



CONSULTATIVE CONFERENCE

**DRAFT MINUTES
of the Consultative Conference held on 9 October 2012
in Strasbourg**

Chair: Mr van der Werf, Secretary General of the CCNR

Present:

GERMANY	Mr Kaune Mr Wempe Mr Gerhardt	Commissioner Commissioner Expert
BELGIUM	Ms Vanluchene Mr Verschueren Mr Ardui	Commissioner Commissioner Substitute Commissioner
FRANCE	Mr Beaurain Mr Moreau Mr Gries	Commissioner Expert Expert
NETHERLANDS	Mr ten Broeke Mr Muller Mr Mensink Ms Augustijn Mr Kwakernaat	Commissioner Commissioner Substitute Commissioner Substitute Commissioner Expert
SWITZERLAND	Mr Dürler Mr de Zeeuw	Commissioner Expert
AUSTRIA	Mr Birkhuber	
HUNGARY	Mr Matics	
CZECH REPUBLIC	Mr Dabrowski	
ROMANIA	Mr Grigore	
UNITED KINGDOM	Mr Towner	
SLOVAKIA	Mr Vanicek	
AQUAPOL	Mr Oberle	
EBU-UENF	Mr Auderset Mr Rusche Mr Bour	
EDINNA	Mr Mintjes Mr Gebraad Mr Boll	
ETF	Mr Bramley	

ESO-OEB	Mr Keester Ms Beckschäfer
EUROPEAN COMMISSION	Mr Vanderhaegen
CCNR SECRETARIAT	Mr van der Werf, Mr Pauli, Mr Kriedel, Mr Saha, Mr Hofmann, Mr Kordzinski Ms Romeu, Ms Tournaye, Ms Hurbourque, Ms Espenhahn

1. Adoption of the agenda
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The Chair opened the meeting and extended a special welcome to the Observer States and the associations, and to the European Commission's representative, Mr Vanderhaegen. The agenda was adopted, with items 3.1 and 3.2 to be dealt with in inversed order. Item 3.2 would be handled by Mr Vanderhaegen as co-Chair.

SECTION ON A SPECIFIC TOPIC
Situation of crew members:
responses to the shortage of workers in inland navigation

2. Observatory of the employment market

Mr Kordzinski presented the topic, starting with an account of the difficulties such as the shortage of workers – particularly officers – and the lack of precision of the existing analyses. He went on to report on the change in the structure of the market as a result of its liberalisation and expansion, and on the corresponding changes in the social aspects.

He concluded by noting that greater concentration and diversification of the market was increasing the threat to small independent undertakings, and that internationalisation and globalisation were also creating additional obstacles, such as the need for the mutual recognition of formal qualifications.

An appropriate analysis tool would therefore be needed to study, observe and accompany the developments taking place in the employment market.

3. Facilitating free circulation of crew through recognition and modernisation of qualifications

3.1 Mutual recognition: the first results

a) Implementation of administrative arrangements for the mutual recognition of boatmaster certificates and service record books: the first results

Ms Tournaye recalled that administrative arrangements had been signed with seven States not members of the CCNR for the mutual recognition of boatmaster certificates since 2008. A multilateral administrative arrangement for the mutual recognition of service record books had also been concluded in December 2010; this had come into force in July 2011. It was binding on the CCNR and seven non-member States (Romania, Bulgaria, Czech Republic, Slovakia, Poland, Hungary, Austria). Two other States (Serbia and the United Kingdom) had contacted the Secretariat recently with a view to joining the process and thereby obtaining recognition on the Rhine for the certificates they issue.

Recognitions were pronounced on the basis of the equivalence of the conditions for issue, examined essentially according to the regulatory provisions and the examination syllabuses. The examination was thus carried out on a documentary basis and did not take account of practice, which could vary from one country to another at the implementation stage.

Tools should be set up in the near future to ensure a convergence of practices at the implementation stage, thereby making it possible to ensure real equivalence of the conditions for obtaining the qualification.

More specifically, there were plans to organise joint meetings of the examination panels at regular intervals. Such meetings were already regular occurrences at the CCNR. They were usually held every two or three years, and enabled the examination panels to pool their experiences and bring their practices more into line. These meetings would henceforth be open to a wider circle, bringing together the examination panels of all the States bound by administrative arrangements.

There were also plans to set up a centralised databank, enabling any competent authority to have access to a limited number of items of information on valid qualifications in circulation.

Lastly, the methods for withdrawing qualifications or issuing bans on navigation further to repeated infringements of the rules should be set out in detail, and harmonised.

Ms Tournaye asked the associations and Aquapol for their opinions and observations on the practical difficulties encountered during implementation, and for any suggestions for improving the mechanisms set up.

Mr Rusche hoped there would soon be discussions among the examination panels. The CCNR had already carried out a considerable amount of work on recognition and improving cooperation among the authorities, but simultaneous implementation and acceptance had not been possible for many instruments.

He also mentioned the discussion that had taken place in practice to determine whether the service record book was more than merely the proof of physical aptitude, or whether the aspect of navigation time should also play a role. On this point, he was in favour of more information, particularly on the CCNR Internet site, which would enable satisfactory answers to the questions raised by the professional associations, and for greater transparency in order to provide the supervisory authorities and the industry with sufficient security for recognition of these documents.

He emphasised that mutual recognition did not take the place of harmonisation, but priorities had to be defined.

Mr Mintjes observed that mutual recognition of examinations required standards that did not yet exist, and it was therefore treated in an arbitrary fashion; this was both dangerous and unacceptable.

b) Continuation of the mutual recognition process: priority areas

Ms Tournaye reported on the setting up of a new working group, the "Group of experts for the modernisation of qualifications" (MQ/G). The group had met for the first time on the morning of 9 October, and had set itself three objectives:

1. to ensure effective application of the administrative arrangements and, if necessary, take steps to improve implementation;
2. to continue the process of mutual recognition, and in particular the recognition of the boatman qualification, which a large majority had deemed to have priority;
3. to modernise the demands made, and introduce new methods (simulators, etc).

Because of the existing recognition arrangements, CCNR's cooperation with the States was indispensable: the current demands made should now be amended by common agreement, failing which harmonisation could be jeopardised.

In all, fifteen European States where inland navigation was an important activity were concerned; the working group was therefore a reasonable size.

Ms Tournaye concluded by noting that the trend towards harmonisation had been clearly recognised and that to achieve this it was necessary to clarify whether the mutual recognition process was functional. Harmonisation on the part of the European Commission would also be useful on the whole. Three main points needed to be mentioned:

- boatmaster certificates,
- service record books,
- aptitude/qualification.

On this last point, it was necessary to clarify how the national differences could be overcome; a harmonisation framework on an EU scale could possibly be limited to a differentiation between management and the operational level.

3.2 Towards the creation of a European framework for qualifications in inland navigation: presentation and coordination of current work

Mr Vanderhaegen began by thanking Mr van der Werf for the remarkable cooperation with the CCNR. Since NAIADES I had just expired, thinking was already going on to continue this in the form of an intermediary or working document entitled "Moving towards NAIADES II", which defined the main key measures and had been adopted in May 2012. There had been many consultations before the document had been drawn up; they had shown that the question of professional qualification and certification was considered by the stakeholders to be particularly important. A European initiative had been created on this basis. Mr Vanderhaegen indicated the specific stages of the process:

- submission in the short term of a proposal for creating a legislative instrument for professional qualification and certification;
- continuation of the harmonisation of the boatmaster certificate already commenced, taking the modernisation processes into account;
- bringing together the main stakeholders – representatives of the member States (present here), the industry, and the river commissions – in order to draw up an integrative approach with a view to a unified definition of the framework for the main legal requirements necessary for the subsequent legislation; care needed to be taken to avoid carrying work out twice over as a result of a lack of contact and communication. This was why the strategy discussion with the CCNR, which had also taken part in the European Commission meeting on 24 September, constituted a first step towards coordination of the work, with common objectives.

The project drawn up for this on 24 September was in two parts: general legal requirements and blank annexes, which still had to be completed. On the basis of these documents, he presented here the document STF (12) 26 = MQ/G (12) 5 = COA (12) 3.

The European Commission (EC) proposed distinguishing two stages in the process of drawing up the European regulatory framework.

First stage

The EC would submit a proposal for a general framework with the general outlines of its annexes. The proposal should be completed by December 2012. The "Impact Assessment Study" should be carried out at the same time as the framework was being compiled, so that this could be finalised before spring 2013.

If the Impact Assessment Study was positive, the proposal would be submitted to the European Parliament (EP) and the Council in spring 2013, for their approval. The proposal needed to be submitted no later than spring 2013 for the EP to be able to consider it before the end of its mandate.

If the proposal was accepted by both bodies on a first reading, it could be adopted before the EP's mandate ended in October 2014. If a second reading was necessary, the proposal would need to be re-examined by the newly-elected EP, in 2015.

Should it not be possible to submit the proposal in spring 2013, its submission to the EP and to the Council would have to be postponed until 2015. It takes between one and two years for a legislative proposal to be adopted, depending on whether it is adopted on its first or second reading. Despite being a priority objective, the legislative proposal could not then be adopted before 2016-2017.

As part of this first stage, the annexes would need to present the objectives, the perimeter of the work to be done, and the parameters to be taken into account. These should supply enough information to enable the legislative bodies to appreciate the future meaning and content, but their detailed drafting should be reserved for a later stage. The EC representative invited all the stakeholders to volunteer to draft the main outlines of some of the annexes.

A separate contract would need to be concluded with a firm of consultants (Pantea); the EDINNA representatives would thus participate in drawing up the content and the Impact Assessment Study. The resources available on the basis of this contract could also be made available to those persons volunteering to draw up the annexes as part of this first stage.

Second stage

The annexes would be drawn up in detail. The EC proposed delegating this work to a third-party body comprising government experts from all the EU member States wishing to participate. The other stakeholders in inland navigation, more particularly the river commissions, the social partners and the representatives of the training institutes, should also take part in the work.

The European regulations would then refer to standards drawn up by the third-party body. These standards would be presented in the form of "implementing acts" and could therefore be adopted at the European level using a less weighty procedure (comitology, for example).

Although he understood the two-stage procedure, Mr Verschueren expressed a degree of uncertainty as to the possibility of implementation. He doubted that it was possible to create a regulatory framework without clarifying its details.

Mr Mensink remarked that the objectives defined in the framework programme should make it possible to supply a structural basis, including with regard to financial resources.

Ms Beckschäfer (ESO-OEB) wondered what legal basis could justify EC competence in the field of the harmonisation of training courses in inland navigation.

Mr Towner commented that the project was vast. He mentioned as an example the 90-page document COA (12) 14 which was to constitute Annexe I of the regulatory framework. He also stressed that the training measures involved substantial expense, and he wondered whether people were fully aware of the extent of the cost.

Mr Vanderhaegen replied that he was aware that this method of proceeding was not simple, but that it was necessary in order to keep within the limited deadline imposed by the end of the EP and Commission mandates. Moreover, clarification of matters of detail was linked to a supplementary document setting out the result of a research initiative with the participation of the EDINNA on the definition of the various competences. This foundation work should make it possible to draw up the key elements for Annexe I (definition of professional abilities, with one or two pages summing up the essential points of the 90 pages of the document), to be able to then launch the process of defining common standards.

As for the financial aspect, forecasts should not be too high – there would not be any massive movements of money. A whole series of operational activities would certainly be necessary for implementation, but efforts would be made to work with instruments and resources already in existence.

Mr Moreau wondered about the Impact Assessment Study in the event of the 1996 Directive 96/50 (qualification for the boatmaster certificate) being replaced by the legal framework presented on 24 September, and what form expansion to other professions and crew members could take (recognition of the boatman qualification, for example).

Mr Kaune did not understand why the European Commission was exerting such pressure in terms of a deadline because of the end of its mandate; he felt it was necessary to review the respective roles of the EC and the CCNR, the former being limited to the legal framework. Last but not least, this pressure for sending documents did not allow enough time to discuss the matter within the ministries concerned.

While a degree of dynamism was desirable, it was necessary to prevent new regulations that were insufficiently mature creating more legal uncertainty than clarity.

Mr Vanderhaegen stressed that it was by no means a matter of creating a framework of no substance, but of defining initially the main demands, to be able to subsequently develop in detail the technical requirements as part of a longer process; it could even be possible to react in writing to the observations and proposals for alterations. It was a matter here of a written process including all the stakeholders which should lead to a rapid result.

Mr Mensink approved the Commission's proposal. He saw in this method of proceeding not only the opportunity to implement quickly the desired harmonisation in Europe, but also the possibility for the CCNR to occupy a central position.

Mr Moreau disagreed with Mr Kaune and said that, despite every effort at cooperation and constructive work, the time allowed was insufficient.

Mr Mintjes added that, because of the international nature of inland navigation, harmonisation in the field of initial and lifelong professional training should be viewed from the position of the shortage of workers.

Ms Vanluchene agreed with the doubts expressed by the German representative. In the context of the modernisation of service record books and logbooks by the new technologies, etc, it was impossible in the space of three months to incorporate the many unknown parameters in a legal framework likely to then supply, together with the technical annexes, a functional system. She raised the issue of the degree of continuity within the European Commission after completion of its current mandate.

Mr Towner was also opposed to a rushed procedure, and proposed beginning by questioning the industry itself on its requirements (initial and lifelong professional training).

Mr Rusche added that it was difficult to evaluate the consequences for the industry and the economy, and pleaded in favour of not the fastest possible solution, but the best possible solution.

The Chair said that this was an initial process, which meant that resolutions would not be adopted, but initiatives would merely be discussed with a view to drawing up a specific proposal; the terms of reference covered three aspects: a) the definition of specific objectives, b) the choice of instruments and methodology, and c) the definition of the organisation in the medium and long term (including the structural cooperation between the European Commission and the CCNR). He felt that the doubts expressed as to the short amount of time allowed were justified, but thought that the limited amount of time might also serve as a stimulus.

Mr Vanderhaegen agreed wholeheartedly. This would have the advantage of not becoming bogged down by details that could be discussed subsequently. The EC proposal would be available next year; there would be time for making adjustments. If the project should prove impossible to carry out, it would be completely revised and conclusions would be drawn from the process.

Mr Bramley raised the objection that the process of drawing up job descriptions at the European level had been under way for the past six years, and that the 90-page report was the result of the last meeting in Vienna in 2006. He also recalled that the document had been communicated in recent years in the form of an STF document. He concluded that the social partners, experts, etc had already carried out a substantial amount of work, and he wondered what was preventing a decision being made.

Mr Kester (ESO-OEB) was in favour of rapid mutual recognition of the boatman qualification. This could be done in parallel with harmonisation, although boatman recognition really should not be put off any longer.

Ms Tournaye said that the presence at the meeting of all the stakeholders, including the European Commission and EDINNA, was already an excellent start, and allowed progress to be made.

Mr Vanderhaegen therefore asked for feedback by the end of the following week (19 October) on the concept set out in document STF (12) 26, and for suggestions for the rapporteurs, so that the proposed annexes could be completed.

He invited the Secretariat to help with coordinating coordination between now and the next meeting.

Mr Birkhuber thought that, before drawing up the annexes, it was necessary to clarify the levels of qualification of crew members and the matter of boatmaster certificates differentiated by size category (as requested by the Danube Commission). It would be difficult to word the requirements if it were not clear what the qualifications should be.

The Chair admitted that there was still considerable need for clarification, but felt that the matter could not be dealt with in greater detail here and should be dealt with in a working group.

Mr Vanderhaegen emphasised that the present document was a preliminary draft. A second, more substantial, draft would be drawn up after comments had been received at the end of the following week.

4. Improving the socio-professional conditions of crew members (see attached presentation)

Ms Tournaye said that the shortage of workers was mainly connected with working conditions. Social schemes were still mainly governed by national law. European law was essentially limited to laying down the rules for being covered by the applicable national law. These rules were underpinned by the usual principle in international private law according to which employees must be attached to the State with which they maintain the closest links by virtue of their professional situation. This is reflected in European law by the adoption of criteria which, while they are appropriate for situations involving sedentary work, prove unsuitable for mobile workers such as crew members.

Because of these difficulties specific to the transport sector, and more particularly to inland navigation, the stakeholders in inland navigation had decided to maintain the rule of determining the applicable legislation contained in the 1979 Rhine Agreement and to refuse application of the rule contained in the new Regulation (EC) No. 883/2004 on the coordination of social security systems. A waiver agreement, in accordance with Article 16 of Regulation (EC) No. 883/2004, had been concluded to that effect.

Although it diverged from the rule laid down in Regulation (EC) No. 883/2004, the Rhine rule remained fully in compliance with the principles of European law, since it allowed greater respect of the general principle that underpinned all European rules for being included in a scheme and by virtue of which boatmen had to be included in the social security scheme of the State with which they maintained the closest links by virtue of their professional situation.

The Rhine rule used the registered office of the actual operator of the vessel as the criterion for affiliation to a national social security scheme. To ascertain the registered office of the actual operator, it referred to the certificate of belonging to Rhine navigation and the owner's certificate, both issued by CCNR member States by virtue of CCNR Implementing Regulation 1984-I-3, and by the other EU Member States by virtue of Council Regulation (EEC) No. 2919/85.

It was nevertheless necessary to check whether these regulations were being applied correctly by all the issuing authorities, as the regulations were already relatively old and their objective was not necessarily properly understood by the issuing authorities, particularly in the new EU Member States, which were not fully familiar with the regulations.

The CCNR, for its member States, and the EC, for the other EU Member States, had begun studying the method for issuing the owner's certificate using a questionnaire; the study would be continued within the CASS and the EU's Committee on Inland Navigation. The objective was to provide guidelines for issuing owner's certificates in order to be able to determine the "actual operator" of a vessel.

As soon as the effectiveness of the regulations was established and ensured, they could be extended to all European inland navigation and even also used to determine the applicable employment legislation, subject to the agreement of the social partners.

Mr Rusche approved the initiative and emphasised that those member States which were members of the CASS had found a satisfactory approach. He was in favour of making this approach also applicable to other European States, in accordance with Article 16. He thanked the Secretariat for organising the constructive discussions that had taken place with the unions, employers and social security representatives, and hoped that the matter would continue to make progress in the same fashion.

GENERAL SECTION

5. **Mooring berths and shipyard infrastructures for tanker vessels** COA (12) 1

Mr Rusche feared that the port of refuge at Cologne-Mülheim would be lost, as it had been displaced by other uses. There were few mooring berths on the Rhine accessible to vessels carrying dangerous goods, and even fewer capable of providing repair services in the event of accidental damage – Cologne offered both. The port was therefore extremely important for Rhine navigation in general and tanker navigation in particular. The inventory activity carried out by the CCNR did not pay enough attention to ports of refuge. At the very least, the existing infrastructure should be preserved, and it was necessary to think generally about its potential for extension. He therefore invited the CCNR to make every effort to protect this infrastructure, and proposed the drafting of explicit correspondence on this point.

Mr Wempe agreed with Mr Rusche, since the port of refuge at Cologne-Mülheim occupied an extremely important position and the navigation administrations had already expressed their support for maintaining it and possibly extending it to vessels with two cones. The German administration (WSV) was currently in discussion with the investor and the Chamber of Commerce and Industry. It would be useful to have the benefit of support from the CCNR and from the industry.

Mr Pauli said that the next meeting of the Standing Technical Committee provided an opportunity to react and to agree on what support the CCNR could provide, while the industry and the administration could agree on how to go about it.

Mr Mensink asked if there were already instructions to that effect, or if the Standing Technical Committee needed to be instructed first by the Preparatory Committee.

The Chair said that in the first instance it was a matter of expressing the CCNR's point of view so that a solution could be found quickly. Moreover, the issue was relevant to all river ports, and a demonstration of support in the form of an advocacy was therefore important. A letter from the Secretariat appeared to be appropriate.

6. **Information on a number of key projects currently being prepared within the CCNR** *Verbal presentation by the Secretariat*

According to Ms Beckschäfer, top priority should be given to the transitory prescriptions, as in the meanwhile the situation had become dramatic for many boatmen. Many undertakings – particularly the smallest – would have to close down if the regulations were to be implemented in the manner described in the document. She was therefore in favour of implementing the Dutch delegation's proposal, and of rapid discussion within the CCNR.

Mr Pauli said the matter had already been discussed by the working group, but that it appeared a rapid agreement would be difficult. The matter was on the agenda for the meeting of the Inspection Regulations Committee which was to be held the following week. He hoped a decision could be reached on a number of key points, so that it would then be possible for the working group to quickly reach specific proposals.

Mr Rusche agreed with Ms Beckschäfer. The Dutch delegation's proposal was one possible procedure; however, the Dutch delegation was considering solely the transitory prescriptions that have been expired in 2010, rather than the ones until 2015. He therefore invited the delegations to sketch out a schedule at the next meeting, and said he was ready for a constructive discussion with the CCNR in order to draw up alternatives for the transitional technical prescriptions.

Mr Pauli thanked them for drawing attention to the urgency of the situation, and for the assurance of support from the industry; he therefore intended to report on the Dutch proposal to the Inspection Regulations Committee.

Interruption of lock services on the Upper Rhine

Mr Kester recalled the repairs to the locks on the Upper Rhine. Many closures – sometimes lasting several months – were announced for 2014, so that navigation transport was no longer guaranteed. He therefore asked what measures the CCNR planned to adopt.

Mr Rusche was concerned that accidental damage during a relatively long period of closure of a lock chamber raised the risk of long-term interruption of navigation on the Upper Rhine.

Mr Gries said that the authority of the Strasbourg Navigation Service had been repealed in 2012 and that EDF managed most of the old locks on the Upper Rhine. EDF was currently facing a large-scale and difficult problem. The aim of the meeting on the interruption of lock services was to set out the problems raised by these interruptions.

The Chair recalled a discussion with the French delegation and EDF some time previously that had given the necessary impetus to improving the management of locks and repair activities. If this should prove to be insufficient, however, it would be necessary to discuss new initiatives at a meeting of the Standing Technical Committee. In any case, it was important for the CCNR to ensure that inland navigation could be maintained even while repair work was being carried out on the locks of the Upper Rhine.

Mr Saha added that the last TP/G meeting, in which the industry had also participated, had received a report of the meeting on the interruption of lock services. There was therefore close contact among the authorities concerned and the CCNR. As soon as the French administration submitted the minutes of the meeting on the interruption of lock services, these would be passed on to the TP and to the TP/G, and the delegations and the industry would be able to examine specific information. Any problems had been covered regularly at meetings of the Standing Technical Committee.

Mr ten Broeke said that the Dutch delegation had not been informed of this process, and proposed dealing with this topic, in view of its priority status, at a meeting of the Preparatory Committee.

Mr Beaurain said that the interruption of lock services had been scheduled and announced a number of years in advance. Discussions with the navigation industry were lively because it was an important subject. He was more than happy to include the subject on the agenda for a meeting of the Preparatory Committee.

The Chair agreed to a discussion of fundamental aspects at a meeting of the Preparatory Committee, and of technical aspects at a meeting of the Standing Technical Committee, with the participation of the industry.

7. Other business

Mr Matics (Hungarian delegation) referred to the issue of the mutual recognition of service record books. The entry into force of the agreement had resulted in Hungarian boatmasters sometimes being challenged by the German or Dutch authorities (Article 5.2). Problems were therefore being encountered, which had not been the case previously.

Ms Tournaye replied that this matter would be raised at the next meeting of the MQ/G, as implementation was indeed causing problems. She invited the Czech, Hungarian and Slovakian delegations to prepare a written communication for the next meeting to allow an actual *modus operandi* to be adopted.

Ms Augustijn therefore invited the Secretariat to send written notification (by e-mail) before the meeting in January, so that she could devote herself to the topic in advance.

The Chair approved this proposal. He closed the meeting and thanked the European Commission for its first participation, which had also made it possible for it to gain closer contact with the industry. He said he would appreciate future participation on the part of the EC.
