardless of whether it is a matter of a law, rules, a regulation, decision or some other subordinate legislation whereby approximation is being executed, with a brief statement on the subject of the act’s regulatory scope.

Row 3, which states the existence of the matter of EU legislation (secondary source of law) in national legislation, is presented in three columns.

Column a) will contain the article of the EU directive/regulation that is subject to assessment.

Columns b) and c) will contain the answer to the question whether the matter of the column a) has its analogue in the national legislation or has not.

In addition to this answer, column d) clarifies if there is any inconsistency with the existing article on the national legislation. Such a conflict shall be sought in an act of the same or higher level than that shown in line 2 of the table.

The assessment of the results highlights the gaps where the existing law shall be developed.



The questionnaire tends to be the appropriate tool in cases where the legal approximation process is just starting.

Tables of Concordance

Where the political decisions are already made on the basis of the questionnaire and the draft-law is prepared, the table of concordance is the next tool to be implemented.

The **second stage**, in the current two stage methodology, consists of the following tasks:

- 1) check for inconsistency within the legal measure. This step is especially crucial when the approximation means chosen is re-regulation;
- 2) making the *acquis* compatible with the draft national act;
- 3) assessment of the degree of compliance of the draft act with the relevant *acquis* provisions.

As a main tool to check for inconsistency within the legal measure, we have to develop tables of concordance.

We have to complete a table of concordance of legislative provisions based on two different, but mutually supportive, approaches:

- by comparatively portraying the similarity between the provisions of EU legislation with the draft legislation, and
- by comparatively portraying the similarity between the provisions of the draft legislation and EU legislation.

Therefore, the obvious difference is in which piece of legislation is cited first in row 1 and which relevant texts are cited in column 1 during the compilation of the table of concordance.

Normally, each legislative act is inscribed in a separate table which may have a different number of columns. However, it should have at least three columns indicating:

- firstly, provisions of an EU normative act to be approximated with;
- secondly, provisions of a national legal measure that contains, or should contain, approximated norms, and
- thirdly, comments, which are also a form of compliance assessment.

However, this structure can be improved with two more columns: one stating the reasons for the achieved level of compatibility and the other indicating the date foreseen to achieve full compatibility. There are three possibilities: it can be declared that a legal measure is in full compliance, partial compliance or contrary to a corresponding *acquis* provision. The reasons for a substantive deviation should refer to a certain analysis or study and not be of a general nature.

In regards to the fields where the legal provisions are inserted, it is possible to have two approaches: either to mention national provisions in the first column and EU provisions in the second, or vice versa. The choice depends primarily on the number of pieces of national and EU legislation, e.g. if there is one piece of draft legislation being approximated to several pieces of EU legislation the national draft goes to the first column.

However, in the interest of transparency and facilitation of the monitoring of the legislative approximation, the priority must be given to EU legislation in the first column.



If it is relevant, it should be noted in the table of concordance when a specific article of an EU law falls into another area of legal approximation. By analogy, if the object of legal measure belongs to several fields of law it should be mentioned.

Check for inconsistency within the legal measure and make the *acquis* consistent with the draft national act

6. Title of the EU legislation and the subject and objective of its regulatory scope		
7. Title of the draft legislation and the subject and objective of its regulatory scope		
3. Compatibility with EU legislation (secondary source of law)		
Provisions and demands of EU legislation (article, paragraph, item)	Provisions of the draft legislation (title, section, article, paragraph, item, etc.)	Compatibility between the draft legislation with the provisions of EU legislation (complies, partially complies, does not comply) and/or conclusions
a)	b)	c)

Row 1 requires the full title of the regulatory act, the name of the EU institutions that passed it, its numerical designation issue number of the *Official Journal* (OJ) of the European Communities in which it was published and a brief statement on the subject of the act's regulatory scope.

Row 2 requires the full title of the draft legislation, regardless of whether it is a matter of a law, rules, a regulation, decision or some other subordinate legislation whereby approximation is being executed, with a brief statement on the subject of the act's regulatory scope.

Row 3 presents the Compatibility with EU legislation in three columns:

Column a) shows the provision of the European normative act to which the provision of the draft normative act is to be made compatible, approximated, or harmonized. These provisions are consistent with each other and they are not mixed with subordinate legislation in accordance with the European standard practice.

Column b) collects provisions of the draft legislation. These provisions should be approximated to, i.e. "derived from", the relevant European normative acts.

The comments in the third and last column may be an assessment of the approximation. In this case, the usual heading of the third column is "level of compliance" i.e. complies, partially complies, does not comply.



Assessment of the degree of compliance of the draft legislation with the relevant *acquis* provisions

1. Title of the draft legislation and the subject and objective of its regulatory scope		
2. Title of the EU legislation and the subject and objective of its regulatory scope		
3. Compatibility with EU legislation (secondary source of law)		
Provisions of the draft legislation (title, section, article, paragraph, item, etc.)	Provisions and demands of EU legislation (article, paragraph, item)	Compatibility (complies, partially complies, does not comply) and/or conclusions
a)	b)	c)

In the interests of clarity and facilitation of the monitoring of the legislative approximation process, especially in view of the fact that they are likely to be at different levels in approximation depending on the purpose of the compliance, priority must be given in the table of concordance between the provisions of EU legislation and draft legislation.



5 Legal Harmonisation

5.1 General Rules

There are not fundamental differences in the approach used in legal approximation with the *acquis communautaire* and legal harmonisation, which is used in case of accession to and implementation of international conventions and regional agreements.

The questionnaire and table of concordance is presented in this part of the methodology with the aim of providing a better explanation and clearer understanding of segmented implementation of the present methodology.

The legal harmonisation process has two main stages which reflect whether the international agreement is signed and ratified or not.

This process is focused at the implementation in practise on the national level of the international legal instrument's requirements.

5.2 Main Stages

There are two main stages for a country after the policy decision is taken and the international convention/agreement is signed.

Best practice shows it is extremely useful to pass over these two stages before ratification. This provides the opportunity for parliament to vote and accept together the full packet of legislative instruments, with ratification, necessary for implementation of international convention/agreement.

These main stages are:

- 1) identification of the impact of the international legal instrument to the relevant national legislation. In cases where there is relevant legislation, it is screened with an aim to identify non-compliant provisions or provisions in a contradiction which ought to be harmonized, and
- 2) respective implementation of the provisions itself:
 - drafting the bill (or secondary legislation);
 - checking for inconsistency within the legal measure;
 - making the international legal instrument compatible with the draft national act, and
 - assessing the degree of compliance of the draft act with the relevant international legal instrument provisions.

5.3 Tools

Each one of the two stages involves an essential tool to be used for the purpose of legal harmonisation: questionnaire and table of concordance.



Questionnaire

The frame of the questionnaire is:

1.			
a) title of the International Convention/Agreement and the subject and objective of its regulatory scope			
b) signed by:			
c) ratified by:			
2. Title of the legislation and the subject and objective of its regulatory scope			
3. The existence of the matter of the IC/A in national legislation			
The main provisions of the IC/A	Yes	No	Notes (Contradiction)
a)	b)	c)	d)

The base of the questionnaire is the text of the International Convention/Agreement.

Row 1 requires the full title of the international act, the name of the international institutions that passed it, a brief statement on the subject of the act's regulatory scope. This section indicates if countries ratified or signed the act. This information will be useful in the next stage where in RIA process the impact on an international level has to be analysed.

Row 2 requires the full title of the national legislation, regardless of whether it is a matter of a law, rules, a regulation, decision or some other subordinate legislation whereby approximation is being executed, with a brief statement on the subject of the act's regulatory scope.

Row 3, which states the existence of the matter of the International Convention/ Agreement in national legislation, is presented in three columns:

Column a) will contain the article of the International Convention/Agreement that is a subject to assessment.

Columns b) and c) will contain the answer to the question whether the matter of the column a) has its analogue in the national legislation or has not.

In addition to this answer, column d) clarifies if there is any inconsistency with the existing article on the national legislation. Such a conflict shall be sought in an act of the same or higher level than that shown in line 2 of the table.

The questionnaire is remarkably similar to a check-list where only a Yes/No answer is required. But in the table above column d) requires a detailed account of the national legal system.

The assessment of the results detects:

- legal and institutional differences between the International Convention/Agreement and national regulation, and
- gaps in the existing national legislation to be developed.



Table of Concordance

The second essential tool is a table of concordance which is used after the draft of the national legal instrument is prepared and serves the purpose of legal harmonisation.

As opposed to the tables of legal approximation, where two different, but mutually supportive tables have to be prepared, only one table makes up the table for legal harmonisation and this aims to clarify the distinction between the draft-bill and the international legal instrument.

As a result, the level of implementation of IC/A can be made clear.

1. Title of the International Convention/Agreement and the subject and objective of its regulatory scope		
2. Title of the draft legislation and the subject and objective of its regulatory scope		
3. Compatibility with the International Convention/ Agreement		
Provisions and demands of IC/A (article, paragraph, item)	Provisions of the draft legislation (title, section, article, paragraph, item, etc.)	Compatibility between the draft legislation with the provisions of IC/A (complies, partially complies, does not comply) and/or conclusions
a)	b)	c)
4. Secondary legislation in addition to be drafted and/or amended:		

Row 1 requires the full title of the international act, the name of the international institutions that passed it and a brief statement on the subject of the act's regulatory scope.

Row 2 requires the full title of the draft legislation, regardless of whether it is a matter of a law, rules, a regulation, a decision or some other subordinate legislation whereby approximation is being executed, with a brief statement on the subject of the act's regulatory scope.

Row 3 presents the compatibility with the International Convention/Agreement in three columns:

Column a) shows the provision of the International Convention/Agreement to which the provision of the draft normative act is to be made compatible or harmonized.

Column b) collects provisions of the draft legislation. These provisions should provide the implementation of the relevant text of the International Convention/Agreement.

The comments in the third and last column may be an assessment of the harmonisation. In this case, the usual heading of the third column is "level of compliance" i.e. complies, partially complies, does not comply.

Assessment of the degree of harmonisation of the draft legislation with the relevant provisions of the International Convention/Agreement is based on the result in column c).

Very often, when the object of the work is implementation of international legal instrument, there is a need to draft one main bill and to issue several secondary legislative acts. Row 4 shows the list of secondary legislation, which has to be drafted and/or amended additionally.



6 Additional Conclusions

In addition to the methodology on legal harmonisation/approximation and as an integral part of it, further conclusions should be made.

6.1 Definitions

It is well-known that definitions given in legal instruments are extremely important. Unification of definitions is crucial in the process of harmonisation of legislation when several countries aim to approximate the rules and procedures and create a common market for a sector of the economy.

The definitions in *acquis communautaire* are typically placed in Article 2 of the directive. Usually they must be transposed word for word into national law.

This creates a beneficial impact on international policymaking. International organizations and forums build their legal definitions on the consensus of experts, lawyers, and policymakers. Sometimes these definitions have taken years to be agreed.

6.2 Progress Monitoring

As aforementioned, the *acquis communautaire* and the international conventions and agreements are not fixed and once agreed do not remain constant but evolve. That is why national laws have to be adequate and track the progress of international legal instruments.

Countries could have their own unique system for evaluating the level of implementation. In the present report, we recommend the table of concordance as a possible tool.

In a TRACECA context, we could recommend that countries provide complete information, not only for ratification or signature of the international legal instrument, but also for the level of implementation of it.

On TRACECA countries level, a common monitoring system should allow countries to provide progress monitoring for each other and receive from other countries in the corridor:

- regular updates (one or two times/year) on the status of transposition and implementation, including timetables for harmonisation of each international legal act that will be needed for implementation of TRACECA Strategies, and
- updates on changes in EU requirements, legislation or policy that may impact plans for transposition and implementation.

This information will also support IGC TRACECA in determining how to better support a country in the approximation goals for development of the corridor.

Finally, comprehensive progress monitoring will help to ensure correct transposition and implementation. This mitigates the risk of exercising such a different approach from other countries that the harmonisation of legislation in the transport sector along the corridor as an objective is missed.

6.3 Enforcement and implementation

Enforcement and implementation of the international law after ratification and transposition into the national law are the last stages of the harmonisation process as it was mentioned already in the introductory part of the present document.



6.3.1 Enforcing existing legislation

In its White Paper 'European transport policy for 2010: Time to decide', the European Commission indicated the need to tighten up checks and sanctions (particularly for social legislation) on road transport activities, and specifically to increase the number of checks, to encourage the systematic exchange of information between Member States, to coordinate inspection activities and to promote the training of enforcement officers. A recent report of the European Commission [COM (2014) 222] called again the Member States to step up their efforts in enforcing existing legislation more effectively and consistently.

EU regulations (like on driving and rest time) are not enforced in a harmonised and uniform way across Europe. Instead, what exists is country specific or even sub national enforcement areas resulting in a lack of consistent legal interpretations, control practices and sanctions policy. National enforcement authorities and their European Associations have been cooperating with the International Road Transport Union (IRU) and its Members for several years, through dialogue, exchange of information, joint events and projects aimed at making enforcement more efficient and improving regulatory compliance. In 2010, the IRU and enforcement authorities sought to expand and formalise this cooperation through negotiations that led to the signing, in March 2011, of a Declaration of Intent with two European enforcement organisations, Euro Contrôle Route (ECR) and European Traffic Police Network (TISPOL). This document is accompanied by a work programme of concrete measures and joint initiatives aiming to:

- Establish a common EU enforcement environment to complement the common regulatory framework for road transport in the EU which should improve the functioning of the regulatory framework, reduce costs and improve fair competition and road safety;
- Improve standards of regulatory compliance, enhance road safety, develop new contemporary enforcement techniques, and a better working environment for operators, drivers and enforcement officers;
- Encourage the creation of a progressive and cooperative enforcement culture across Europe that improves control efficiency and industry's regulatory compliance through alternative ways of enforcement and preventive measures.

Next to Euro Contrôle Route (ECR) and European Traffic Police Network (TISPOL), the Confederation of Organisations in Road Transport Enforcement (CORTE) is the third organisation in which enforcement agencies cooperate (not limited to EU Member States). CORTE has been especially active with the implementation of the digital tachograph.

Effective enforcement requires commitment - in terms of resources for equipment, personnel and training - aimed to overcome man power intensive methods of enforcement focused on manual checks. In the past, the main method of achieving compliance has been enforcement based on designated officers observing the offence. However, in an attempt to increase the efficiency of enforcement many countries are developing complementary approaches that maximise and target resources. 'Smart enforcement' methods include initiatives in the area of:

- electronic detection of non-compliance like Weighing in Motion (WIM) and digital tachograph;
- use of information technology to gather and apply information on patterns of behaviour, to enable the focusing of enforcement resources on high-risk drivers and operators;



- use of accreditation and safety ratings schemes to encourage the application of safety management systems;

New legislative proposals of the European Commission will lead to increased application of technology to enforce the rules for the digital tachograph and to combat overloaded vehicles. Especially overloaded vehicles can strongly damage roads and decrease road safety.

In order to achieve a comprehensive and effective enforcement management system all authorities and agencies involved in road transport issues need to co-operate closely, not only on the road and premises of road transport companies alone but also at the central level. The aim should be to increase the effectiveness of existing capacities and programmes, and thus minimise policy overlaps and inconsistencies. The overriding purpose should be for all agencies involved to ensure safe roads and market conditions. Finally coordination should lead to a uniform application of the law.

Inter-agency co-operation takes a horizontal approach, whereby the services active at operational level, as well as the central Ministries/authorities responsible for these services ensure proper co-operation and co-ordination. This starts with day-to-day operational contact on the road and at premises of the road transport companies (both at a formal and an informal level), but extends to the need to coordinate discussions on mid- and long-term strategies. The co-operation should lead to optimal addressing of practical questions such as the alignment of policies and practices where relevant, the development of new infrastructure and the funding thereof, the possibility for sharing buildings or IT services, but also the development of common training for present and new staff. For these strategic matters, an interagency working group should be created, discussing these matters on a higher level.

6.3.2 Necessary controls and penalties

The harmonisation/realignment system guarantees the enforcement of the law by providing the necessary controls and penalties to ensure that the law is implemented fully and accurately.

The transport sector is generally international oriented and is regulated by legal instruments often applicable for transport carriers or transport workers of other countries.

Thus, governments should be aware that some regulations require the designation or creation of authorities or bodies responsible for their implementation and enforcement.

Some expressly force countries to define penalties in national law, namely in the civil or criminal code. Even if there is no such provision there must be effective public sanctions to ensure compliance with the international legal instrument.

The national law should ensure that the necessary administrative and procedural measures for implementation and enforcement are in place.

This basic checklist could be used as an additional tool for implementation and enforcement of national laws (Table 2).



Table 3: Basic checklist for implementation and enforcement of national laws

No	Task	Measure	Comments
1	Identify a national competent authority or authorities to implement the rule.		
2	Identify what legislation (if any) is required (e.g. to endorse sanctions or designate competent authorities).		
3	Establish a legislative timetable (as appropriate).		
4	Prepare administrative instructions and procedures for the relevant authorities.		
5	Consult with other concerned government departments and the groups affected by the legal instrument (e.g. importers and exporters; major transport companies; transport organizations).		
6	Determine and provide the necessary staff and resources.		
7	Train staff.		
8	Inform affected industrial sectors, companies, other organizations and the public of what is required.		
9	Provide the relevant documents, forms and certification to the groups concerned.		
10	Monitor system for implementation and information to other relevant authorities as needed.		

This tool could be used by countries during the harmonisation process to plan the future steps for implementation of the international law after accession and ratification. It is useful for measurement of the level of implementation where the ratification passed and there is still a gap of national law.

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