COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 1.10.2003
COM(2003) 561 final

2001/0226 (COD)

Amended proposal for a C5-0457-03

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending the amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks

(submitted by the Commission pursuant to Article 250(2) of the EC Treaty)

EXPLANATORY MEMORANDUM

To put into action the programme to develop trans-European transport and energy networks with a view to dynamising the internal market, improving territorial cohesion and, in the process, boosting the competitiveness and growth potential of the European Union, appropriate financial aid measures must be taken in order to complete the infrastructure projects in reasonable time.

After noting long delays in building the trans-European transport network, particularly the cross-border sections of railway schemes, in October 2001 the Commission proposed amendments to Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks (the "TEN Regulation") with the objective of raising the rate for co-funding by the Community from 10 to 20% for cross-border rail projects crossing natural barriers and cross-border connections with the candidate countries.

During the session of 2 July 2002, the European Parliament approved the proposal, subject to a number of amendments. The Economic and Social Committee also supported the initiative, whereas the Committee of the Regions has not yet given its opinion.

On this basis the Commission amended its proposal. On 24 January 2003 it sent the Council and Parliament an amended proposal indicating which of the amendments proposed by Parliament it wished to include.

Up until now the proposal has remained within the relevant working party without being forwarded to the Council,[1] for want of an agreement on the substance of the proposal. In response to this state of affairs, the Commission decided to take the initiative once again and propose more ambitious amendments to the TEN Regulation.

In particular, since the proposal was submitted, at the end of 2001, new factors have added force to the arguments for revision of the TEN Regulation, particularly for the introduction of a higher aid rate for certain projects. Accordingly, this proposal is based on the conclusions and recommendations in the report by the High-Level Group chaired by Mr Karel Van Miert which worked on the TEN-T guidelines, leading to the parallel proposal to amend Decision No 1692/96/EC on the guidelines for the trans-European transport network.

This proposal also takes account of a number of points raised by the recent Commission communication "Developing the trans-European transport network: Innovative funding solutions",[2] which identifies innovative ways to fund the trans-European transport network.

1. AN UNDER-FUNDED NETWORK

Without high-performance transport networks, economies cannot be competitive. The creation and smooth operation of the trans-European transport network, which became official Community policy 10 years ago, is a key condition for the success of the internal market and

[1] Despite the recommendation by the Barcelona European Council to adopt the proposal by the end of December 2002.

[2] COM (2003) 132, 23.4.2003.

to ensure sustainable mobility in an enlarged EU. However, traffic on the network is continuing to grow apace but unevenly, while at the same time there is growing insistence on sustainable development and an imminent need to incorporate the networks of the future Member States. Transport infrastructure is still poorly used and under-financed, for lack of transparency in the costs paid by users, lack of adequate funds and the absence of a framework conducive to investment.

Accordingly, in its White Paper "European transport policy for 2010: time to decide"[3] the Commission already drew attention to the clear mismatch between the stated objectives and the financial resources available to the Community. The fact is that the budget which the Member States put aside for developing such transport infrastructure and the funds made available by the Union are altogether insufficient to meet the transport challenges of this first decade of the 21st century. It is no small paradox to note that the Treaty makes the Community responsible for producing guidelines for the development of the trans-European transport network (TEN-T) without granting it the financial resources to execute that task. The ambition far outstrips the means available.

2. A COMPLEX PROBLEM

Completion of the trans-European transport network is not an end in itself: it meets an objective clearly stated in the transport White Paper - sustainable development. Although the recent Commission communication on developing the TEN-T explores new funding methods - notably public-private partnerships (PPP), guarantee funds to cover certain risks, such as those encountered in operating this new infrastructure, and closer coordination between States or promoters - the fact remains that institutional investors, States, the Community or local authorities will continue to bear the brunt of the financial burden of implementation of major structural projects offering high added value in socio-economic terms but low financial returns.

A fortiori, implementation of major projects of this kind with the aid of PPP-type mechanisms demands a firm, substantial financial commitment from all parties concerned and, first and foremost, from institutional investors. The Community has been given powers over development of the trans-European network but must therefore be given the means to put its policy into action. In this context, the limit of 10% of the total cost set for co-funding by the Community is not sufficient incentive to act as a catalyst during the start-up phase for such major cross-border projects, where the rates of return and even benefit for the Member States remain lower than those offered by other projects on the network.

Moreover, in the case of the priority projects, it should be possible to implement the budget commitments for long-term projects requiring substantial funding in the same way as projects qualifying for aid from the Structural Funds, i.e. to meet the commitments in annual instalments on the basis of the original Commission decision to finance the project.

To make it possible to complete the priority projects identified in the new proposal by the set dates, two measures are proposed:

- financing based on a multiannual legal commitment giving project promoters a guarantee that they will receive funding from the Community throughout the implementation phase;

[3] COM (2001) 370, 12.9.2001.

- an increase in the maximum aid rate for the cross-border sections of certain priority projects to 30% of the total cost.

3. THE VALUE ADDED BY GREATER SUPPORT FOR CROSS-BORDER PROJECTS

The abovementioned report by the High-Level Group[4] warned the Commission of the risk that the cross-border projects will not be carried out in time unless Community aid provides a sufficient incentive to mobilise and coordinate public and private capital.

Cross-border connections of this kind are essential for exchanges between Member States and for the connectivity along the major trans-European routes. The "border effect" often results in lighter local traffic, which tends to make the cross-border projects less profitable than schemes located at the heart of the national networks. As a result, the gap to be filled by public financing is greater.

However, the national authorities are generally reluctant to finance cross-border sections because of the complexities of coordination between Member States to define and implement projects. Another explanation for this reluctance is that budgetary decisions often fall in favour of infrastructure matching the national priorities, taking no account of the general European interest.

Paradoxically, this tendency to neglect cross-border projects has an adverse effect on the profitability of the investments made by the Member States in the sections in their own country, denying them the benefit of economies of scale.

The Group also stressed that the rate of Community financing should be differentiated, according to the benefits to other countries, in particular the neighbouring countries. Such modulation would not be contrary to the principle of territoriality of financing of infrastructure and should in the first instance benefit the cross-border projects used by long-distance transport services.

Setting out from this premise the Group recommended that the Community could play a more active role in promoting the cross-border connections for the priority projects, notably in the form of a higher aid rate. The Group added that the budgetary impact of such a change would not be exorbitant and put the cost of the cross-border sections of the projects which it recommended at some €15 billion for the period 2007-2013.[5]

In response to the report, the Commission is submitting a parallel proposal to add new projects (list 1 in the report) to Annex III to Decision No 1692/96/EC identifying the priority projects. The same parallel proposal also proposes mechanisms for closer operational and financial coordination between the Member States on transnational projects or groups of projects.

After noting broad agreement within the Group on the European interest of the priority projects which the Commission proposes and on the need for financial support providing a greater incentive for the cross-border sections, this Commission communication proposes

4 See http://europa.eu.int/comm/ten/transport/revision/hlg_en.htm

5 This estimate includes the projects in the countries receiving aid from the Cohesion Fund but not the motorways of the sea.

opening up the possibility of an aid rate of up to 30% for the cross-border sections of the priority projects, including the motorways of the sea.

4. A LIMITED BUDGETARY IMPACT

The Commission estimates the total cost of the projects in the new annex III of the decision, €220 billion, of which €15 billion[6], over the period 2007 – 2013, would be for the cross-border sections (without, however, counting the aid for the motorways of the sea, since this amount is not known in advance). Consequently, the budgetary impact of raising the funding rate to 30% for these sections (capital for project development) will still be modest. The table set out below shows exactly how much it would cost the TEN-T budget, year by year, if all the cross-border projects identified in the new annex III were granted the maximum rate envisaged:

Maximum aid rate[7]	**10%**	**20%**	**30%**
Impact on budget[8]	**220 million**	**440 million**	**660 million**

Over the period 2000-2006, the amendment proposed would have no impact on the total budget allocated to the TENs.

6 Figures and table subject to confirmation.

7 Reserved exclusively for the cross-border sections of the priority projects.

8 By year, based on a cost of €15 billion over the period 2007-2013 for the cross-border sections (cf Van Miert report).

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular the first paragraph of Article 156 thereof,

Having regard to the proposal from the Commission,[9]

Having regard to the opinion of the European Economic and Social Committee,[10]

Having regard to the opinion of the Committee of the Regions,[11]

Acting in accordance with the procedure laid down in Article 251 of the Treaty,[12]

Whereas:

(1) The High-Level Group on the trans-European transport network chaired by Mr Karel Van Miert expressed concern that the delays in the cross-border sections of the priority projects on the trans-European transport network were having an adverse effect on the profitability of the investments made by the Member States in the sections in their own country, denying them the benefit of economies of scale, and recommended that the rate of Community financing should be differentiated, according to the benefits to other countries, in particular the neighbouring countries, stressing that such modulation should in the first instance benefit the cross-border projects used by long-distance transport services.

(2) To this end the Group recommended a higher rate of Community aid to promote completion of the cross-border connections for the priority projects and added that the budgetary impact of such a change would be limited.

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9 OJ C […], […], p. […].
10 OJ C […], […], p. […].
11 OJ C […], […], p. […].
12 OJ C […], […], p. […].

(3) The possibility must be given to meet the budgetary commitments by means of annual instalments, while basing them on a multiannual legal commitment.

(4) The establishment of public-private partnerships (or of other forms of cooperation between the public and private sectors) demands a firm financial commitment from institutional investors which is sufficiently attractive to raise private capital. Granting Community financial aid on a multiannual basis would remove the uncertainties which are slowing down project development. Measures should therefore be taken to grant financial support to the projects selected on the basis of a multiannual legal commitment. Regulation (EC) No 2236/95 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2236/95 is amended as follows:

(1) In Article 5, paragraph 3 is replaced by the following:

"3. Regardless of the form of intervention chosen, the total amount of Community aid under this Regulation shall not exceed 10% of the total investment cost. However, the total amount of Community aid may exceptionally reach:

- 20% of the total investment cost in the following cases:

(a) projects concerning satellite positioning and navigation systems, as provided for in Article 17 of Decision No 1692/96/EC,

(b) priority projects on the energy networks,

- 30% of the total investment cost in the following cases:

(c) cross-border sections of the projects of European interest identified in Annex III to Decision No 1692/96/EC with the aim of eliminating bottlenecks and/or filling in missing sections, which promote safety, ensure the interoperability of the national networks and/or strongly contribute to the reduction of imbalances between modes of transport, in favour of the most environment-friendly modes."

(2) The following paragraph 5b shall be added:

"In the case of the projects referred to in paragraph 3, within the limits of this Regulation, the legal commitment shall be multiannual and the budgetary commitments shall be met in annual instalments."

(3) In Article 13, the following paragraph shall be added:

"4. If, ten years after the financial aid was awarded, the operation in question has not been completed, the Commission may demand reimbursement of the aid paid, with due regard to the principle of proportionality."

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*