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*****I**
REPORT

on the proposal for a directive of the European Parliament and of the Council
on the interoperability of the Community rail system
(COM(2006)0783– C6-0474/2006 – 2006/0273(COD))

Committee on Transport and Tourism

Rapporteur: Josu Ortuondo Larrea

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on the interoperability of the Community rail system
(COM(2006)0783 – C6-0474/2006 – 2006/0273(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0783),
 - having regard to Article 251(2) and Articles 156 and 71 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0474/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0345/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to reconsult Parliament if it intends to make substantial modifications to this proposal or replace it with a new proposal,
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Recital 74

(74) In particular, ***the Commission should be authorised to adopt and update the TSIs***. Since ***these*** measures are general in scope and are designed to ***supplement this Directive by adding new, non-essential elements, they should*** be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(74) In particular, ***the Commission should be empowered to lay down measure to establish the conditions and criteria necessary for the implementation of this Directive***. Since ***the*** measures ***to be*** laid down are ***of*** general scope and are designed to ***amend non-essential elements of this Directive, or to supplement it by the addition of new non-essential elements, they should*** be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. ***When, on imperative grounds of urgency, the normal time-limits for the regulatory procedure with***

scrutiny cannot be complied with, the Commission should be able to use the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of the measures foreseen in this Directive.

Justification

Reference should be made to the new regulatory procedure with scrutiny laid down in Article 5a of Council Decision 1999/468/EC as amended by Decision 2006/512/EC. The amendment makes the necessary adjustments in line with the new comitology procedure introducing the new procedure of 'Regulatory Committee with scrutiny' and provides additional transparency for the adoption or the revision of the relevant measures in this proposal.

Amendment 2 Article 1, paragraph 1

1. This Directive sets out to establish the conditions to be met to achieve interoperability within the Community territory of the rail system. These conditions concern the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of this system placed in service after the date of entry into force of this Directive, as well as the professional qualifications and health and safety conditions of the staff who contribute to its operation and maintenance. They also concern the existing rail system within the limits specified in the relevant Articles, in particular Articles 14(3) and 24 on registers.

1. This Directive sets out to establish the ***essential*** conditions to be met in order to achieve interoperability within the Community territory of the rail system ***in a manner compatible with the provisions of Directive 2004/49/EC on safety on the Community's railways***. These conditions concern the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of this system placed in service after the date of entry into force of this Directive, as well as the professional qualifications and health and safety conditions of the staff who contribute to its operation and maintenance. They also concern the existing rail system within the limits specified in the relevant Articles, in particular Articles 14(3) and 24 on registers.

Amendment 3 Article 1, paragraph 2, point (a)

(a) facilitate, improve and develop ***international*** rail transport services within the European Union and with third countries;

(a) facilitate, improve and develop ***the*** rail transport ***network and*** services within the European Union and with third countries;

Justification

The proposed Directive should contribute to the development of the entire rail network within the European Union and with third countries.

Amendment 4
Article 1, paragraph 2, point (b)

(b) contribute to the progressive creation of the internal market in equipment and services for the construction, renewal, upgrading and operation of the **trans-European** rail system;

(b) contribute to the progressive creation of the internal market in equipment and services for the construction, renewal, upgrading and operation of the rail system **within the Community**;

Justification

The proposed Directive should contribute to the development of the entire rail network within the European Union.

Amendment 5
Article 1, paragraph 3, subparagraph 3

The Commission shall adopt, following the procedure set out in Article 21 (3), one or more mandates aiming at the development of new TSIs and/or the review of TSIs already adopted with a view to covering the lines and rolling stock not yet covered.

The measures designed to amend non-essential elements of this Directive, including by supplementing it, relating to the adoption of one or more mandates aiming at the development of new TSIs and/or the review of TSIs already adopted with a view to covering the lines and rolling stock not yet covered shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(4). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 21 (4a).

Justification

Reference should be made to the new regulatory procedure with scrutiny laid down in Article 5a of Council Decision 1999/468/EC as amended by Decision 2006/512/EC. The amendment makes the necessary adjustments in line with the new comitology procedure and provides additional transparency for the adoption or the revision of the relevant measures in this proposal.

Amendment 6

Article 1, paragraph 3, subparagraph 4

The first mandate shall indicate a first group of new TSIs and/or amendments to TSIs to be adopted by January 2012, without prejudice to Article 5(5) as regards the possibility of providing for specific cases and without prejudice to Article 7 allowing for derogations in particular circumstances. This first mandate shall be drawn up on the basis of a recommendation from the Agency with a view to determining the new TSIs to be developed and/or the existing ones to be amended in the light of the expected cost-effectiveness of each proposed measure and on the principle of proportionality of measures taken at Community level. To this end, appropriate consideration **will** be given to Annex I point 4 and the necessary balance between, on one hand, the objectives of uninterrupted movement of trains and of technical harmonisation, and, on the other hand, the trans-European, national, regional or local level of traffic considered.

The first **such** mandate shall indicate a first group of new TSIs and/or amendments to TSIs to be adopted by January 2012, without prejudice to Article 5(5) as regards the possibility of providing for specific cases and without prejudice to Article 7 allowing for derogations in particular circumstances. This first mandate shall be drawn up on the basis of a recommendation from the Agency with a view to determining the new TSIs to be developed and/or the existing ones to be amended in the light of the expected cost-effectiveness of each proposed measure and on the principle of proportionality of measures taken at Community level. To this end, appropriate consideration **shall** be given to Annex I point 4 and the necessary balance between, on one hand, the objectives of uninterrupted movement of trains and of technical harmonisation, and, on the other hand, the trans-European, national, regional or local level of traffic considered.

Justification

This amendment includes a linguistic modification and gives more clarity to the text.

Amendment 7

Article 1, paragraph 3, subparagraph 5 a (new)

However, until such time as the extension of the scope of this Directive to cover the whole of the rail network takes effect:

(a) authorisations for placing in service

- of rolling stock and on-board control-command and signalling subsystems to be used at least partially on the part of the network that does not yet fall within the scope of this Directive , in respect of that part of the network,

- of infrastructure, energy and trackside control-command and signalling subsystems on the parts of the network that

do not yet fall within the scope of this Directive,

shall be granted in accordance with the national rules referred to in Article 8 of Directive 2004/49/EC;

(b) authorisations for placing in service vehicles to besometimes used on the part of the network that does not yet fall within the scope of this Directive, in respect of that part of the network, shall be issued in accordance with Articles 19a to g of this Directive and the national rules referred to in Article 8 of Directive 2004/49/EC.

Justification

This amendment is a consequence of the incorporation of Article 14 of the Safety Directive into the Interoperability Directive. Without this amendment, the rail network as a whole would not be covered: initially, the Interoperability Directive covers only TEN-T lines, and the placing in service of subsystems on other lines would thus not be covered. This would give rise to serious problems, in particular for mobile subsystems and railway vehicles, many of which are operated on both TEN-T and other lines.

Amendment 8

Article 2, point (b a) (new)

ba) "vehicle" means a railway vehicle able to move on its own wheels on railway lines, by its own traction or otherwise, including locomotives, trainsets (multiple units), passenger coaches, wagons and other moving devices used for the construction and maintenance of rail line infrastructures. A vehicle consists of one or more structural or functional subsystems or parts of such subsystems;

Justification

This amendment defines the concept of 'railway vehicle' which is basic to the text. The wording of this definition should better fit with the processes specified in Article 19. The proposed definition fulfils this objective.

Amendment 9

Article 2, point (j)

j) «basic parameters» means any regulatory, technical or operational condition which is **critical** to interoperability and has to be specified in the TSIs;

j) "basic parameters" means any regulatory, technical or operational condition which is **essential** to interoperability and has to be specified in the TSIs;

Justification

Any regulatory, technical or operational condition needs to be defined as essential.

Amendment 10
Article 2, point (n)

(n) "existing rail system" means the structure composed of lines and fixed installations of the existing rail system plus the **rolling stock** of all categories and origin **travelling** on that infrastructure;

(n) "existing rail system" means the structure composed of lines and fixed installations of the existing rail system plus the **existing vehicles** of all categories and origin **authorised to travel** on that infrastructure **at the time of the entry into force of the corresponding TSI**;

Amendment 11
Article 2, point (q)

(q) "contracting entity": any **company**, whether public or private, which orders the design and/or construction of a subsystem **under certain conditions of transparency and competition. Depending on the subsystem to be built or modified, it can be** a railway company, an infrastructure manager or a keeper, or the concession holder responsible for carrying out a project;

(q) "contracting entity" **means** any **entity**, whether public or private, which orders the design and/or construction **and/or updating and/or renewal and/or implementation** of a subsystem, **including** a railway company, an infrastructure manager or a keeper, or the concession holder responsible for carrying out a project;

Amendment 12
Article 2, point (r)

(r) "keeper" means the person, **who** being the owner or having the right to **dispose of** it, exploits **a** vehicle **economically in a permanent manner** as a means of transport;

(r) "keeper" means the person **or entity that**, being the owner **of a vehicle** or having the right to **use** it, exploits **the** vehicle as a means of transport **and is listed in the national vehicle register referred to in Article [...] of this Directive**;

Amendment 13
Article 2, point (s)

(s) "project at an advanced stage of development" means any project which has been the subject of a financing decision and whose design/construction stage has reached a point where a change in the technical specifications **would be** unacceptable. **Such an impediment may be** contractual, economic, social or environmental in nature and must be duly substantiated.

s) "project at an advanced stage of development" means any project which has been the subject of a financing decision and whose design/construction stage has reached a point where a change in the technical specifications **is** unacceptable, **either because the design/construction is at a very advanced stage or because the cost-benefit ratio of the change would be insufficient. Non-acceptance of a change may be based on grounds that are** contractual, economic, social or environmental in nature and must be duly substantiated, **taking account of the migration criteria laid down in the relevant TSIs.**

Justification

A change in the technical specifications should be considered unacceptable where the design/construction is at a very advanced stage or where the cost-benefit ratio of the change would be insufficient.

Amendment 14
Article 2, point (t a) (new)

(ta) "national safety authority" means a safety authority as defined in Article 3(g) of Directive 2004/49/EC.

Amendment 15
Article 2, point (t a) (new)

(ta) 'type' means a vehicle description defining the vehicle's design and production characteristics as covered by the type-examination certificates described in module B of Decision 93/465/EEC.

Justification

The introduction of an authorisation procedure for vehicle types makes it essential that the term 'type' should be defined.

Amendment 16
Article 4, paragraph 2

2. The further technical specifications referred to in Article **18(4)** of Directive **93/38/EEC** which are necessary to complete European specifications or other standards in use within the Community must not conflict with the essential requirements.

2. The further technical specifications referred to in Article **34** of Directive **2004/17/EC** which are necessary to complete European specifications or other standards in use within the Community must not conflict with the essential requirements.

Amendment 17
Article 5, paragraph 2

2. Subsystems shall comply with the TSIs; this compliance shall be permanently maintained while each subsystem is in use.

2. Subsystems shall comply with the TSIs ***in force at the time of their entry into service, upgrading or renewal***; such compliance shall be permanently maintained while each subsystem is in use.

Justification

Compliance of the subsystems with the TSIs in force.

Amendment 18
Article 5, paragraph 3, point (f)

(f) indicate the strategy for implementing the TSIs. In particular, it is necessary to specify the stages to be completed in order to make a gradual transition from the existing situation to the final situation in which compliance with the TSIs shall be the norm;

(f) indicate the strategy for implementing the TSIs. In particular, it is necessary to specify the stages to be completed in order to make a gradual transition from the existing situation to the final situation in which compliance with the TSIs shall be the norm. ***An updated TSI shall be compatible with the previous version; should this not be possible, the new TSI shall indicate the transitional process to be applied to the subsystems put into operation under the rules of the previous version of the TSI;***

Justification

This amendment wish to ensure compatibility between different TSIs.

Amendment 19
Article 6, paragraph 1, subparagraph 2

The measures amending the non-essential

The measures designed to amend non-

elements of this Directive by supplementing it with TSIs shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(4).

essential elements of this Directive, including by supplementing it, relating to the adoption of TSIs or their review shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(4). ***On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 21 (4a).***

Justification

Reference should be made to the new regulatory procedure with scrutiny laid down in Article 5a of Council Decision 1999/468/EC as amended by Decision 2006/512/EC. The amendment makes the necessary adjustments in line with the new comitology procedure and provides additional transparency for the adoption or the revision of the relevant measures in this proposal.

Amendment 20

Article 6, paragraph 1, third subparagraph

TSIs shall be adopted and reviewed in accordance with the same procedure. They shall be published by the Commission in the Official Journal of the European Union.

TSIs shall be published by the Commission in the Official Journal of the European Union.

Justification

Part of the text of this subparagraph is deleted since is a repetition. The provisions deleted are included in the amendment of Article 6, paragraph 1, second subparagraph introducing the new procedure of 'Regulatory Committee with scrutiny' provided by Council Decision 2006/512/EC of 17 July 2006 laying down the procedures for the exercise of implementing powers conferred on the Commission.

Amendment 21

Article 6, paragraph 9

9. When each TSI is adopted and revised, a decision shall be taken as to whether technical annexes, and which ones, can be published separately by the Agency and what special language and updating rules should apply in view of the evolving, technological nature of those annexes (in particular in the case of information and

deleted

communication technologies). If such is the case, the language rules and the updating procedure are included in the measure adopting the TSI.

Justification

The TSIs must be published in all the official languages of the EU.

Amendment 22

Article 7, paragraph 1, point (a)

(a) for a proposed new line, for the renewal or upgrading of an existing line, or for any element referred to in Article 1(1) **at an advanced stage of development** or the subject of a contract in course of performance when these TSIs are published;

(a) for a proposed new line, for the renewal or upgrading of an existing line, or for any element referred to in Article 1(1) **that is in an advanced state of development** or the subject of a contract the obligations of which are being carried out when these TSIs are published;

Amendment 23

Article 7, paragraph 1, point (c)

(c) for a proposed new line or for the proposed renewal or upgrading of an existing line in the territory of that Member State when its rail network is separated or isolated by **the sea** from the rail network of the rest of the Community;

(c) for a proposed new line or for the proposed renewal or upgrading of an existing line in the territory of that Member State when its rail network is separated or isolated as a result of **special geographical conditions** from the rail network of the rest of the Community;

Justification

Isolation or separation can occur also in the mountains, for instance.

Amendment 24

Article 7, paragraph 2

2. In all cases, the Member State concerned shall notify to the Commission a file containing the information set out in Annex VIII. The Commission shall analyse the measures proposed by the Member State and shall inform the Committee referred to in Article 21.

2. In all cases, the Member State concerned shall notify the Commission **of its request for an exemption and send it a file** containing the information set out in Annex VIII. The Commission shall analyse the measures proposed by the Member State and shall inform the Committee referred to in Article 21. **All Member States shall be informed of the results of the analyses and of the acceptance or**

rejection of the request for exemption.

Justification

All Member States should be informed of the results of the analysis and of the acceptance or rejection of the request for exemption.

Amendment 25
Article 7, paragraph 2 a (new)

2a) In case (a), all Member States shall, during the first year that each STI is in force, send the Commission a list of the projects within its territory that are in an advanced state of development.

Amendment 26
Article 7, paragraph 3

3. In cases (c) and (e), the Commission shall check that the file is in conformity and shall inform the Member States of the results of its analysis. The Member State may apply the alternative provisions without delay.

3. In cases ***(a)***, (c) and (e), the Commission shall check that the file is in conformity and shall inform the Member States of the results of its analysis. ***Where necessary, it shall draw up a recommendation concerning the specifications to be applied.*** The Member State may apply the alternative provisions without delay.

Amendment 27
Article 7, paragraph 4

4. In cases ***(a)***, (b), (d) and (f), the Commission shall decide, in accordance with the procedure provided for in Article 21(3), if the derogation request is accepted; ***where necessary, a recommendation shall be drawn up concerning the specifications to be applied.*** Nevertheless, in the case of (b) the Commission's decision shall not cover the loading gauge and the track gauge. The Commission shall give its decision within six months of the presentation of the request supported by the complete file. Until the Commission has given its decision, the Member State may ***not*** apply the derogation requested.

4. In cases (b), (d) and (f), the Commission shall decide, in accordance with the procedure provided for in Article 21(3), whether the request for a derogation has been accepted. Nevertheless, in the case of (b) the Commission's decision shall not cover the loading gauge and the track gauge. The Commission shall give its decision within six months of the presentation of the request supported by the complete file. ***In the absence of such a decision the request shall be deemed to have been accepted.*** Until the Commission has given its decision, the Member State may, ***in case (f)***, apply the derogation requested.

Amendment 28
Article 9

Member States may not, in their territory and on grounds concerning this Directive, prohibit, restrict or hinder the placing on the market of interoperability constituents for use in the rail system where they comply with this Directive. In particular, they may not require checks which have already been carried out as part of the procedure of «EC» declaration of conformity or suitability for use, the components of which are set out in Annex IV.

In particular, they may not require checks which have already been carried out as part of the procedure leading to the EC declaration of conformity or suitability for use.

Member States may not, in their territory and on grounds concerning this Directive, prohibit, restrict or hinder the placing on the market of interoperability constituents for use in the rail system where they comply with this Directive. In particular, they may not require checks which have already been carried out as part of the procedure of «EC» declaration of conformity or suitability for use, the components of which are set out in Annex IV.

Justification

The final paragraph is deleted on the grounds that it repeats the substance of the previous one.

Amendment 29
Article 10, paragraph 3 a (new)

3a. Spare parts for any interoperability constituent belonging to a series or type whose use has already been authorised may be installed in existing subsystems without having to undergo a new evaluation or certification procedure.

Amendment 30
Chapter IV, title

SUBSYSTEMS

A. SUBSYSTEMS

Justification

Chapter IV is reorganised so that part A refers to subsystems and part B to the placing in service of railway vehicles.

Amendment 31
Article 12, paragraph 2

2. The Commission shall consult the parties concerned as quickly as possible. Where, following that consultation, the Commission establishes that the measure is justified it shall forthwith inform the Member State that has taken the initiative as well as the other Member States thereof. Where, after that consultation, the Commission establishes that the measure is unjustified it shall forthwith inform the Member State that has taken the initiative and the manufacturer or his authorised representative established within the Community thereof. Where the decision referred to in paragraph 1 is justified by the existence of a gap in European specifications, the procedure defined in Article 11 shall apply.

2. The Commission shall consult the parties concerned as quickly as possible **and may seek the opinion of the Agency, pursuant to Article 12 of Regulation (EC) No 881/2004 establishing a European Railway Agency**¹. Where, following that consultation, the Commission establishes that the measure is justified it shall forthwith inform the Member State that has taken the initiative as well as the other Member States thereof. Where, after that consultation, the Commission establishes that the measure is unjustified it shall forthwith inform the Member State that has taken the initiative and the manufacturer or his authorised representative established within the Community thereof. Where the decision referred to in paragraph 1 is justified by the existence of a gap in European specifications, the procedure defined in Article 11 shall apply.

¹ *OJ L 164, 30.4.2004, p. 1. Corrigendum in OJ L 220, 21.6.2004, p. 3.*

Justification

If it is to take a decision, it is essential that the Commission should be able to consult the Agency on matters concerning the conformity or suitability of interoperability constituents.

Amendment 32
Article 13, paragraph 2

2. **Assessment** of the conformity or suitability for use of an interoperability constituent shall be carried out by the notified body with which the manufacturer or his authorised representative established in the Community has lodged the application.

2. **Where the corresponding STI so requires, assessment** of the conformity or suitability for use of an interoperability constituent shall be carried out by the notified body with which the manufacturer or his authorised representative established in the Community has lodged the application.

Amendment 33
Article 14, paragraph 1

1. *Each* Member State shall authorise the putting into service of those structural subsystems constituting the rail system which are located or operated in its territory.

To this end, Member States shall take all appropriate measures to ensure that these subsystems may be put into service only if they are designed, constructed and installed in such a way as to meet the essential requirements concerning them when integrated into the rail system. In particular, they shall check the compatibility of these subsystems with the system into which they are being integrated.

1. *Without prejudice to the provisions of Chapter IV-B, each* Member State shall authorise the putting into service of those structural subsystems constituting the rail system which are located or operated in its territory.

To this end, Member States shall take all appropriate measures to ensure that these subsystems may be put into service only if they are designed, constructed and installed in such a way as to meet the essential requirements concerning them, *as defined in this Directive*, when integrated into the rail system. In particular, they shall check the compatibility of these subsystems with the system into which they are being integrated.

Amendment 34
Article 14, paragraph 2

2. Each Member State shall check when they are put into service that the TSI rules devised to ensure that these subsystems are operated and maintained in accordance with the essential requirements concerning them, are complied with. After these subsystems have been placed in service, the check will be carried out in the context of granting safety certificates and safety approvals under Articles 10 and 11 of the Railway Safety Directive.

2. Each Member State shall check when they are put into service *any subsystem*, that the TSI rules devised to ensure that these subsystems are operated and maintained in accordance with the essential requirements concerning them, are complied with. *To that end, the assessment and verification procedures laid down in the respective structural and functional TSIs shall be used before any authorisation is granted for placing them in service.* Once these subsystems *related to the infrastructures described in paragraphs 1.1 and 2.1 of annex I* have been placed in service, the check will be carried out in the context of granting safety certificates and safety approvals under Articles 10 and 11 of the Railway Safety Directive *2004/49/EC*. *Once the subsystems relating to rail vehicles have been placed in service, the check shall be carried out within the context of granting:*

- for maintenance purposes, certificates relating to vehicles to be established in accordance with Article 14b of Directive 2004/49/EC,

- for operational purposes, the certificates relating to vehicles and safety certificates

pursuant to Article 10 of the Railway Safety Directive, as far as keepers and railway undertakings are concerned.

To that end, the assessment and verification procedures laid down in the respective structural and functional TSIs shall be used.

To that end, the assessment and verification procedures laid down in the respective structural and functional TSIs shall be used.

Amendment 35
Article 14, paragraph 3

3. ***In the event of*** renewal or upgrading, the contracting entity shall send the Member State concerned a file describing the project. The Member State shall examine this file and, taking account of the implementation strategy indicated in the applicable TSI, shall decide whether the size of the works means that a new authorisation for placing in service within the meaning of this Directive is needed.

3. ***The renewal or upgrading of any subsystem shall be provided for in the corresponding TSI, which shall indicate the conditions and circumstances that may necessitate a new evaluation or authorisation. Where so required by the Member State authorising the series or the first placing in service of the subsystem to be upgraded or renewed, or by another Member State or States in which they are to be used,*** the contracting entity shall send the Member State concerned a file describing the project. The Member State shall examine this file and, taking account of the implementation strategy indicated in the applicable TSI, shall decide whether the size of the works means that a new authorisation for placing in service within the meaning of this Directive is needed. ***This decision shall be taken within three months of the date of submission of the file by the applicant.***

Such new authorisation for placing in service shall be required whenever the overall safety level of the subsystem concerned may be affected by the works envisaged. ***If a new authorisation is needed, the Member State shall decide*** to what extent the TSIs need to be applied to the project. ***The Member State*** shall notify its decision to the Commission ***and shall state:***

– ***the reason why the TSI(s) is/are not fully applied;***

– the technical characteristics applying instead of the TSI;

A new authorisation for placing in service shall be required whenever the overall safety level of the subsystem concerned may be affected by the works envisaged. ***A Member State that decides that a new authorisation is necessary shall simultaneously indicate*** to what extent the TSIs need to be applied to the project ***and*** shall notify its decision to the Commission, ***stating:***

– the technical characteristics applying instead of the TSI;

– The bodies responsible for applying, in the case of those characteristics, the verification procedure referred to in Article 18.

The Commission shall communicate this information to the Agency, which shall publish it.

Where the Member State decides that an authorisation for placing in service is not necessary or where a TSI is only partially applied pursuant to this paragraph, the application for or notification of a derogation within the meaning of Article 7 shall be optional.

– The bodies responsible for applying, in the case of those characteristics, the verification procedure referred to in Article 18;

The Commission shall communicate this information to the Agency, which shall publish it.

Amendment 36
Article 14, paragraph 4

4. Where Member States authorise the placing in service of rolling stock, they shall be responsible for ensuring that an alphanumeric identification code is assigned to each vehicle. This code must be marked on each vehicle and be entered in a national vehicle register that meets the following criteria:

deleted

- (a) the register shall comply with the common specifications defined in paragraph 5;***
- (b) the register shall be kept and updated by a body independent of any railway undertaking;***
- (c) the register shall be accessible to the safety authorities and investigating bodies designated in Articles 16 and 21 of Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways (Railway Safety Directive)²²; it shall also be made accessible, in response to any legitimate request, to the regulatory bodies designated in Article 30 of Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the***

levying of charges for the use of railway infrastructure and safety certification²³, to the Agency, to the railway companies and to the infrastructure managers.

In case of rolling stock placed in service for the first time in a third country, Member States may accept vehicles clearly identified according to a different coding system. However, once a Member State has authorised the placing in service of such vehicles on its territory, it must be possible to retrieve the corresponding data, listed below in paragraph 5(c), (d) and (e), through the register.

²² OJ L 164, 30.4.2004, p. 44.

²³ OJ L 75, 15.3.2001, p. 29. Directive as amended by Directive 2002/844/EC (OJ L 289, 26.10.2002, p. 30).

Justification

For reasons of consistency, this material needs to be transferred to a new section.

Amendment 37 Article 14, paragraph 5

5. The common specifications for the register shall be adopted in accordance with the procedure set out in Article 21(3), on the basis of the draft specifications prepared by the Agency. These draft specifications shall include: content, data format, functional and technical architecture, operating mode, and rules for data input and consultation. The register shall contain at least the following information:

(a) references to the EC declaration of verification and the issuing body;

(b) references to the register of rolling stock mentioned in Article 24;

(c) identification of the owner of the vehicle or the keeper;

(d) any restrictions on how the vehicle may be used;

deleted

(e) entity responsible for maintenance. If this information is not available when placing in service is authorised, it can be added later but before the vehicle is used by a railway company.

Justification

For reasons of consistency, this material needs to be transferred to a new section.

Amendment 38
Article 14, paragraph 6

6. For wagons and passenger carriages placed in service after this Directive has entered into force, the TSI makes clear whether a single authorisation for putting into service issued by one Member State of the Community is sufficient and under what conditions. *deleted*

Justification

For reasons of consistency, this material needs to be transferred to a new section.

Amendment 39
Article 14, paragraph 7

7. In the case of rolling stock placed in service before this Directive enters into force and not bearing an "EC" declaration of verification as provided for by Article 18 of this Directive, the Railway Safety Directive applies. In particular: *deleted*
– *If the safety authority of a Member State so requires, an additional authorisation to place rolling stock in service must be obtained in accordance with the provisions of Article 14 of the Railway Safety Directive;*
– *Otherwise, the safety certificate granted to the railway company under Article 10 of the Railway Safety Directive shall serve as an authorisation for placing rolling stock in use in service.*

Justification

For reasons of consistency, this material needs to be transferred to a new section.

Amendment 40
Article 14, paragraph 8

8. In the case of rolling stock bearing an "EC" declaration of verification as provided for in Article 18, the criteria which a safety authority checks with a view to issuing an authorisation for placing in service may concern only: *deleted*

- technical compatibility between that rolling stock and the infrastructure concerned;**
- the rules applicable to the open points referred to in Article 17(2);**
- the rules applicable to the specific cases duly identified in the relevant TSIs;**
- The derogations duly notified in accordance with Article 7 of this Directive.**

(Article 14(8) becomes Article 19 b (new), with modifications)

Justification

For reasons of consistency, this material needs to be transferred to a new section.

Amendment 41
Article 15, subparagraph 1

Without prejudice to the provisions of Article 19, Member States may not, in their territory and on grounds concerning this Directive, prohibit, restrict or hinder the construction, **putting into** service and operating of structural subsystems constituting the rail system which meet the essential requirements. In particular, they may not require checks which have already been carried out as part of the procedure leading to the «EC» declaration of verification, the components of which are set out in Annex V.

Without prejudice to the provisions of Article 19, Member States may not, in their territory and on grounds concerning this Directive, prohibit, restrict or hinder the construction, **placing in** service or operating of structural subsystems that make up the rail system which meet the essential requirements. In particular, they may not require checks which have already been carried out as part of the procedure leading to the 'EC' declaration of verification, the components of which are set out in Annex V, **or which have already been carried out**

either when authorisation was granted for placing in service prior to the entry into force of this Directive or when additional authorisation was granted for placing in service in another Member State.

Amendment 42
Article 15, second subparagraph

In particular, they may not require checks which have already been carried out as part of the procedure leading to the «EC» declaration of verification. *deleted*

Justification

The final paragraph is deleted as it repeats the previous one.

Amendment 43
Article 16, paragraph 1

1. Member States shall consider as being interoperable and meeting the essential requirements concerning them, those structural subsystems constituting the rail system which are covered by the «EC» declaration of verification.

1. ***Without prejudice to Articles 16(3) and 17(2) of this Directive***, Member States shall consider as being interoperable and meeting the essential requirements concerning them, those structural subsystems ***authorised to be placed in service in any other Member State, except as regards their compatibility with infrastructure characteristics specific to the Member State concerned. Similarly, Member States shall consider as being interoperable and meeting the essential requirements concerning them, those structural subsystems*** constituting the rail system which are covered by the 'EC' declaration of verification, .

Justification

The 'EC' declaration of verification proves compatibility with the TSIs, but this is not sufficient, since there may be problems of compatibility with existing infrastructure not consistent with the TSIs. Due account must also be taken of aspects not covered in a TSI (Article 17(2)) and specific cases or derogations in the absence of a TSI (Article 16(3)).

Amendment 44
Article 16, paragraph 3, subparagraph 1

In the absence of TSIs, when a derogation has been notified under Article 7, or when a specific case requires the application of **technical** rules not included in the TSI concerned, Member States shall send the Commission, for each subsystem, a list of the **technical** rules in use for implementing the essential requirements.

In the absence of TSIs, **or** when a derogation has been notified under Article 7, or when a specific case requires the application of rules not included in the TSI concerned, Member States shall send the Commission, for each subsystem, a list of the rules in use for implementing the essential requirements. ***That list shall also be used by Member States to check the compatibility of subsystems with the existing system into which they are integrated if that system is not consistent with the corresponding TSIs.***

Justification

This amendment supplements Amendment 34 in Parliament's draft report. Pursuant to Article 14(1), Member States must check the compatibility of subsystems with the system into which they are integrated. Rules relating to existing infrastructure which are not consistent with the TSIs must be notified, even if the TSIs exist.

Amendment 45
Article 16, paragraph 3, subparagraph 2

Justification Member States shall send the Commission, for each subsystem, a list of the This shall be notified, **depending on the circumstances**, either at the latest **two years** after the entry into force of this Directive and thereafter each time the list of technical rules is changed, or after the derogation has been notified, or after publication of the TSI concerned. On that occasion, Member States shall also designate the bodies responsible for carrying out, in the case of these technical regulations, the verification procedure referred to in Article 18.

This shall be notified, either at the latest **six months** after the entry into force of this Directive and thereafter, **depending on the circumstances**, each time the list of technical rules is changed, or after the derogation has been notified, or after publication of the TSI concerned. On that occasion, Member States shall also designate the bodies responsible for carrying out, in the case of these technical regulations, the verification procedure referred to in Article 18.

technical rules in force which they consider to form part of the essential requirements.

Amendment 46
Article 17, paragraph 3

3. Where a Member State or the Commission considers that it is urgent to modify a TSI, the Agency shall be requested to provide a Technical Opinion. The Commission shall decide, having consulted the Committee under the procedure referred to in **Article 21(2)**, if the Technical opinion may be used pending the review of the TSI; if such is the case, the Agency shall publish the Technical Opinion.

3. Where a Member State or the Commission considers that it is urgent to modify a TSI, the Agency shall be requested to provide a Technical Opinion. The Commission shall decide, having consulted the Committee under the procedure referred to in **Article 21(4)**, if the technical opinion may be used pending the **adoption of the** review of the TSI **in accordance with the procedure referred to in Article 6**; if such is the case, the Agency shall publish the technical opinion.

Justification

The amendment makes the necessary adjustments in line with the new comitology procedure of 'Regulatory Committee with scrutiny' provided by Council Decision 2006/512/EC of 17 July 2006 laying down the procedures for the exercise of implementing powers conferred on the Commission. It provides additional transparency for the adoption or the revision of the relevant measures in this proposal.

Amendment 47 Article 18, paragraph 3

3. The notified body shall be responsible for compiling the technical file that has to accompany the «EC» declaration of verification. This technical file must contain all the necessary documents relating to the characteristics of the subsystem and, where appropriate, all the documents certifying conformity of the interoperability constituents. It should also contain all the elements relating to the conditions and limits of use and to the instructions concerning servicing, constant or routine monitoring, adjustment and maintenance.

3. The notified body shall be responsible for compiling the technical file that has to accompany the "EC" declaration of verification. This technical file must contain all the necessary documents relating to the characteristics of the subsystem and, where appropriate, all the documents certifying conformity of the interoperability constituents, **paying particular attention to ergonometry, safety and health protection**. It should also contain all the elements relating to the conditions and limits of use and to the instructions concerning servicing, constant or routine monitoring, adjustment and maintenance.

Justification

The 'notified bodies' issue the verification certificates for subsystems and therefore have an important supervisory role to play. As part of checks on subsystems or interfaces of other subsystems, it is also necessary to respect worker protection in a binding manner, since ultimately that is an indispensable guarantee for the safety of the railway system.

Amendment 48
Article 19, paragraph 3, point (b)

(d) inadequacy of a TSI. In such a case, the procedure for reviewing the TSI shall be started pursuant to Article 6(1).

(b) inadequacy of a TSI. In such a case, the procedure for reviewing the TSI shall be started pursuant to Article 6(1) *or Article 17(3)*.

Amendment 49
Chapter IV, after Article 19, title (new)

***B. PLACING IN SERVICE OF
RAILWAY VEHICLES***

Amendment 50
Article 19 a (new)

Article 19a

***Authorisation for placing in service of
vehicles***

- 1. A vehicle shall be authorised to be placed in service in each Member State, unless otherwise provided for in this Chapter.***
- 2. A contracting entity that intends to place in service a railway vehicle in a Member State shall submit a request to the competent national safety authority.***
- 3. A TSI conform vehicle shall be authorised pursuant to Article 19b or 19c.***
- 4. A non-TSI conform vehicle shall be authorised according to Article 19d or 19e.***
- 5. A vehicle which conforms to an authorised type shall be authorised according to Article 19f.***
- 6. An authorisation granted by one Member State shall be recognised in all the other Member States, without prejudice to the provisions of Articles 19(c) and 19(e) concerning additional authorisations. Where a Member State decides that an additional authorisation is***

necessary pursuant to Article 19c or 19e, the decision shall be duly substantiated and the applicant shall be informed.

7. All applications for an authorisation to place in service shall be the subject of a decision by the competent national safety authority, pursuant to Articles 19b and 19c or Articles 19d and 19e.

The authorisation to place in service may stipulate conditions of use and other restrictions.

8. In the absence of a decision within the prescribed time limits, the placing in service of the rail vehicle in question shall be deemed to have been authorised.

9. Any decision in the negative by a competent national safety authority in respect of placing in service of a railway vehicle shall be duly substantiated. The applicant may within a period of one month as from receipt of notification request from the competent national safety authority that the decision be reviewed for duly justified reasons and may request from the European Railway Agency an opinion which, in such a case, shall be issued within one month of the request being filed and notified both to the applicant and to the competent national safety authority refusing to grant authorisation. The national safety authority shall then have a month starting from receipt of the appeal and or, where applicable, from receipt of the Agency's opinion, to confirm or reverse its decision.

10. In the case of vehicles running from/to one Member State to/from a third country on a network whose track gauge is different from that of the main rail network within the Community and for which a derogation may be granted in accordance with Article 7(5) or which are subject to specific cases, the national rules referred to in Articles 18 b and 18 c may include international agreements insofar as they are compatible with Community legislation.

11. Authorisations for placing in service

of TSI conform vehicles or TSI non-conform vehicles which have been granted before the entry into force of this Directive, including authorisations granted pursuant to an international agreement, in particular RIC and RIV, shall remain valid in accordance with the conditions under which the authorisations have been granted.

Amendment 51
Article 19 b (new)

Article 19b

Authorisation for placing in service of TSI conform vehicles

1. This Article shall apply to vehicles which are in conformity with all the relevant TSIs in force at the moment of placing in service, provided that a significant part of the essential requirements has been laid down in those TSIs.

2. The initial authorisation shall be granted by a national safety authority as follows:

(a) In the event that all the structural subsystems of a vehicle have been authorised in conformity with the provisions of Chapter IV, the authorisation shall be granted without further checks.

(b) In the case of vehicles bearing all necessary "EC" declarations of verification, as provided for in Article 17, the criteria which a national safety authority may check with a view to issuing an authorisation for placing in service may concern only:

- technical compatibility between the vehicle's relevant subsystems**
- technical compatibility between the vehicle and the network concerned;**
- the national rules applicable to the open points only in the case of the first placing in service**
- the national rules applicable to the**

specific cases duly identified in the relevant TSIs.

3. Vehicles in complete conformity with TSIs, covering all aspects of the relevant subsystems without specific cases and without open points, shall not need any additional authorisation for placing in service as long as they run on TSI conform networks in the other Member States.

Amendment 52
Article 19 c (new)

Article 19c

Additional authorisations for placing in service of TSI conform vehicles

1. In the event that a vehicle has been authorised to be placed in service in one Member State, other Member States may decide that, for specific cases, open points and/or vehicles may run on non-TSI conform networks, if additional authorisations to place in service are necessary on their territory.

2. In such a case the criteria which the competent national safety authority checks with a view to issuing the additional authorisation for placing in service may concern only:
– *technical compatibility between the vehicle and the network concerned including the national rules applicable to the open points needed to ensure such compatibility;*
– *the national rules applicable to the specific cases duly identified in the relevant TSIs.*

3. The applicant shall submit to the national safety authority a technical file on the vehicle or type of vehicle together with details of planned use on the network. The file shall contain the following information:
a) documentary evidence that the placing in service of the vehicle has been authorised in one or more Member State

(s) together with a copy of the relevant declarations of verification delivered in accordance with chapter IV;
b) the technical data, the maintenance programme and the operational characteristics accepted by the Member State that granted the initial authorisation and, where applicable, by other Member States; In the case of vehicles equipped with data recorders and if the corresponding TSI does not specify this, the technical description of the recorder and of the readout and evaluation process of the data as well as the necessary software which can be used solely by the accident investigation body for its investigations;
c) the records that show the vehicle's history of operation, maintenance and, where applicable, technical modifications undertaken after the authorisation;
d) evidence concerning technical and operational characteristics that shows that the vehicle is compatible with the infrastructures and fixed installations (including climate conditions, energy supply system, signalling and control command system, track gauge and infrastructure gauges, maximum permitted axle load and other constraints of the network, noise limits and where applicable, derogations needed by the applicant in order to guarantee such compatibility.

4. The information referred to in paragraph 3(a) and (b) cannot be called into question by the national safety authority, save where the latter is able to demonstrate the existence of a substantial safety risk. After the adoption of the reference document referred to in Article 19g, the national safety authority may not invoke in this regard any Group A rule listed in this document.

5. The national safety authority shall have a maximum of one month following the submission of the application and technical file to request, should it consider

this necessary, the provision of additional information in order that risk analyses can be carried out in accordance with Article 6(3)(a) of Directive 2004/49/EC or that tests can be conducted on the network in order to verify that the information referred to in paragraph 2(c) and (d) complies with the national rules in force as notified to the Commission pursuant to Article 8 of the Railway Safety Directive or to Article 16 of this Directive. However, after the adoption of the reference document referred to in Article 19g of this Directive, the national safety authority may only carry out such verification on the basis of the national rules relating to Group B or C that feature in this document.

6. The national safety authority shall define, after consultation of the applicant, the scope and content of the additional information, the risk analyses or the tests requested. The infrastructure manager, in consultation with the applicant, shall make every effort to ensure that any tests can take place within three months of the applicant's request. Where appropriate, the national safety authority shall take measures in order that the tests can take place.

7. All applications for an authorisation to place in service submitted in accordance with this Article shall be the subject of a decision by the competent national safety authority, to be taken as soon as possible and not later than:

- i) two months after submission of the application;*
- ii) where applicable, one month after provision of any additional information requested by the national safety authority pursuant to paragraph 5 in addition to the period referred to point i);*
- iii) where applicable, one month after provision of the results of any tests requested by the national safety authority pursuant to paragraph 5 in addition to the periods referred to point i) and/or ii);*

iv) in the absence of a decision within the prescribed time limits, the placing in service of the rail vehicle in question shall be deemed to have been authorised.

Amendment 53
Article 19 d (new)

Article 19d

Initial authorisation for placing in service of non-TSI conform vehicles

1. This Article shall apply to vehicles which are not in conformity with all the relevant TSIs in force at the moment of placing in service, including vehicles subject to derogations, or when a significant part of the essential requirements has not been laid down in one or more TSIs.

2. The initial authorisation shall be given by a national safety authority as follows:
– For the technical aspects covered by a TSI, if any, the "EC" verification procedure of Chapter IV shall apply;
– For the other technical aspects, national rules as notified under Article 16(3) of this Directive and under Article 8 of the Railway Safety Directive shall apply.
This initial authorisation shall only be valid on the network of the Member State issuing it.

Amendment 54
Article 19 e (new)

Article 19e

Additional authorisations for placing in service of non-TSI conform vehicles

1. In the case of vehicles that have been authorised to be placed in service in one Member State, other Member States may decide in accordance with this Article if additional authorisations to place in service are necessary on their territory. Where a Member State decides that an additional authorisation is necessary, the applicant may request from the Agency,

pursuant to Article 10 of Regulation (EC) N° 881/2004, to issue a technical opinion in this regard and, if it considers it appropriate, use the appeal procedure provided for in Article 17 (3) of the Railway Safety Directive.

2. The applicant shall submit to the national safety authority a technical file on the vehicle or type of vehicle together with details of planned use on the network. The file shall contain the following information:

a) documentary evidence that the placing in service of the vehicle has been authorised in another Member State together with documentation on the procedure followed in order to show that the vehicle complied with the safety requirements in force, including, where applicable, derogations granted in accordance with Article 7;

b) the technical data, the maintenance programme and the operational characteristics accepted by the Member State that granted the initial authorisation and, where applicable, by other Member States; In the case of vehicles equipped with data recorders the technical description of the recorder and of the readout and evaluation process of the data as well as the necessary software which can be used solely by the accident investigation body for its investigations;

c) the records that show the vehicle's history of operation, maintenance and, where applicable, technical modifications undertaken after the authorisation;

d) evidence on technical and operational characteristics that shows that the vehicle is compatible with the infrastructures and fixed installations, including climate conditions, energy supply system, signalling and control command system, track gauge and infrastructure gauges, maximum permitted axle load, noise limits and other constraints of the network, and where applicable, derogations needed by the applicant in

order to guarantee such compatibility.

3. The information referred to in paragraph 2(a) and (b) shall not be called into question by the national safety authority, save where the latter is able to demonstrate the existence of a substantial safety risk. After the adoption of the reference document referred to in Article 19g, the national safety authority may not invoke in this regard any Group A rule listed in this document.

4. The competent national safety authority shall have a maximum of three months following the submission of the application and technical file to request, should it consider this necessary, the provision of additional information in order that risk analyses can be carried out in accordance with Article 6(3)(a) of Directive 2004/49/EC or that tests can be conducted on the network in order to verify that the information referred to in paragraph 2(c) and (d) complies with the national rules in force as notified to the Commission pursuant to Article 8 of the Railway Safety Directive or to Article 16 of this Directive. However, after the adoption of the reference document referred to in Article 19g of this Directive, the national safety authority may only carry out such verification on the basis of the national rules relating to Group B or C that feature in this document.

5. The national safety authority shall define, after consultation of the applicant, the scope and content of the additional information, the risk analyses or the tests requested. The infrastructure manager, in consultation with the applicant, shall make every effort to ensure that any tests can take place within three months of the applicant's request. Where appropriate, the national safety authority shall take measures so that the tests can take place.

6. All applications for an authorisation to place in service submitted in accordance with this Article shall be the subject of a decision by the competent national safety

authority, to be taken as soon as possible and not later than:

i) four months after submission of the technical dossier referred to paragraph 2;

ii) where applicable, two months after provision of the additional information or risk analyses requested by the national safety authority pursuant to paragraph 4 in addition to the period referred to point i);

iii) where applicable, two months after the provision of the results of the tests requested by the national safety authority pursuant to paragraph 4 in addition to the period referred to point i) and/or ii);

iv) in the absence of a decision within the prescribed time limits, the placing in service of the rail vehicle in question shall be deemed to have been authorised.

7. Member States may issue authorisations to place in service for existing vehicles covering a series of vehicles. To that end, the national safety authorities shall notify the applicant of the procedure to be followed.

Amendment 55
Article 19 f (new)

Article 19f

Authorisation for types of vehicle

1. Member States may grant authorisations for types of vehicle.

2. However, if Member States authorise a vehicle, they shall at the same time authorise the type of vehicle.

3. A vehicle conform to a type already authorised in a Member State shall be authorised by this Member State on the basis of a declaration of conformity to this type submitted by the applicant without further checks. However, in the event that the relevant provisions in TSIs and national rules on the basis of which a type of vehicle was authorised change, Member States shall decide whether authorisations for types already granted

remain valid or need to be renewed. The criteria which a national safety authority checks in the event of a renewed authorisation for a type may only concern the changed rules. The renewal of the type authorisation shall not affect authorisations for vehicles already granted on the basis of previously authorised types.

4. The model of declaration of conformity to the type shall be adopted by the Commission within [] on the basis of draft prepared by the Agency and in accordance with a procedure provided for in Article 21.3.

5. The declaration of conformity to the type shall be established in accordance with:

a) for the TSI conform vehicles, the verification procedures of the relevant TSIs;

b) for the TSI non-conform vehicles, the verification procedures as defined in modules C, D or E of Decision 93/465/EEC.

6. The applicant may ask for a type authorisation in several Member States at the same time. In such a case, national safety authorities shall cooperate with a view to simplifying the procedure and minimising administrative efforts.

7. Type authorisations shall be registered in the European Register of Authorised Types as referred to in Article 23c. This register shall specify the Member State or Member States in which a type of vehicle is authorised.

Amendment 56
Article 19 g (new)

Article 19g

Classification of national rules

1. In order to facilitate the procedure for authorising the placing in service of vehicles referred to in Article 19a, the national rules shall be classified pursuant

to Annex VIa.

2. Without prejudice to Article 22 (3), at the latest six months after the entry into force of this Directive, the Agency shall review the parameters in section 1 of Annex VIa and make the recommendations it considers appropriate to the Commission.

3. The Agency shall facilitate the adoption, classification and assignment of the national rules necessary for the adoption of a reference document pursuant to Article 8a of Regulation (EC) No 881/2004. The national authorities shall cooperate with the Agency in that task.

3. The measures intended to amend and supplement non-essential elements of this Directive, relating to the adoption of the reference document, as well as any decision to update on the basis of the Agency's recommendations, shall be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 21(4). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 21 (4a).

Amendment 57

Article 20, paragraph 4

4. Should a Member State or the Commission consider that a body notified by another Member State does not meet the relevant criteria, the Commission shall consult the parties concerned. After consulting the Committee in accordance with the procedure referred to in Article 21(2), the Commission shall inform the Member State in question of any changes that are necessary for the notified body to retain the status conferred upon it.

4. Should a Member State or the Commission consider that a body notified by another Member State does not meet the relevant criteria, the Commission shall consult the parties concerned **and the Agency, pursuant to Article 13 of Regulation (EC) No 881/2004, and may seek the Agency's opinion.** After consulting the Committee in accordance with the procedure referred to in Article 21(2), the Commission shall inform the Member State in question of any changes that are necessary for the notified body to retain the status conferred upon it.

Justification

If it is to take a decision, it is essential that the Commission should be able to consult and seek the opinion of the Agency on matters relating to the officially approved status of notified bodies.

Amendment 58
Article 21, paragraph 4 a (new)

4a. Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Justification

The amendment makes the necessary adjustments wherever this is necessary and in line with the new comitology procedure of 'Regulatory Committee with scrutiny' provided by Council Decision 2006/512/EC of 17 July 2006 laying down the procedures for the exercise of implementing powers conferred on the Commission.

Amendment 59
Article 21, paragraph 7

7. The measures ***amending the*** non-essential elements of this Directive ***set out in*** Annexes II to VIII shall be adopted in accordance with the regulatory procedure with scrutiny referred to in paragraph 4 of this Article.

7. The measures ***designed to amend*** non-essential elements of this Directive, ***by supplementing it, relating to*** Annexes II to VIII shall be adopted in accordance with the regulatory procedure with scrutiny referred to in paragraph 4 of this Article.

Justification

The amendment makes the necessary adjustments in line with the new comitology procedure of 'Regulatory Committee with scrutiny' provided by Council Decision 2006/512/EC of 17 July 2006 laying down the procedures for the exercise of implementing powers conferred on the Commission. It provides additional transparency for the adoption or the revision of the relevant measures in this proposal.

Amendment 60
Article 24

1. The Member States shall ensure that registers of infrastructure and of rolling stock are published and updated regularly.

deleted

Those registers shall indicate the main features of each subsystem or part subsystem involved (e.g. the basic parameters) and their correlation with the features laid down by the applicable TSIs. To that end, each TSI shall indicate precisely which information must be included in the registers of infrastructure and of rolling stock.

2. A copy of those registers shall be sent to the Member States concerned and to the Agency and shall be made available for consultation by interested parties, including at least the professional actors from the sector.

3. The Agency shall prepare a draft guide to implementing the registers of infrastructure and rolling stock; the guide shall specify the contents of the registers and recommend their format, revision cycle and instructions for use. The guide shall also set out the rules for implementing this Article with regard to infrastructures and rolling stock placed in service before the entry into force of this Directive. The Commission shall adopt the guide after consulting the Committee in accordance with the procedure referred to in Article 21(2).

Amendment 61
Article 24 a (new)

Article 24a

Vehicle numbering system

1. Any vehicle placed in service on the Community's railway system shall be assigned a European Vehicle Number (EVN) at the time of being granted the initial authorisation for placing in service.

2. The applicant for initial authorisation shall be responsible for marking the vehicle in question with the EVN assigned to it.

3. The TSI on traffic operation and management shall list the necessary

specifications for the appropriate identification and operation of the EVN.

4. An EVN shall only be assigned once to a vehicle, unless the TSI on traffic operation and management provides for an alternative.

5. By way of derogation from paragraph 1, in the case of vehicles placed in service for the first time in a third country, a Member State may agree to those vehicles being operated if they are clearly identified as conforming to a codification system different to that found in the Community. However, once a Member State has authorised the placing into service of such vehicles on its territory, the information stipulated in Article 24b(2) corresponding to those vehicles must be included in the vehicle register of the authorising Member State.

Amendment 62
Article 24 b (new)

Article 24b

National vehicle register

1. Each Member State shall keep a register of authorised railway vehicles on its territory. That register shall meet the following criteria:

a) the register shall be kept and updated by a body independent of any railway undertaking;

b) the register shall be accessible to the safety authorities and investigating bodies designated in Articles 16 and 21 of Directive 2004/49/EC; it shall also be made accessible, in response to any legitimate request, to the regulatory bodies designated in Article 30 of Directive 2001/14/EC, to the Agency, to the railway companies, to the infrastructure managers and to all persons or organisations that register vehicles or are listed in the register.

2. The common specifications for the

register shall be adopted in accordance with the procedure set out in Article 21(3), on the basis of the draft specifications prepared by the Agency. These draft specifications shall indicate the content and format of the data, the functional and technical architecture, the operating mode, including the methods of data exchange, and the rules governing the entry and consultation of data. The register shall contain, for each vehicle, at least the following information:

(a) references to the EC declaration of verification and the issuing body;

(b) references to the European register of authorised vehicle types provided for in Article 24c;

(c) identification of the owner of the vehicle, of its keeper and of the corresponding EVN;

(d) any restrictions relating to the use of the vehicle;

(e) entity responsible for maintenance. If such information is not available when placing in service is authorised, it may be added subsequently, and at the latest before the vehicle is used by a railway company.

3. The registration keeper shall declare immediately to the authorities of any Member State in which the vehicle has been authorised any modification in the data entered in the national vehicle register, the destruction of a vehicle or its decision to remove it from the register.

4. Until such time as the EVNs of the Member States are linked, each Member State shall, for the data concerning it, update its register with the modifications made by other Member States in their registers.

Amendment 63
Article 24 c (new)

Article 24 c

European register of authorised vehicle

types

1. The Agency shall establish and keep a European register of the vehicle types authorised by the Member States for placing in service on the European Community's rail system. That register shall meet the following criteria:

(a) it shall be public and accessible to everyone electronically;

(b) it shall comply with the common specifications defined in paragraph 4;

(c) it shall be linked to all the national vehicle registers.

2. The register shall contain the following details for each vehicle type:

(a) the technical characteristics of the vehicle type, as defined in the relevant TSIs;

(b) the name of the original producer or manufacturer and that of each entity which has carried out a subsequent redesign or updating;

(c) the dates, references and issuing Member States for the successive authorisations for each vehicle type, including any restriction or withdrawal.

3. When a type authorisation has been granted, modified, suspended or withdrawn in a Member State, the national authority of that Member State shall immediately inform the Agency, so that the latter can update the register.

4. The common specifications for the register shall be adopted in accordance with the procedure referred to in Article 21(3), on the basis of draft specifications prepared by the Agency. These draft specifications shall include the content and format of the data, the functional and technical architecture, the operating mode and the rules governing the entering and consultation of data.

Justification

With a view to facilitating mutual recognition of vehicles and taking advantage of the system of authorisations by vehicle type, a European register of authorised vehicle types must be established.

Amendment 64
Article 24, paragraph 2 a (new)

2a. The Agency shall make a compilation at European level of the national registers of infrastructure and rolling stock, containing the data referred to in Article 24b (2) (a) to (e). This compilation shall be published on its website or in another appropriate form.

Justification

A new paragraph is created to take account of all possibilities.

Amendment 65
Article 25, paragraph 2 a (new)

2a. Before 1 January 2015, the Agency shall be entrusted with the task of granting authorisations for vehicles that conform with the TSI and which are to be placed in service on the Community rail system. This transfer of competences shall be done with the cooperation of Member State national authorities.

Justification

In a long - term perspective role of the Agency should be reinforced. The task to issue authorisation for rolling stock should be transferred to ERA. The objective is the reduction of costs for the entire railway sector once the work related to the technical harmonisation of TSIs will be accomplished by ERA itself (i.e. in the aviation sector, the European Aviation Safety Agency is responsible for type-certification and the certification of specific models of aircraft, engines or parts approved for operation in the European Union).

Amendment 66
Article 25 a (new)

Article 25 a

Without prejudice to relevant Community law, in particular Community rules on State aid and Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations ¹, Member States may promote the retrofitting of rolling stock already placed in service and railway infrastructure that meet the requirements of interoperability.

¹ OJ L 204, 21.7.1998, p. 37. Directive as last amended by the 2003 Act of Accession.

Justification

In order to promote the interoperability of rolling stock in the railway system of EU, Member States should be permitted to provide incentives designated for the retrofitting of existing rolling stock and railway infrastructure. This exercise will enable, where appropriate, modernisation of railway rolling stock and infrastructure, market integration, while it will contribute to the modal shift towards more sustainable modes of transport.

Amendment 67
Article 28, subparagraph 1

Every ***three*** years the Commission shall report to the European Parliament and the Council on the progress made towards achieving interoperability of the rail system. That report shall also include an analysis of the cases set out in Article 7.

1. Every ***two*** years the Commission shall report to the European Parliament and the Council on the progress made towards achieving interoperability of the rail system ***and on the impact of relative measures or actions adopted in Member States.*** That report shall also include an analysis of the cases set out in Article 7. ***Every two years Member States shall communicate to the Agency and the Commission a report on the progress made towards achieving interoperability, including quantitative and qualitative aspects of its implementation.***

2. ***The report shall also include an analysis of the possible extension of the Agency's tasks, with the aim of further simplifying and centralising the***

procedures relating to the authorisation of vehicles that conform with the TSI. This review process shall be carried out in cooperation with Member States.

Justification

It is essential to monitor the progress made in interoperability of the rail system and draw up regular reports in order to plan appropriate action. The data collected by the Agency or/and the Commission from the Member States, the industry or other interested parties would serve as a basis for the development of various tools providing more information flow and transparency for the cross acceptance. This amendment is complementary to the purpose of previous amendment, concerning the role of the Agency in a long – term perspective.

Amendment 68

Annex I, 1.1., paragraph 3

This infrastructure includes traffic management, tracking, and navigation systems: technical installations for data processing and telecommunications intended for long-distance passenger services and freight services on the network in order to guarantee the safe and harmonious operation of the network and efficient traffic management.

This infrastructure includes traffic management, tracking, and navigation systems: technical installations for data processing and telecommunications intended ***both*** for long-distance passenger services and freight services on the network, ***and for invoicing of the electricity consumed by electrification systems on electrified lines***, in order to guarantee the safe and harmonious operation of the network and efficient traffic management.

Amendment 69

Annex I, section 1.2.

1.2. ROLLING STOCK

The rolling stock will comprise all the stock likely to travel on all or part of the trans-European conventional rail network, including:

- self-propelling thermal or electric trains;
- thermal or electric traction units;
- passenger carriages;
- freight wagons, including rolling stock designed to carry lorries.

1.2. ROLLING STOCK

The rolling stock will comprise all the stock likely to travel on all or part of the trans-European conventional rail network, including:

- self-propelling thermal or electric trains;
- thermal or electric traction units;
- passenger carriages;
- freight wagons, including rolling stock designed to carry lorries.

It will also comprise all the stock capable of travelling on all or part of the trans-European high-speed network whose

Mobile railway infrastructure construction and maintenance equipment is included but is not the first priority.

Each of the above categories is subdivided into:

- rolling stock for international use,
- rolling stock for national use.

maximum speed is less than 190 km/h.

Mobile railway infrastructure construction and maintenance equipment is included but is not the first priority.

Each of the above categories is subdivided into:

- rolling stock for international use,
- rolling stock for national use.

Amendment 70

Annex I, 2.1., paragraph 2, second indent

- specially upgraded high-speed lines equipped for speeds of *the order of 200* km/h,

- specially upgraded high-speed lines equipped for speeds of *over 190* km/h,

Amendment 71

Annex I, 2.1., paragraph 3

This infrastructure includes traffic management, tracking, and navigation systems: technical installations for data processing and telecommunications intended for passenger services on these lines in order to guarantee the safe and harmonious operation of the network and efficient traffic management.

This infrastructure includes traffic management, tracking, and navigation systems: technical installations for data processing and telecommunications intended *both* for passenger *and, where appropriate, freight* services on these lines, *and for invoicing of the electricity consumed by electrification systems on electrified lines*, in order to guarantee the safe and harmonious operation of the network and efficient traffic management.

Amendment 72

Annex I, 2.2., second indent

- or at speeds of *the order of 200* km/h on the lines of section 1, where compatible with the performance levels of these lines.

- or at speeds of *over 190* km/h on the lines of section 1, where compatible with the performance levels of these lines.

Amendment 73

Annex II, 2.2.

The electrification system *and* overhead lines.

The electrification system, overhead lines *and the fixed installations required to record and transfer data for the invoicing of the electricity consumed by electrification systems on electrified lines.*

Amendment 74
Annex II, 2.6.

Structure, command and control system for all train equipment, current-collection devices, traction and energy conversion units, braking, coupling and running gear (bogies, axles, etc.) and suspension, doors, **man/machine** interfaces (driver, on-board staff and passengers, **including the needs of persons with reduced mobility**), passive or active safety devices and requisites for the health of passengers and on-board staff.

Structure, command and control system for all train equipment, **the set of subsystems making up the different railway vehicle structures and including** current-collection devices, traction and energy conversion units, braking, coupling and running gear (bogies, axles, etc.) and suspension, doors, interfaces **between man** (driver, on-board staff and passengers) **and machine**, passive or active safety devices and requisites for the health of passengers and on-board staff **and for the proper care of persons with disabilities or reduced mobility**.

Amendment 75
Annex III, point 1.1.2.

1.1.2. The parameters involved in the wheel/rail contact must meet the stability requirements needed in order to guarantee safe movement at the maximum authorized speed.

1.1.2. The parameters involved in the wheel/rail contact must meet the stability requirements needed in order to guarantee safe movement at the maximum authorized speed. **The parameters of brake equipment must guarantee the maximum authorised speed and stopping in the given brake distance in an emergency.**

Justification

From the safety point of view, stopping the trains is more important than running at maximum authorised speed.

Amendment 76
Annex III, 2.1.1, fourth subparagraph

Appropriate provisions must be laid down to take account of the particular safety conditions in very long tunnels.

Appropriate provisions must be laid down to take account of the particular safety conditions in very long tunnels **and viaducts**.

Justification

More precise wording.

Amendment 77
Annex VI, 2

2. STAGES

The subsystem is checked at each of the following stages:

- overall design;
- construction of subsystem, including, in particular, civil engineering activities, constituent assembly, overall adjustment;
- final testing of the subsystem.

2. STAGES

The subsystem is checked at each of the following stages:

- overall design;
- construction of subsystem, including, in particular, civil engineering activities, **manufacture**, constituent assembly, overall adjustment;
- final testing of the subsystem.

In cases where, for a design phase (including the type tests) or for a construction phase, the applicant is the constructor or the manufacturer or its authorised representative established within the Community, this check shall lead to the establishment of an intermediate statement of verification (ISV) issued by the notified body chosen by the applicant. The applicant shall then draw up an 'EC' declaration of ISV for the relevant phase(s).

Amendment 78
Annex VI, 3

3. CERTIFICATE

The notified body responsible for 'EC' verification draws up the certificate of **conformity** intended for the contracting entity or **the constructor or their** authorised representative established within the Community, which in turn draws up the 'EC' declaration of verification intended for the supervisory authority in the Member State in which the subsystem is located and/or operates.

3. CERTIFICATE

The notified body responsible for 'EC' verification draws up the certificate of **verification** intended for the contracting entity or **its** authorised representative established within the Community, which in turn draws up the 'EC' declaration of verification intended for the supervisory authority in the Member State in which the subsystem is located and/or operates.

The notified body responsible for 'EC' verification will check the design and construction of the subsystem. Where relevant, the notified body will take into account the intermediate statements of verification (ISVs) and, with a view to

issuing the 'EC' certificate of verification, it:

- will check that the subsystem:*
- is covered by the corresponding 'design' and 'construction' ISV certificates issued by the constructor or manufacturer;*
- or that the subsystem has been produced in conformity with all the aspects covered by the 'design' ISV issued to the constructor or manufacturer;*
- check that the requirements of the corresponding TSI are correctly fulfilled;*
- check the design and construction elements not covered by 'design' or 'construction' ISV certificates.*

Justification

In the light of the amended version of Article 18(1) proposed by the Commission in its draft of 13 December 2006, the developments linked to Directive 2007/32/EC of 1 June 2007 must be taken into account by introducing a two-stage procedure:

- the first to be carried out by the constructor or manufacturer and the notified body it has chosen,*
- the second to be carried out by the contracting entity and the notified body it has chosen.*

These two stages are justified because:

- when the constructor/manufacturer starts the first stage, it does not necessarily know which contracting entities will purchase the subsystem it plans to design and manufacture (for example, equipment sold from a catalogue);*
- when a contracting entity subsequently purchases one or more examples of the subsystem, it frequently requests certain specific features (in particular as regards the rolling stock and the control-command and signalling subsystems) in the light of its marketing approach, its clientele, or the characteristics of the lines it intends to use. The final tests envisaged by paragraph 2 of Annex VI must therefore take account of the choices made by the contracting entity;*
- the maintenance file prepared by the constructor/manufacturer is often modified by the contracting entity, which may prefer to strike a different balance between preventive and curative maintenance on the basis of its own experience and its analysis of the choices made by the constructor/manufacturer, who, in the hope of securing a large volume of maintenance work, may err on the side of over-cautious maintenance instructions. This file is essential in order to obtain authorisation for placing in service.*

Amendment 79
Annex VI, paragraph 4

4. TECHNICAL FILE

The technical file accompanying the declaration of verification must be made up as follows:

- for infrastructure: engineering-structure plans, approval records for excavations and reinforcement, testing and inspection reports on concrete;

- for the other subsystems: general and detailed drawings in line with execution, electrical and hydraulic diagrams, control-circuit diagrams, description of data-processing and automatic systems, operating and maintenance manuals, etc.;

- list of interoperability constituents, as referred to in Article 3, incorporated into the subsystem;

- copies of the «EC» declarations of conformity or suitability for use with which the abovementioned constituents must be provided in accordance with Article 13 of the Directive accompanied, where appropriate, by the corresponding calculation notes and a copy of the records of the tests and examinations carried out by the notified bodies on the basis of the common technical specifications;

- certificate from the notified body responsible for «EC» verification, accompanied by corresponding calculation notes and countersigned by itself, stating that the project complies with this Directive and mentioning any reservations recorded during performance of the activities and not withdrawn; the certificate should also be accompanied by the inspection and audit

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The technical file accompanying the declaration of verification must be made up as follows:

- for infrastructure: engineering-structure plans, approval records for excavations and reinforcement, testing and inspection reports on concrete;

- for the other subsystems: general and detailed drawings in line with execution, electrical and hydraulic diagrams, control-circuit diagrams, description of data-processing and automatic systems, operating and maintenance manuals, etc.;

- list of interoperability constituents, as referred to in Article 3, incorporated into the subsystem;

- copies of the «EC» declarations of conformity or suitability for use with which the abovementioned constituents must be provided in accordance with Article 13 of the Directive accompanied, where appropriate, by the corresponding calculation notes and a copy of the records of the tests and examinations carried out by the notified bodies on the basis of the common technical specifications;

- if available, the intermediate statement(s) of verification and, in such a case, the 'EC' declaration(s) of intermediate conformity that accompany the ISVs and include the result of verification of their validity by the notified body;

- certificate from the notified body responsible for "EC" verification, accompanied by corresponding calculation notes and countersigned by itself, stating that the project complies with this Directive and mentioning any reservations recorded during performance of the activities and not withdrawn; the certificate should also be accompanied by the inspection and audit

reports drawn up by the same body in connection with its task, as specified in sections 5.3 and 5.4.

reports drawn up by the same body in connection with its task, as specified in sections 5.3 and 5.4.

Justification

See justification for Amendment 152 (Annex VI, paragraph 3).

Amendment 80
Annex VI, 5.4. a (new)

5.4.a The notified body shall monitor subsystems on which an interoperability constituent is mounted in order to assess, where the corresponding TSI so requires, its suitability for use in its intended railway environment, in accordance with Annex IV, paragraph 2.

During this period of assessment in which the interoperability constituent is not definitively covered by an EC declaration of suitability for use, the notified body may deliver a temporary certificate of verification for each subsystem, on which it will clearly note the specific conditions that are to be respected as regards operation, maintenance and monitoring.

Justification

With the directives today in force, a legal difficulty exists: for assessing the suitability for use of an interoperability constituent according to Art. 10.2 and Annex IV § 2, it is necessary to mount it in several subsystems before it may be covered by the corresponding EC declaration. But, according to Annex VI § 1 and 4, the notified body should not deliver a EC certificate of verification for these subsystems, because they include interoperability constituents without the mandatory EC declaration of suitability for use; and, even if it did it, a Member State, according to Art.19, should take appropriate measures. The proposed paragraph solves the problem.

Amendment 81
Annex VI, 6, paragraph 1

The complete file referred to in paragraph 4 must be lodged with the contracting entity or the constructor or their authorised representative established within the Community in support of the certificate of

The complete file referred to in paragraph 4 must be lodged with the ***constructor or manufacturer or*** contracting entity or the constructor or their authorised representative established within the Community ***in***

conformity issued by the notified body responsible for verification of the subsystem in working order. The file must be attached to the 'EC' declaration of verification which the contracting entity or the constructor sends to the supervisory authority in the Member State concerned.

support of the ISV certificate issued by the notified body responsible for this or in support of the certificate of conformity issued by the notified body responsible for verification of the subsystem in working order. The file must be attached to **the ISV declaration and/or** the 'EC' declaration of verification which the contracting entity or the constructor sends to the supervisory authority in the Member State concerned.

Amendment 82
Annex VI, 7, indents 2 and 3

- *certificates of conformity* issued;
- *certificates of conformity* refused.
- *intermediate statements of verification (ISVs) issued or refused*;
- *certificates of verification issued or refused*.

Amendment 83
Annex VI a (new)

ANNEX VIa

Parameters to be checked in conjunction with the placing in service of existing rolling stock and classification of national rules

1. LIST OF PARAMETERS

(1) Background information

– *information relating to the national legal framework in force*

– *special national conditions*

– *maintenance book*

– *operational log book*

(2) Infrastructure characteristics

– *pantographs*

– *on-board supply equipment and electromagnetic compatibility impact*

– *loading gauge and track gauge*

– *miscellaneous safety equipment, e.g. control and command, track-to-train communication systems, electromagnetic*

compatibility, axle housing heat detectors

- ballast projections, crosswinds

- fixed installations needed to record and transfer data in connection with the invoicing of the power consumed by electrification systems or electrified lines

(3) Rolling stock characteristics

- vehicle dynamics

- vehicle superstructure

- draw and buffer gear

- bogies and running gear

- wheel set/wheel set bearing

- brake equipment

- technical systems requiring monitoring; e.g. compressed air system

- front/side windows

- doors

- devices for passing

- control systems (software)

- drinking water and wastewater systems

- environmental protection

- fire protection

- health and safety of workers at the workplace and safety of passengers.

- tank and tank wagons

- pressure discharge containers

- load securing

- marking

- welding techniques

- resistance to crosswinds and impacts on ballast

- impact resistance capacity

- noise emissions(internal and external)

- emergency braking systems and emergency brake override

- *warning equipment*
- *footplates and handles for shunting personnel;*

This list may be extended, but any additions must be the subject of a notification by a Member State concerned or a proposal from the Agency and must be checked by the Commission.

2. CLASSIFICATION OF RULES

The national rules relating to the parameters identified above are assigned to one of the following three groups. Rules and restrictions of a strictly local nature are not included ; their verification involves checks to be put in place by mutual agreement between the railway undertakings and the infrastructure managers.

Group A

Group A covers:

- *international standards,*
- *national rules deemed to be equivalent, in railway safety terms, to national rules of other Member States.*

Group B

Group B covers all rules that do not fall within the scope of Group A or Group C, or that have not been able to be classified in one of these groups.

Group C

Group C covers rules that are strictly necessary and are associated with technical infrastructure characteristics, in order to ensure safe and interoperable use in the network concerned (e.g. the loading gauge).

Justification

Takes over the rapporteur's Amendment 54, adding details in paragraphs 1(2) [addition of characteristics at the end of the list] and 1(3) [addition of characteristics at the end of a list + addition of a paragraph stipulating that it should be possible to extend the list subject to

certain conditions]. It is in line with current standards to add 'at the workplace' in connection with the health and safety of workers. A further category which should also be introduced in this connection is the 'health and safety of passengers'. However, all these missing characteristics in practice ensure the safe use of rolling stock under special operating conditions and thereby contribute substantially to safety and environmental protection.

EXPLANATORY STATEMENT

This proposal is part of the new Commission's initiative to improve interoperability¹ of the Community railway system. The Commission's package includes a Communication on 'Facilitation the movement of locomotives across the EU' annexed by a guidance document aiming at the improvement of the technical part of the Community regulatory framework in the railway area² and three legislative proposals.

The Commission's proposals include one directive on the interoperability of the Community rail system³, which merges the existing interoperability directives Dir. 96/48/EC on trans-European high speed rail system and Dir. 2001/16/EC on conventional rail system, a second one on amending Directive 2004/49/EC on safety on the Community's railways⁴ and a regulation amending Regulation 881/2004/EC establishing the European Railway Agency⁵.

1. Facilitate the interoperability of locomotives across the EU: the cross acceptance of rolling stock in the EU

Problem definition

National procedures for the approval of locomotives and traction units⁶ are currently regarded as one of the main barriers to the creation of new railway and a major obstacle to the interoperability of the European railway system. As Member States cannot decide on its own that the authorisation for placing in service which it issues will be valid on the territory of other Member States, a Community initiative to tackle this issue through harmonisation and simplification of national procedures together with the application of the principle of mutual recognition is necessary.

Definition of cross-acceptance

Cross-acceptance of rolling stock is the process by which a railway vehicle that has received an authorisation to be placed in service in one Member State, following checks against TSIs and/or National Technical Rules (in accordance with Directive 2001/16/EC, Article 16), receives further authorisations in other Member States, taking into due consideration all the checks carried out in the first Member State.⁷

Cross-acceptance can be achieved through either harmonisation or the application of the mutual recognition principle. With regarding the rolling stock, a distinction should be made

¹ Interoperability means the ability of the rail system to allow the safe and uninterrupted movement of trains which accomplish the required levels of performance for these lines. This ability rests on all the regulatory, technical and operational conditions which must be met in order to satisfy the essential requirements (Article 2, point b), Directives 96/48/EC and 2001/16/EC.

² . COM(2006)0782, final and SEC(2006)1640.

³ . COM(2006)0783, final

⁴ . COM(2006)0784, final

⁵ . COM(2006)0785, final

⁶ . Diesel multiple units (DMUs) and electric multiple units (EMUs).

⁷ . See Commission's analysis in the document "Full impact assessment", SEC(2006) 1641.

between placing on the market and placing in service. In the latter case, there is a need to ensure that the rolling stock is compatible with the national railway infrastructure.

Present situation

Interoperability Directives regulate only new rolling stock placed in service, while the Railway Safety Directive covers the gap by regulating explicitly in its Article 14 the case of in-use rolling stock bearing no 'EC' certificate. Therefore, the mutual recognition principle could be applied to existing rolling stock (not yet covered by the Interoperability Directives), at least for those characteristics not directly linked to specific infrastructures¹(see annex on Commission's policy options).

2. The Commission's proposal on Interoperability of the Community rail system - COM(2006)0783, final

The proposal concerns the consolidation, the recasting and the merger of the existing Interoperability directives on the trans-European high-speed rail system (Dir. 96/48/EC) and on the trans-European conventional rail system (Dir. 2001/16/EC) It includes several substantial and technical improvements in order to boost the competitiveness of the Community rail system and reduce various administrative costs.

With regard to the basic requirements and procedures for developing the Technical Specifications of Interoperability (TSI) between high-speed and conventional rail system, the new directive merges and combines, where appropriate, the related provisions covering conventional and high speed European networks. The scope of the directive will be progressively extended to the whole network and all rolling stock, provided that an impact assessment will show the economic benefit of so doing.

The authorisation procedure for placing in service, as proposed (Article 14), it is simplified and it is based, to a large extent, on decisions mutually recognised without centralising the procedure, i.e. transferring national and Community competences to the ERA

For wagons and passenger carriages, a single authorisation for placing in service issued by one Member State of the Community is sufficient and under the TSIs conditions. In the case of rolling stock placed in service before the Directive enters into force and not bearing an 'EC' declaration of verification, the Railway Safety Directive should apply. For the rolling stock bearing an 'EC' declaration of verification, the criteria which a safety authority may check with a view to issuing an authorisation are comprehensively identified and include technical compatibility between rolling stock and infrastructure concerned, rules on open points and specific cases based on TSIs and derogations which are in compliance with the Directive.

Simplification is obtained also with regard to the adoption of certain TSIs of technical nature and which are likely to change quickly, e.g. on information, telecommunications systems. Further, a new procedure for an 'Urgent amendment of TSI' is proposed (Article 17) where a Technical Opinion could be requested from the ERA before Commission decides for, pending

¹ . This option was proposed by the Commission's Task Force and it is included in the Commission proposal for modifying the Railway Safety Directive.

the review of the TSI according to the normal procedure.

3. Main proposals of the Rapporteur

Interoperability is essential for the competitiveness of the rail system and for the development of trans-European Transport networks (TEN-T) in Europe.

The Rapporteur welcomes the new initiative of the Commission promoting the interoperability of the railways in a framework of a more open and competitive markets within the European Union. For interoperable railways networks, as well as, for access to such networks, concrete action has to be taken in order to remove technical and operational barriers which persist, thus, providing a high level of sustainable mobility of citizens and interconnections between the regions of EU.

The proposed amendments to the revision of the existing regulatory framework on interoperability aim to boost the free movement of trains and to reduce the administrative and technical burdens for the approval of locomotives and rolling stock, whilst a high level of safety is to be ensured. In particular, the proposed amendments are subscribed towards the simplification of the regulatory environment regarding the approval procedures to be applied for locomotives and traction units.

Definitions and derogations from the TSIs

In order to bring more clarity to Commission's text, new definitions (Article 2) are been proposed regarding the 'railway vehicle' as well as the 'rolling stock'. Limitation on when a 'project at an advanced stage' is it and a calculation of a cost benefit ratio are inserted in order to limit arbitrary requests for derogations from the application of TSIs. In addition, acceptance of derogation requests based on the economic viability of the project should be taken by the Commission which will be in charge to inform on the acceptance or the refusal to all Member States (Article 7).

Migration and revision of TSIs

When a TSI is revised or withdrawn, specific provisions for migration to the new TSIs and to the new situation should be foreseen and where appropriate. Essential requirements should cover also the renewal or upgrading of rail system, subsystems and interoperability constituents according to the existing TSIs or national rules.

Cross-acceptance of vehicles and rolling stock: a comprehensive approach

The cross-acceptance of vehicles and rolling stock subject to various and divergent national requirements in the Member States for authorisation of placing of these equipments in service are classified in a more comprehensive form. Authorisations for placing to service vehicles can be achieved through the mutual recognition principle and technical harmonisation, with TSIs, verifications of 'EC' declarations or with limited checks of the national safety authority.

Member States shall consider as meeting the essential requirements concerning them those structural subsystems authorised to be placed into service in any other Member State except in

respect of matters relating to the compatibility with infrastructure characteristics that are specific to the Member State concerned. The condition 'for each vehicle, at least one authorisation from a Member State' before placing to service is applied. The transfer of the article 14 of the European Safety Directive and its relevant provisions 'classification of the national rules' and 'reference document' in this directive was considered necessary for the coherence of the new legislative text¹. With this merger, the following authorisation procedures are been proposed:

- placing in service of vehicles which are in conformity with TSIs
- placing in service of vehicles which are not in conformity with TSIs
- additional authorisations of placing in service of vehicles which are not in conformity with TSIs in another Member State.

Adaptation the new comitology procedure with scrutiny

The daft report includes amendments necessary to bring the Directive into line with the changes made by Council Decision 2006/512/EC of 17 July 2006 laying down the procedures for the exercise of implementing powers conferred on the Commission (comitology). These amendments make the necessary adjustments and add transparency.

¹. *This view was confirmed by the Contents of two Short Briefing Papers on interoperability of Community rail system prepared by the Policy Department B of DG IPOL. No IP/B/TRAN/FWC/2006-156/lot [2]/C[1]/SC[1] Interoperability 1 and No IP/B/TRAN/FWC/2006-156/lot [2]/C[1]/SC[2] Interoperability 2.*

ANNEX

1. Commission's policy approach

Based on an impact assessment, the Commission decided to propose the improvement of the cross-acceptance of rolling stock through the combination of the following policy options:

- *Non regulatory approach:* to publish guidelines for cross-acceptance of existing rolling stock and to ask Member States to apply them and to assign the Agency the task of classifying national rules and identifying those that can be cross-accepted¹
- *Regulatory approach:* to clarify the procedure to be applied for existing rolling stock and to limit and/or clarify the role of the Member State in authorising rolling stock on its territory .

2. Development of TSIs

Few Technical Specifications for Interoperability (TSIs) which are the main tools in order to achieve interoperability are under implementation and adoption. They apply to all parts of the rail system and subsystems, while a cost benefits analysis and consultation with Member States, social partners and users are foreseen in two stages (draft of basic parameters and draft TSI) before its adoption which takes places in accordance with the procedure laid down by decision 1999/468/EC (Comitology).

Under high speed rail Directive 96/48/EC (implementation was required by April 1999) five TSIs were drawn up dealing with maintenance subsystem, control-command subsystem, infrastructure subsystem, energy subsystem, operations subsystem and rolling stock subsystem. Revisions are underway and will include issues of conventional rail TSIs and incorporating specific maintenance requirements.

For conventional rail Directive 2001/16/EC (implementation was required by April 2003), the first adopted TSIs are expected to enter into force this year. Elaborated by AEIF, they concern Noise problems deriving from rolling stock and infrastructure, Telematics applications for freight services, Control command and signalling, Rolling stock – freight wagons and Traffic operation and management. TSIs for Safety in Railway Tunnels and accessibility for Persons with Reduced Mobility are currently under review.

Under a recent draft proposal (2007) for a framework mandate to the Agency it was included:

- Revisions of TSI already adopted on Conventional rail for Telematic Applications for Freight, for Noise, for Control-Command and Signalling, for Rolling Stock - Freight Wagons and for Traffic Operation and management
- Revisions of TSI already adopted on High Speed for Control-Command and Signalling
- For draft TSIs not yet adopted
- on High speed TSIs revised on Infrastructure, Energy, Traffic Operation and management, Rolling Stock, High speed and conventional rail TSI on Safety of Railway

¹ . See COM(2006)0782, final and SEC(2006)1640.

Tunnels; High speed and conventional rail TSI on accessibility to Persons with Reduced Mobility.

- For drafting new TSIs on Locomotives and traction units, Passenger coaches, Infrastructure, Energy, Telematic applications for passengers.

PROCEDURE

Title	Interoperability of the Community rail system		
References	COM(2006)0783 - C6-0474/2006 - 2006/0273(COD)		
Date submitted to Parliament	13.12.2006		
Committee responsible Date announced in plenary	TRAN 17.1.2007		
Committee(s) asked for opinion(s) Date announced in plenary	ITRE 17.1.2007		
Not delivering opinions Date of decision	ITRE 27.2.2007		
Rapporteur(s) Date appointed	Josu Ortuondo Larrea 23.1.2007		
Discussed in committee	12.4.2007	5.6.2007	10.9.2007
Date adopted	11.9.2007		
Result of final vote	+: -: 0:	37 0 0	
Members present for the final vote	Michael Cramer, Arūnas Degutis, Christine De Veyrac, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Georg Jarzembowski, Stanisław Jałowiecki, Timothy Kirkhope, Dieter-Lebrecht Koch, Jaromír Kohlíček, Sepp Kusstatscher, Bogusław Liberadzki, Eva Lichtenberger, Marian-Jean Marinescu, Robert Navarro, Josu Ortuondo Larrea, Paweł Bartłomiej Piskorski, Luís Queiró, Reinhard Rack, Brian Simpson, Renate Sommer, Dirk Sterckx, Silvia-Adriana Țicău, Yannick Vaugrenard, Lars Wohlin		
Substitute(s) present for the final vote	Zsolt László Becsey, Johannes Blokland, Jeanine Hennis-Plasschaert, Elisabeth Jeggle, Anne E. Jensen, Antonio López-Istúriz White, Helmuth Markov, Willem Schuth, Catherine Stihler, Ari Vatanen		
Substitute(s) under Rule 178(2) present for the final vote	Ralf Walter		