Call to Benelux leaders to accelerate permitting for strategic cross-border projects

Across Europe, energy infrastructure development and permitting remain decisive bottlenecks for turning investment intentions into realised projects. This threatens the EU's competitiveness and stalls clean energy rollout.[1] Permitting approvals can sometimes take seven to nine years, with a few cases exceeding ten years, consuming an estimated 10-35% of the total project value.[2] New electricity grid infrastructure often requires five to fifteen years from planning and permitting to completion.[3] These issues are particularly acute for large cross-border strategic projects.

As a leading industrial hub with major ports in Antwerp and Rotterdam, **the Benelux is uniquely positioned to lead Europe's industrial transition** – but only if it can build the enabling infrastructure swiftly and predictably.

The region is currently hampered by issues such as **regulatory fragmentation, protracted delays, and "gold plating"** – national requirements that go beyond what is strictly required under EU law or the applicable regulatory framework. These obstacles are compounded by the high legal vulnerability of permits, which are frequently challenged by third parties even after project developers have met all substantive requirements, and procedural complexity linked to environmental assessment requirements.

The failure to streamline permitting has tangible consequences, including **industrial flight**, where companies relocate to regions with more predictable regulatory environments. Furthermore, these delays result in **slower decarbonisation** and undermine EU and national climate and energy objectives, making it increasingly difficult to meet the 2050 climate neutrality goal.

The Benelux should act as a frontrunner in the transition through Article 350 TFEU, which allows the region to act as a testing ground for a harmonised and integrated permitting framework. Through such an approach, the region can demonstrate to the rest of Europe how cross-border bridge building can overcome national stalemates.

The **Benelux Business Roundtable** (BBR), a coalition of industrial, energy, and infrastructure stakeholders across the Benelux, aims to address this issue through this paper. By identifying key permitting bottlenecks

[1] IEA (2025), *World Energy Investment 2025*, IEA, Paris, https://www.iea.org/reports/world-energy-investment-2025, Licence: CC BY 4.0.
[2] Piotrowski, Michał and Marushia Gislén (17 September 2024), "How permitting processes are hampering Europe's energy transition," World Economic Forum, https://www.weforum.org/stories/2024/09/wind-energy-permitting-processes-europe/.
[3] IEA (2023), *Electricity Grids and Secure Energy Transitions*, IEA, Paris https://www.iea.org/reports/electricity-grids-and-secure-energy-transitions, Licence: CC BY 4.0

and proposing both immediate "quick wins" at Benelux level to provide clarity to industry today, and longer-term initiatives which can best be tackled at European level with an aligned position.

The BBR proposes a coordinated approach at Benelux level: the establishment of a **formal Benelux agreement** through the Benelux Union**,** adopted by its Committee of Ministers, and ratified by the national Parliaments, to create a legally binding framework for strategic cross-border infrastructure projects.

Within the framework of the agreement, a **suite of actionable solutions should be taken in the short and middle term**, including but not limited to:

- **Harmonised methodologies:** Aligning standards to prevent conflicting requirements for the same project, for example on emission calculation.
- **General derogations:** Allowing strategic projects to bypass outdated zoning plans without full rezoning procedures.
- **Procedural and stakeholder improvements:** Implementing a "single round" of admissibility questions, legally enforceable timelines, early stakeholder engagement, and a "procedural pause mechanism" to resolve technical disputes without restarting the clock.
- **Legal stability:** Introducing an estoppel mechanism where parties must raise objections during the draft decision phase or lose the right to raise them in later appeals.

This framework would be operationalised through two bodies: a **cross-border permitting taskforce** established under the Benelux Agreement and the **Benelux Court of Justice**.

The taskforce would serve as the **centralised decision-making body** for the determination and application of the rules governing cross-border strategic projects falling within the scope of the Benelux agreement, including, but not limited to: the determination of applicable regulatory standards and methodologies for each cross-border strategic project within its scope, deciding which projects qualify as cross-border strategic projects, coordinating and monitoring competence, streamlining communication between the local authorities, permit applicant and stakeholders, managing a **Benelux regulatory sandbox framework**, and function as a hub for direct knowledge-sharing on complex regulatory requirements.

The taskforce shall be governed by the Committee of Ministers of the Benelux Union and the Administrative Council, the latter of which is composed of mandated representatives of the competent permitting authorities of the Benelux countries, supported by technical experts in key domains relevant to cross-border permitting.

The **Benelux Court of Justice** would have jurisdiction over (i) challenges against the binding decisions of the taskforce, including decisions on the qualification of projects, the determination of applicable rules, (ii) questions of interpretation of the Benelux agreement, and (iii) disputes regarding the application or interpretation of the Benelux agreement.

Annex II goes into the full legal framework into more detail. Annex III provides potential solutions to remove permitting bottlenecks within the context of the framework, while Annex IV provides other recommendations that the Member States could put into action outside of the framework.

Much of the friction within permitting processes can be traced back to implementation of EU legislation. The Benelux agreement would serve as a mechanism to **align the three Member States on critical EU files related to permitting**. Through a unified Benelux voice and a joint commitment to resolving permitting roadblocks, the three countries can amplify their influence at the European level. Annex V provides an overview of EU policy files which the Benelux countries could jointly position themselves on.

The BBR invites policymakers and industry to engage with these proposals to break through silos and increase awareness of the necessity of these projects. The Benelux Agreement, and related governance framework, should be set up by **the end of 2026**. The announcement of the Benelux Agreement could be made jointly during a **dedicated Benelux Summit held in Q4 2026**.

By implementing the framework outlined in this paper, we believe that the Benelux can accelerate decarbonisation, strengthen growth, and **ensure the region remains a global hub for investment**.

Annex I: Addressing permitting obstacles in the Benelux

Recent EU initiatives to facilitate and accelerate permitting, such as Renewable Acceleration Areas, Net-Zero Acceleration Valleys, and Hydrogen Valleys, represent progress but remain insufficient. New European Commission proposals such as the Industrial Accelerator Act, the Environmental Omnibus and the Grids Package, form another step in the right direction. But these proposals, as currently constructed, offer Member States quite some leeway when it comes to implementation. Both the EU and its Member States will therefore have to assume responsibility: ambitious policy and implementation.

The Benelux can add value by aligning permitting processes, harmonising standards, and prioritising strategic projects at the regional level to focus resources on initiatives with the highest societal impact. Through coordinated regional action and strategic use of Article 350, the Benelux can serve as a testing ground for integrated energy and industrial infrastructure.

Gathering input from its members and relevant stakeholders, the BBR finds that **permitting challenges in the Benelux are multifaceted.** While these challenges are particularly pronounced in the Netherlands and Belgium, the outcomes found that permitting challenges have been less pronounced in Luxembourg.

Each Benelux member state operates its own distinct permitting framework, with its own procedural rules, timelines, and substantive requirements. For projects with a cross-border dimension, this fragmentation multiplies the administrative burden and creates a risk of inconsistent or conflicting decisions across jurisdictions.

Unclear definition of “strategic projects” and lack of explicit trade-offs

Current frameworks lack clear criteria for defining strategic projects, remain unclear as to how such projects should benefit from ‘priority treatment’ in permitting procedures, and do not explicitly balance local impacts against broader societal and public-interest objectives. This also includes the need to achieve EU and national climate, energy and decarbonisation targets, compliance with which is itself increasingly subject to (legal) scrutiny. Certain externalities are inherent to industrial development, even for projects supporting climate mitigation or environmental protection. Without explicit political guidance and long-term planning, investment predictability and project viability are reduced.

Regulatory barriers: gold-plating

National (or regional) regulatory frameworks can impose requirements that go beyond what is strictly required under EU law or the applicable regulatory framework (“gold-plating” EU requirements). Additionally, these frameworks may diverge in the interpretation of law (e.g. EU environmental legislation)

or provide unclear definitions. In some cases, Flemish and Dutch authorities apply strict interpretations of environmental legislation, leading to detailed studies and stringent permit conditions that may affect operational continuity. Moreover, last-minute changes in EU requirements often necessitate further iterations, resulting in increased administrative and financial burden on project developers and an uneven playing field across the Benelux.

- For example, Dutch authorities classify cracker furnaces as large combustion plants rather than chemical reactors, making them subject to the stricter NOx limit of 80 mg/Nm³ under Dutch law (Chapter 4.3 of Environment and Planning (Activities) Decree 'Bal', Article 5.5(1)) than the EU-wide requirement of 100 mg/Nm³ in the EU Industrial Emissions Directive (IED) (Article 30(7)). This is merely for basic chemistry reasons, such as lower gas volumes, hence the higher NOx concentrations. Current hydrogen-firing technology cannot meet this threshold. This results in projects not being able to obtain the permit.
- Another example shows that for activities below groundwater level; detailed groundwater models are often required to assess impacts on nearby protected areas. Strict regulatory interpretations can lead to restrictive permit conditions, even for small, predicted changes, which are difficult to scientifically measure and often smaller than natural seasonal variations.
- Similarly, regional industrial circular economy projects encounter gold plating in raw material declarations under waste law, creating additional administrative burdens that do not exist in neighbouring countries. Different interpretations of the end-of-waste status in the Waste Framework Directive slow down industry. For example, in Flanders, raw materials declarations for waste-derived materials are processed through a specific waste-law track that often operates in a vacuum, whereas neighbouring jurisdictions often allow for more direct integration with product regulations or utilise self-assessment frameworks.

Beyond gold-plating, rigid permit structures can also hinder the scale-up of innovative circular processes, particularly where temporary testing activities fall outside existing permit scopes.

Regulatory barriers: EU environmental legislation

Interaction between EU environmental legislation, notably but not exclusively directives (Habitats, Birds and Water Framework Directives, Nature Restoration Law), and national permitting procedures leads to significant delays and legal uncertainty, especially for strategic industrial and infrastructural projects. Thus, fragmented and overly layered permitting frameworks regularly obstruct progress. Additionally, procedural requirements under the Aarhus Convention and EU norms on environmental assessment increase complexity and legal vulnerability, particularly for cross-border projects and projects benefitting

from permitting simplification measures or specific zoning frameworks. Fragmented and overly layered permitting frameworks therefore regularly obstruct progress and increase legal vulnerability.

Waste Framework Directive

In particular, the 'non-deterioration' principle of the Water Framework Directive (WFD) leads to complex situations and to different interpretations on discharge limits and standards, such as in the application of standards when determining the chemical and ecological status of water bodies. The WFD does not clearly define that the 'non-deterioration' principle must be applied on a time scale instead of a special scale (downstream discharge point vs upstream discharge point). The directive also does not impose an EU-wide, uniform, scientifically well-founded methodology for deriving Environmental Quality Standards (EQS) for River Basin Specific Substances, such as cobalt, leading to fragmented EQS standards for cobalt and creating an unequal playing field. In Flanders, EQS are applied that are not rooted in EU legislation.

- An example shows that permits have been suspended due to the risk of possible PFOS emissions during construction, including groundwater extraction. In this case, there was insufficient investigation into whether permitted PFOS discharge levels would negatively impact surface water (PFAS levels in the water body already exceeded). Authorities failed to assess whether the water quality would deteriorate further, violating the non-deterioration principle of the WFD. Compliance is uncertain, although, in the case of groundwater extraction/dewatering/drainage activities, no extra pollution is added to the system. Permitting requirements often disregard the availability of cost-efficient purification technologies and the overall environmental benefits. Moreover, permitting differs between the Netherlands and Flanders.

Permitting for discharges is further complicated by the poor status of many receiving surface waters. Due to the strict application of the non-deterioration principle, even relatively small emissions can lead to permit refusals or delays.

The "one-out-all-out" principle used to determine ecological status can furthermore maintain a poor classification even where significant improvements have been achieved on other parameters.

Habitats Directive

The principle of Imperative Reasons of Overriding Public Interest (IROPI) establishes an exemption to facilitate large energy infrastructure projects. In practice, however, it is very difficult to apply the principle due to the strict conditions set by the EU Court of Justice case law and the extensive procedural and assessment requirements linked to environmental review and public participation obligations.

Regulatory barriers: legal vulnerability of permits

A major challenge is the legal vulnerability of permits, even when they are granted. Current procedures allow third (local) parties to challenge granted permits for infrastructure, often with limited thresholds regarding their direct interest or the proportionality of the impact, and with the use of unsubstantiated arguments. As a result, permits may be suspended or set aside shortly after being issued, even where project developers have complied with the applicable procedural and substantive requirements. This can create legal uncertainty for project developers, particularly in the case of large-scale and capital-intensive infrastructure projects. The relative ease with which permits can be challenged may affect investment decisions, lead to delays in project implementation and increase financial risk.

Regulatory barriers: Easement rights for energy infrastructure

The legal framework governing easement rights for energy infrastructure remains challenging (requests to modify or relocate existing infrastructure). This rerouting of energy infrastructure can entail substantial costs and may affect the continuity and reliability of critical energy transport services. Therefore, requests to alter or relocate existing assets would benefit from being assessed against clear criteria of necessity and proportionality.

Long permitting procedures

Long procedures for permitting are a key obstacle to project development, including the sometimes-excessive standards applied for environmental impact assessments, often resulting in multi-year assessments laid down in extensive reports.

- For TSOs in the Netherlands, grid projects can face long lead times (e.g. 8-10 years) due to complex procedures.
- Developing greenfield areas for mining often takes even longer (twenty years). Permit renewals take around two to five years.
- For carbon storage licences, the permitting process often takes (substantially) longer than the statutory 12-18 months. More generally, long approval timelines and permit appeals, followed by a lengthy process to resolve, add to the problem. Unnecessary differences in storage-license requirements between EU and Dutch legislation have also proven to slow down the process by an expected 6 months.

Cross-border issues and coordination

Weak inter-agency coordination has been flagged as further complicating cross-border coordination challenges. This includes slow interactions between ministries, advisors, EU bodies, and project teams, which in turn lead to permitting delays.

Additionally, disparities in national regulations, often rooted in different political and legal approaches and a lack of coordination regarding the permitting process (e.g., limited space within existing zoning plans, lack of available room impacting carbon storage operation) between neighbouring countries, complicate the development of cross-border infrastructure projects, such as CO_2 and hydrogen networks.

Nitrogen

Cross-border emissions create additional challenges. For example, NO_x emissions from ports contribute to nitrogen deposition in natural areas of a neighbouring country. Impact assessment of such depositions is conducted differently across borders (different tools, applicable thresholds and norms).

Additionally, differences in nitrogen permitting approaches across the Benelux further complicate cross-border projects. In the Netherlands, the nitrogen framework is characterised by a precautionary principle and strong legal rigour, with a dominant role for the Critical Deposition Value (KDW) applied through the AERIUS model, resulting in highly restrictive licensing. In Flanders, the approach places greater emphasis on balance and administrative steering, with the KDW playing an indirect role through an impact score system and permitting decisions based on defined thresholds. In Luxembourg, nitrogen forms part of a broader integrated environmental policy, where climate impacts are weighed more heavily than nitrogen considerations, and permit restrictions related to nitrogen occur only rarely.

Inconsistent nitrogen-deposition methodologies across the Netherlands, Belgium and Luxembourg can negatively impact cross-border infrastructure projects by:

- Producing contradictory deposition results, leading to conflicting permit decisions.
- Misaligning regulatory thresholds and procedures, causing delays or denials.
- Using divergent emission inventories, leading to incompatible EIAs.
- Operating at different spatial resolutions, making impacts visible in one country but not another.
- Handling uncertainty differently, increasing legal and administrative disputes.
- Attributing sources differently, making joint mitigation planning difficult.

Additionally, delays linked to nitrogen constraints currently affect energy infrastructure projects (e.g. electricity, gas) in the region, directly impacting industrial investment, housing, and energy system reliability. While grid expansions generate only limited, temporary nitrogen emissions, they are essential to achieving sustained emission reductions by enabling the electrification of industry and mobility.

Administrative capacity and accountability

Administrative constraints continue to affect permitting processes. Limited resources, knowledge and insufficient capacity or staffing at the Ministerial level constrain timely decision-making. This is compounded by inconsistent application of permitting procedures and differences in opinion between different advisors within the ministry, leading to conservatism and a slowdown.

Additionally, licensing authorities do not consistently adhere to their own timelines without consequences, which can extend approval timelines, hindering project initiation and progress.

Overall, a clear, shared understanding among all relevant actors of the procedural steps and requirements for permitting to deliver cross-border projects, particularly for complex cross-border infrastructure such as CO_2 networks, is essential.

Stakeholder engagement

The risk of legal appeals (even with good stakeholder engagement) by stakeholder opposition can slow down or block critical projects, even when they are aligned with climate goals. For example, while CCS is recognised as vital for climate goals and is supported by some NGOs, opposition from others can trigger appeals that slow down or block permitting decisions. More generally, local stakeholder opposition adds to the problem.

Lack of space

There is limited availability of spatial implementation plans that proactively reserve corridors for future energy infrastructure.

- A major challenge for national infrastructure projects by TSOs in obtaining permits is securing a suitable location for compressor stations, particularly in regions where there is little to no space available within existing zoning plans. Ideally, such plans would already designate specific corridors or zones for anticipated energy infrastructure needs. Advance designation would enable projects to be developed and implemented more efficiently once a viable business case has been established and a Final Investment Decision (FID) has been taken. In the absence of pre-identified

corridors, projects led by industry or infrastructure operators are exposed to greater spatial uncertainty and an increased risk of delays or conflicts. In many cases, project developers must seek derogations from existing zoning plans, which can be difficult to justify under general planning principles that do not expressly recognise the strategic nature or public interest of such infrastructure projects. This can complicate project planning and, in some cases, affect the timely delivery of investments in critical energy infrastructure.

- Companies also encounter great difficulties in getting new zoning plans approved for mining areas due to societal pressure on the open space. While plan-driven zones provide clarity, it is essential to retain a project-driven pathway that allows companies to propose projects which may justify zoning amendments.

Annex II: Proposal for a Benelux agreement

Large-scale infrastructure and strategic projects across the Benelux face a range of structural permitting challenges that significantly affect their feasibility, timeline, and legal certainty. These problems are particularly acute in the context of large cross-border strategic projects, such as energy infrastructure and transport corridors, that have significant effects on multiple Benelux jurisdictions simultaneously.

The need for a coordinated Benelux approach

The cumulative effect of these challenges makes a compelling case for a coordinated approach at Benelux level. A harmonised framework specifically designed for cross-border strategic projects would address the root causes of permitting fragmentation, reduce unnecessary delays and legal uncertainty, and ensure that projects of shared strategic importance can be delivered effectively and within reasonable timeframes.

The following sections set out the legal basis for such a framework and the concrete steps required to establish it.

The **Benelux Union**, established and governed by the Benelux Treaty, provides an existing and proven framework for deepening cooperation between Belgium, the Netherlands, and Luxembourg. The Treaty's objectives are broad in scope and explicitly include the improvement of cross-border cooperation at all levels, the development of an economic union, the promotion of sustainable development, and cooperation in the fields of justice and home affairs. These objectives are directly relevant to the proposed framework.

Benelux agreement

For the purposes of the proposed framework, the relevant instrument would be a **Benelux agreement** adopted by the **Committee of Ministers**. Such an agreement would formalise the coordinated approach to permitting for cross-border strategic projects and create the legal obligations necessary to give it effect in each member state. The adoption of such an agreement would require a positive vote by each voting minister within the Committee of Ministers. Each Benelux member state holds one voting position. It is important to note that, in the case of Belgium, the complexity of its internal constitutional structure means that the upfront agreement of the three Regions would need to be secured before Belgium's voting minister can cast a vote. The mechanism for achieving this internal alignment, typically through the Interministerial Conference on Foreign Policy, should be factored into the planning and timeline for the proposal.

Following adoption by the Committee of Ministers, the agreement would require **ratification by the parliaments** of each Benelux member state before it can enter into force. Again, given Belgium's federal structure and the division of competences, ratification will have to go through separate parliamentary approvals (taking into account the subject matter).

In principle, this suffices to create a Benelux Agreement. However, in addition to the ratification process, certain aspects of the proposed Benelux agreement may require a further internal Belgian instrument, namely a joint agreement (*samenwerkingsakkoord / accord de coopération*) between the Belgian Regions. This would be necessary in particular where the agreement creates new institutional structures or bodies (for example, a coordination body for cross-border permitting) in which Belgium needs to be represented. In such cases, the Regions would need to agree amongst themselves on how Belgium's representation is to be organised and exercised.

Scope and procedural provisions under the proposed Benelux agreement

Scope

The proposed Benelux agreement is limited in scope to **cross-border strategic projects**. This targeted scope is intentional and justifies the specific framework proposed: by focusing exclusively on projects of the highest strategic importance, the agreement avoids overreach whilst ensuring that the most impactful and complex projects benefit from a streamlined and coordinated approach.

Strategic

For the purposes of the agreement, a project will qualify as a strategic project where it relates primarily (though not exclusively) to climate adaptation, circularity, and the scarcity of natural resources. Qualifying project types include, in particular:

- CO_2 capture and pipeline infrastructure
- Recycling projects in view of creating new raw materials
- Ammonia production and transport projects
- Hydrogen networks and distribution infrastructure
- Electricity grid expansions and reinforcements
- Energy storage facilities

This list is indicative and non-exhaustive. Pursuant to the Benelux Agreement, the Committee of Ministers may designate additional categories of projects as strategic in light of evolving policy priorities at Benelux and EU level.

Cross-border

A project will be considered cross-border when the project concerns infrastructure that is physically located, or will be physically located, in two or more Benelux member states.

Institutional framework and operationalisation of the agreement

The effective functioning of the proposed framework requires that the institutional body established under the agreement be vested with genuine and binding decision-making authority. Experience demonstrates that frameworks which merely set out principles or guidelines for applicable rules, without conferring centralised decision-making power, leave excessive room for divergent interpretation and application by individual member states and permitting authorities. For large-scale and strategic cross-border projects, such fragmentation is incompatible with the objectives of legal certainty, investment predictability, and timely project delivery. Accordingly, the agreement shall establish an institutional body with legal personality and the competence to adopt binding decisions on the regulatory framework applicable to qualifying projects.

The proposed Benelux agreement could be further operationalised through the two following bodies:

- A **cross-border permitting taskforce**, established as a legal entity with legal personality under the Benelux agreement. The taskforce would serve as the **centralised decision-making body** for the determination and application of the rules governing cross-border strategic projects falling within the scope of the Benelux agreement. Its mission shall include, but not limited to: (i) determining, by way of binding decision, the applicable regulatory standards and methodologies for each cross-border strategic project within its scope; (ii) deciding which projects qualify as cross-border strategic projects within the meaning of the agreement; (iii) coordinating and monitoring competence, meaning being responsible for tracking, alongside the local competent authorities, the permit progress of qualifying projects, (iv) streamlining communication between the local authorities, the permit applicant and stakeholders, (v) managing a Benelux regulatory sandbox framework (see Annex III), and (vi) and functioning as a hub for direct knowledge-sharing on complex regulatory requirements.

The decisions of the taskforce shall be binding to competent national authorities. This ensures a single, uniform regulatory framework for each qualifying project, eliminating the risk of conflicting decisions across jurisdiction.

The taskforce shall be governed by different organs : (i) the Committee of Ministers of the Benelux Union which shall exercise supervisory authority and adopt general policy directions, and (ii) an Administrative Council, be composed of mandated representatives of the competent permitting authorities of the Benelux countries, supported by technical experts in key domains relevant to cross-border permitting, which shall be responsible for the day-to-day governance of the task force and the adoption of binding decisions on the applicable rules for such projects. It should count equal representatives for each Benelux member state (for Belgium taking into account the respective competences of the Regions). Representatives should be appointed by their respective member states. The precise composition of this task force may, however, vary from project to project. Where a project concerns only the Netherlands-Belgium border, for instance, it would seem advisable to limit the task force to those who have been designated as representatives of the countries in question.

- The **Benelux Court of Justice** shall have jurisdiction over (i) challenges against the binding decisions of the taskforce, including decisions on the qualification of projects, the determination of applicable rules, (ii) questions of interpretation of the Benelux agreement, and (iii) disputes regarding the application or interpretation of the Benelux agreement.

  Direct interest will be defined with clear and transparent criteria (e.g. geographic proximity, demonstrable environmental or economic impact, statutory mandate), so as to ensure the proportionality of stakeholders allowed to act on appeal.

  Arguments put forward must be substantiated and evidence-based (with no disproportionate barrier). Appropriate evidentiary weight will be given to scientific studies carried out by recognised experts. For such studies, a strong methodological approach must be mandated, which helps to strengthen the credibility of environmental impact assessments (EIA studies).

  Procedural mechanisms will be implemented to discourage purely delaying appeals which do preserve access to justice, such as early admissibility screening and cost-allocation rules for unfounded claims.

Annex III: Proposed working areas of the Benelux agreement

Applicable law and harmonisation

One of the core challenges facing cross-border strategic projects is the divergence between the legal and regulatory regimes applicable in the different member states and, in the case of Belgium, in the different Regions. The proposed Benelux agreement will address this by (i) establishing clear rules on applicable law, and (ii) conferring competence to the taskforce to decide on the applicable rules for each qualifying project, with the aim of reducing regulatory fragmentation and ensuring a level playing field. This centralised decision-making mechanism ensures that a single, authoritative determination is made at Benelux level, preventing divergent interpretations by individual member states or permitting authorities.

Based on the agreement, the taskforce will determine and give its decision on which rules apply to a given project (e.g. the most stringent rules across the relevant jurisdictions or a harmonised Benelux standard). The choice of methodology will need to be carefully calibrated to ensure that the framework does not inadvertently undermine legitimate environmental or safety standards. The decision of the taskforce shall be subject to challenge before the Benelux Court of Justice in accordance with the provisions of this agreement.

In particular, the following harmonisation measures are envisaged:

- **Deposition calculation methodologies:** The methodologies used to calculate air and water emissions, in particular those used by the Dutch and Flemish administrations, should be harmonised across the Benelux. At a minimum, mutual recognition of the approaches used in each jurisdiction should be guaranteed, so that a developer is not required to meet conflicting methodological standards for the same project.

General derogation

A recurring obstacle for cross-border strategic projects is their incompatibility with existing zoning plans and urbanistic prescriptions. Strategic infrastructure, such as hydrogen pipelines, CO_2 capture facilities, grid expansions, or energy storage sites, frequently cannot be accommodated within the spatial planning frameworks that were designed for an earlier industrial and economic context. These frameworks often reflect outdated land-use priorities and were not conceived with the requirements of the energy transition or large-scale strategic infrastructure in mind.

In each of these situations, the current framework offers no adequate solution short of a full rezoning procedure, which is time-consuming, legally uncertain, and disproportionate to the nature of the obstacle.

The proposed Benelux agreement will introduce a general derogation mechanism that allows qualifying strategic projects to obtain a departure from applicable zoning plans and urbanistic prescriptions, without the need for a full rezoning procedure or legislative amendment. The derogation will be available exclusively to projects that have been formally recognised as cross-border strategic projects within the meaning of the agreement. The derogation may cover incompatibilities with zoning designations as well as with specific urbanistic prescriptions, including but not limited to setback distances, height limitations, coverage ratios, and use restrictions. The derogation does not exempt the project from substantive environmental requirements, including obligations under applicable environmental impact assessment legislation. In addition, the granting of a derogation will still be subject to certain conditions, such as: an obligation to demonstrate that compliance with the applicable provisions is technically or economically unfeasible and that the derogation is still in accordance with requirement of good spatial planning.

Stakeholder engagement and procedural pause mechanism

Effective and well-structured stakeholder engagement is essential to the legitimacy and robustness of permitting decisions for strategic projects. At the same time, poorly managed or prolonged stakeholder processes are a significant source of delay. The proposed Benelux agreement will introduce a series of measures designed to streamline stakeholder engagement *throughout* the permitting process whilst preserving meaningful participation rights.

Sharing of complaints and remarks

Complaints and remarks submitted by relevant stakeholders (including potentially affected individuals, NGOs, and other interest groups) during the public consultation phase of a permit application will be shared (anonymized) with the permitting applicant. Local governments will be responsible to handle these complaints and remarks, and to transfer the complaints and remarks to the Benelux cross-border permitting taskforce, which will in turn ensure that the permitting applicant receives the necessary information. The sharing of complaints and remarks ensures that the applicant is informed of the concerns raised and can prepare a substantive response before the decision-making phase, reducing the risk of late-stage disputes and appeals.

Sharing of draft decisions

Before a final decision is issued, the relevant permitting authority will be required to share its draft decision with all parties to the procedure, including the applicant and third parties that participated in the public

consultation phase. All parties will have the opportunity to submit remarks on the draft decision — both formal and substantive — within a defined timeframe.

Any argument or objection that could have been raised at this stage but was not will be inadmissible in any subsequent annulment procedure. This estoppel mechanism serves a dual purpose: it incentivises parties to engage constructively at the earliest possible stage, and it reduces the risk of annulment proceedings being used to raise points that could and should have been addressed during the administrative procedure. This strengthens the durability of permits once issued and reduces the overall vulnerability of the permitting process to legal challenge.

Procedural pause mechanism

The agreement will incorporate a procedural pause mechanism, which allows the permitting clock to be temporarily suspended. This suspension is either at the request of the applicant or with the applicant's consent. The pause mechanism may be used, for example, to:

- Resolve technical disputes between the applicant and the competent authority;
- Facilitate mediation with cross-border stakeholders;
- Allow the applicant to amend its application in response to negative advice, without triggering a full procedural restart.

The mechanism preserves the integrity of the overall procedural timeline whilst providing the necessary flexibility to address legitimate complications as they arise, without forcing applicants into premature legal proceedings.

Balancing of competing interests

Where applicable legislation requires a balancing of interests, the competent permitting authority must conduct that balancing exercise with explicit regard to the strategic importance of the project. The formally recognised strategic status of the project constitutes a significant interest that must be expressly weighed and accounted for in the authority's reasoning.

A negative decision on the basis of a competing interest — such as the protection of immovable heritage, landscape values, or spatial quality — is only justified where that competing interest demonstrably outweighs the strategic interest served by the project. The mere presence of a conflicting interest is insufficient to justify refusal. Any decision refusing a permit or derogation on this basis must include an express and concrete statement of reasons demonstrating that the required balancing exercise was carried out and that the competing interest prevails in the specific circumstances of the case.

Decision-making, administrative capacity, and accountability

To address the systemic problem of protracted permitting timelines, the proposed Benelux agreement will introduce the following obligations on permitting authorities:

- Single round of completeness and admissibility questions: Permitting authorities will be required to raise all questions regarding the completeness and admissibility of an application at once, within a defined period following submission. Piecemeal or sequential questioning — which is a common source of delay in current practice — will no longer be permitted.
- Legally enforceable time limits: Binding deadlines will be imposed on permitting authorities for:
    - Taking a decision on the completeness and admissibility of the application; and
    - Taking a final decision on the granting or refusal of the permit.

Framework for regulatory sandboxes

Since the current rules are often not adapted to strategic projects and the industrial need to scale up innovative processes, a standardised regulatory sandbox framework will be introduced in the proposed Benelux agreement that allows strategic projects to bypass specific national constraints (such as rigid interpretations of the Waste Framework Directive or local spatial rules) for a fixed period.

This framework should be managed by the permitting taskforce wherein all member states (and Regions for Belgium) are represented through the Administrative Council of the taskforce. The taskforce shall decide, by way of binding decision, whether a regulatory sandbox can be introduced for a specific project, providing a "safe space" for testing, for example, dual-use or clean-tech innovations that currently fall between the cracks of existing legislation. We advocate for flexible permitting for controlled test protocols, provided that the developer implements robust monitoring measures.

In that regard, a temporary "toleration" (*gedoog*) status, based on a sound risk assessment, may be introduced. While such measures must be applied judiciously, a flexible permitting approach, allowing construction to begin while final administrative details are being processed, can significantly accelerate project delivery.

Transparent communication between the permitting authorities

It should be foreseen that the permitting authorities of the member states should share all relevant information with each other and the taskforce concerning the permit applications that are under the scope

of the proposed Benelux agreement. The taskforce shall monitor compliance with this obligation and may issue binding directions to ensure timely and complete sharing of information.

Digitisation of the full procedure

The full permit application procedure is digitised. Along with the binding deadlines for the permitting authorities to take decisions, this will speed up the permitting process.

- An example of effective permitting is found in the Dutch Coast Guard. Activities and work on the North Sea (NCP) are referred to as North Sea Activities (NSA's). The approval of the Netherlands Coast Guard is required for the performance of work on the North Sea. Approval has to be obtained *through a* **North Sea Activity (NSA) form.** An NSA application form, available on their website, must be completed and can be submitted digitally. Additional details, such as maps of the route or work location, can be included to specify the activity. The Nautical Management Section (Bureau Nautisch Beheer) of the Dutch Coast Guard typically decides on the application within a few days and may attach consent conditions related to nautical safety and environmental considerations. Applications must be submitted at least five working days before the planned start of the activity. There is no fee for submitting or obtaining approval for an NSA application.

Benelux prioritisation matrix and integrated societal assessment

A 'Benelux prioritisation matrix' will be introduced that mandates permitting authorities to give administrative precedence to 'high-productivity' projects (as defined by their contribution to strategic autonomy and the green transition) over 'low-productivity' economic activities. To ensure predictability for industrial investments, the criteria for high-productivity projects will be clearly defined. The matrix should be supported by a joint Benelux *'lange-termijn economische effecttoets'* (long-term economic impact assessment) to justify the prioritisation of scarce resources like energy, physical space, and nitrogen space.

Annex IV: General recommendations

The following recommendations are 'quick wins' which could already be picked up outside of a Benelux Agreement, although ownership and monitoring could find a place within the proposed governance framework outlined in the previous two Annexes.

Initiate early discussions between TSOs and permitting authorities

TSOs often are dependent on decisions within the Ministries and can appeal to them for a proactive approach. For example, for a national infrastructure project with cross-border consequences by a major TSO, permitting obtaining faces challenges at the compressor station and finding suitable locations with little space within existing zoning plans.

On Benelux-level coordination, engaging with ministries by emphasising the PCI status of energy transition projects is also recommended.

Common approach for the classification of projects concerning energy infrastructure of higher national significance

The concept of higher national significance for strategic projects is in development at the EU level. This should be acted upon by Member States through a common approach for the classification of projects concerning energy infrastructure of higher national significance. Classifying energy projects as projects of higher national significance could potentially greatly reduce the obstacles regarding easement rights for energy infrastructure, since competing interests of national significance could be subordinate to energy projects of higher national significance.

Project management and financial de-risking

Subsidy schemes across the Benelux should be harmonised to prevent competitive distortions:

- Cross-border infrastructure projects are highly dependent on European subsidy schemes such as the Connecting Europe Facility (CEF). First and foremost, strongly integrated regions such as the Benelux would benefit from higher budgets, since the current budget allows only a handful of applications to receive a contribution from the fund.
- Next, the available subsidy schemes for emerging technologies, such as CCS, differ strongly between the Benelux member states. Belgium has a regulated framework for transport

infrastructure but no specific subsidy schemes for carbon capture and storage, while the Netherlands does not have regulated transport infrastructure yet, but does allocate a significant part of SDE++ (a CfD-scheme) to carbon capture and storage. Harmonising such schemes would contribute to a level playing field for industries that are already located in a transnational industrial region.

Governments should be prepared to act as partners in strategic projects by providing financial backstops or guarantees to de-risk private investment. This encourages companies to take necessary, bold steps.

- An example is the LNG import terminal project in Eemshaven: The Dutch government, through the Ministry of EZK, acted as a facilitator and supporter rather than just a regulator. Gasunie, a state-owned enterprise, took the commercial lead but was supported by a government financial guarantee when the investment risk became too high for it to bear alone.

Additionally, public bodies and regulators should be encouraged and trained to adopt more agile and results-oriented management styles, especially for urgent projects. This includes focusing on a clearly defined end-product rather than getting bogged down in rigid, sequential procedures.

- An example is the LNG import terminal project in Eemshaven*:* the project team successfully employed methods like 'backtracking' (planning backwards from a fixed deadline) and 'reverse engineering' (designing a solution first and then figuring out how to meet the requirements).

Cross-border and inter-agency cooperation and coordination

In general, the Member States should establish mechanisms to improve interaction between national authorities and industry on permitting (e.g. share best practices and information on liability frameworks), align interpretations and methodologies and harmonise procedures. We see the Benelux agreement as the key tool to achieve this, but there are other 'quick wins' that can already be taken.

Promote collaboration and shared tools with authorities, for example, where operators have developed models or methodologies which authorities may use for their own assessments, especially where public bodies lack the budget or capacity to develop such models or methodologies independently.

Policymakers should also invest in building robust working relationships and clear communication channels between different administrative layers and across national borders before a crisis hits. Additionally, communication between advisors (TNO, SoDM) and (permit) applicants should be improved.

- An example is the LNG import terminal project in Eemshaven: The project required intensive collaboration between multiple government bodies at national, provincial, and municipal levels, as well as with international partners. For instance, maritime access required close coordination between Dutch and German authorities.

Administrative capacity and accountability

Strengthen administrative capacity, capability, and accountability at the ministerial and permitting authority level. An example is the VIP cell in Flanders, which supports the coordination of important and strategic permitting files.

Additionally, investments in training, expertise, and resources to improve the efficiency and consistency.

Implement interoperable digital systems to strengthen permitting authorities and transparent digital tracking tools to improve the predictability and process efficiency of the permitting process.

Annex V: Jointly addressing challenges at EU level

Permitting challenges identified in this paper are to an extent rooted in the interpretation and implementation of EU legislation. The recommendations set out in this Annex therefore reflect concrete permitting bottlenecks experienced by industry across the Benelux. While recent EU initiatives aim to accelerate permitting for strategic projects, gaps and inconsistencies remain. A coordinated Benelux approach, led by the cross-border permitting taskforce, can play a decisive role in addressing these shortcomings by aligning national implementation and advocate for targeted improvements at EU level.

Environmental Omnibus:

- Support the development of a genuinely integrated and operational 'bundled environmental approach' to streamline and harmonise permitting across EU directives (Habitats, Birds Directive, Nature Restoration Regulation, Water Framework Directive);
- Ensure that all cross-border strategic energy infrastructure has access to the Toolbox provided by the Omnibus and is therefore considered to be of overriding public interest where appropriate.
- Avoid national gold plating and remove existing national additions or divergences to EU environmental legislation. Benelux coordination could add value by aligning regulations across countries to ensure consistent application of EU rules.
- Additionally, joint Benelux efforts could focus on lobbying for the simplification of EU regulatory frameworks, further reducing complexity and eliminating delays.

Habitats Directive:

- Provide for an exemption for temporary, small-scale nitrogen emissions during the construction phase of energy projects. Specifically, maintain a targeted nitrogen exemption for energy infrastructure in Permitting Directive (2019/944, Art. 8.11), as proposed in the Grids package/Permitting Directive (COM/2025/1007), and accelerate its implementation in the Benelux to support timely project delivery.
- In addition, consider addressing grid construction bottlenecks for all clean energy carriers at a European level. Think about extending the scope of the temporary NO_x emissions exception for CO_2 emissions in the construction phase to other energy infrastructure, such as hydrogen, green gas and CO_2. If this is not possible within the scope of the Grids Package, other initiatives such as

the Environmental Omnibus and the CO_2 Transport Package should ensure that other clean energy infrastructure can benefit from the same exception.

- Clarify and modernise permitting for strategic projects (art 6(4)):
    - Broaden and clarify the definition of "projects of public and strategic interest";
    - Remove or simplify the mandatory Commission notification where national assessments already demonstrate overriding public interest;
    - Allow compensatory measures or long-term ecological improvements (e.g. biodiversity credits) to be implemented ex-ante or ex-post projects;
    - Enable designation of 'areas or clusters of public and strategic interest' (e.g. port industrial complexes), while ensuring overall coherence of Natura 2000 protections.

Water Framework Directive:

- Ensure a clearly defined and operational non-deterioration principle;
- Introduce alternative status assessments for industrial discharges that take into account local mixing zones, allowing environmental impacts to be evaluated at the appropriate spatial scale rather than at the level of the entire water body. In general, an integrated environmental assessment is essential. Permitting decisions for large climate or decarbonisation projects should not be blocked by, e.g., small nitrogen deposition or minor discharges, but should be considered in a balanced manner.
- Ensure the consistent application of the European Commissions' existing Technical Guidance for implementing bioavailability-based Environmental Quality Standards (EQS). Although this scientifically well-founded methodology for accounting for bioavailability and natural background concentrations already exists, it is not being consistently applied across Member States, undermining the credibility and effectiveness of metal EQS compliance assessments.
- Ensure that the revision of the Strategic Environmental Assessment (SEA) Directive addresses procedural bottlenecks and overlaps with project-level assessments.

Industrial Accelerator Act (IAA):

- Strongly position 'industrial clusters' within the context of the IAA and use the law to expedite permitting for cross-border industrial projects. The concept of Industrial Manufacturing Acceleration Areas is a positive step; the final text should ensure that the permitting regime in

these areas, including additional screening for individual projects, is applied uniformly across Member States.

- In addition, the IAA should consider the critical infrastructure connecting different acceleration areas, such as pipelines and grids, as integral parts of the areas themselves for permitting purposes. Extending the accelerated status to these corridors would prevent interconnections from becoming the weak link within industrial clusters.
- Maximise utilisation by linking supply and demand within clusters and prioritise integration of industrial clusters in grid reinforcement and other infrastructure investments.

CCS Directive:

- Streamline the CO_2 storage permitting procedure by removing or significantly limiting the mandatory opinion from the European Commission (Article 10). This would reduce administrative timelines and increase regulatory certainty.

Cross-cutting Benelux positioning

- Use the Benelux framework as a platform to align national implementation of EU legislation, reducing fragmentation and legal uncertainty for cross-border projects;
- Develop joint Benelux positions early in the EU policy cycle, strengthening collective influence on legislative outcomes;
- Promote mutual recognition of methodologies and assessments, particularly in areas such as emissions, nitrogen deposition, and environmental impact analysis;
- Ensure that both EU legislation and its implementation effectively support, rather than hinder, the timely delivery of cross-border strategic infrastructure projects.