



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.6.2002
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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the

**common position of the Council on the adoption of a Regulation of the European
Parliament and of the Council on rail transport statistics.**

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1 PROCEDURAL MATTERS

Date of transmission of the proposal to the EP and the Council (document COM(2000)798 final – 2001/0048 COD):	12. 2. 2001
Date of the opinion of the Economic and Social Committee:	30. 5. 2001
Date of the opinion of the European Parliament, first reading:	4. 9. 2001
Date of adoption of the common position:	27. 6. 2002

2 PURPOSE OF THE REGULATION

The proposal aims to replace the existing Council Directive 80/1177/EEC on statistical returns in respect of the carriage of goods by rail, with a new Parliament and Council Regulation which covers statistics on both passenger and goods transport by rail, as well as rail safety.

Statistics on rail transport are needed by the Commission to monitor developments in the rail transport market, in order both to assess the effects of Community actions aimed at promoting rail transport, and also to support the preparation of future actions.

3 COMMISSION COMMENTS

3.1 General comments

The Parliament, at its session in September 2001, adopted a legislative resolution in favour of the proposed Regulation, including five amendments.

After the European Parliament first reading, the Council adopted a Common Position unanimously.

Three of the five amendments proposed by the European Parliament have been incorporated in the Common Position either in full or in part or principle.

Overall, the Common Position is in line with the original proposal of the Commission since the Council has approved the general structure and the main provisions of the proposal. Yet, the confidentiality provisions for the use and dissemination of the data of the Common Position are stricter than originally proposed by the Commission, but in line with the Member States' statistical law and practice.

3.2 Detailed comments

3.2.1 Amendments by the Parliament accepted by the Commission and incorporated in the Common Position

- **Amendment 1** modifies Recital 4 to bring it into line with the final state of the Directive 2001/12/EC (which was not known when the rail statistics proposal was finalised).
- **Amendment 2** adds a new part to Article 2, taking part of the text from paragraph 16 of the Explanatory Memorandum. This will require an operator to supply separate data for each country in which the operator provides rail services.

3.2.2 Amendments by the Parliament accepted by the Commission but not incorporated in the Common Position

- **Amendment 4** introduces into Annex G, for data on network traffic, a breakdown by type of passenger train. The Commission notes that the Regulation provides a committee procedure to adapt the Annex G if statistics on the types of passenger trains would prove to be necessary.

3.2.3 Amendments by the Parliament not accepted by the Commission but incorporated in the Common Position

- **Amendment 5** deletes the reference in Annex I to “metros and light rail”. Following other changes made to Annex I in the Council Transport Working Group, the Commission stated that it would no longer object to removal of this variable, because no data are collected on metros and light rail.

3.2.4 Amendments by the Parliament not accepted by the Commission and not incorporated in the Common Position

- **Amendment 3** adds to Article 4 a provision for collecting statistics on rail infrastructure expenditure. The Commission accepts the need to produce these statistics, but believes that this Regulation is not the best vehicle to use. There already exists a Council Regulation (EEC) 1108/70 which provides for infrastructure expenditure data on all transport modes, and which could be updated. In addition, the infrastructure expenditure data would not come from operators (who are the ultimate source of the operating data covered by the proposed Regulation), and having an additional set of data providers would make it much more difficult to implement the Regulation efficiently. Finally, the amendment from the Parliament does not include the new annex, which would be needed for these data. The Commission therefore agrees with the Common Position.

3.3 New provisions introduced by the Council

The changes made in the Council concern:

- **Thresholds for reporting (Article 4(2)):** the original proposal provided for two thresholds: (a) a threshold to exclude all reporting by operators collectively accounting for less than 2% of the market (Article 2, third indent) and (b) a threshold below which simplified reporting would apply, which was to be fixed later via the committee procedure (Article 4(2)). To avoid inconsistent treatment of operators in larger and smaller Member States, it was agreed to remove threshold (a) (i.e. deletion of Article 2, third indent) and to specify threshold (b) explicitly as 500 million tonne-km or 200 million passenger-km (Article 4(2)), with the possibility of later adaptation through the committee procedure. These changes make clear which operators will be covered by simplified reporting, and ensure a more consistent coverage of the market across all Member States.
- **Disclosure of confidential data (Article 7(1)):** the Commission originally wanted to disclose all confidential data unless the disclosure would have been explicitly forbidden by the undertaking providing the data. This disclosure “by default” was opposed based on the current statistical law and practice. In the new text, the confidential data will not be disclosed by default. However, the Member States are obliged to ask the undertakings for permission for the disclosure of all confidential data and to inform Eurostat of the result of this consultation.
- **Reporting (Article 9):** the report will also include an analysis of the impact of confidentiality on the quality of the rail transport statistics.
- **First reference periods (Annexes A-I):** these have been changed to 2004 or 2005 for all tables except tables A1-A3, in order to allow Member States more time to implement the Regulation. Reporting of tables A1-A3 would start in 2003 to ensure continuity with the data obtained from Directive 80/1177/EEC, which would be repealed from 1.1.2003.
- **Annex A:** reporting on transit in tables A2-A8 is not obligatory if the data are not available. Table A5 becomes optional.
- **Consistency with rail safety Directive (Annexes A, B, C, D and H):** in order to provide data needed for the Common Safety Indicators provided for in the proposed rail safety Directive (COM(2002) 21 final), four new tables on train movements are added (tables A9, B2, C5 and D2), as well as an extra category (“fires in rolling stock”) in the list of types of accidents in Annex H.
- **Annex I:** several changes were made to meet concerns about disclosure of information on individual operators. The name of the operator (I1.3) is now an optional variable. Information on the level of activity by each operator is now optional (variables now numbered I1.3.1-4). In addition, following Parliament amendment 5, the information on whether an operator is active in metro and light rail transport (variable I1.2.5) is deleted.

All the above changes are acceptable to the Commission because they aim at harmonising the data collection with the rail safety Directive, at guaranteeing a realistic coverage of the data or at respecting the current confidentiality provisions.

The annexed declaration (Chapter 5) from the Commission on the use of NUTS2 in Annex F of the proposal is attached to the Council minutes.

The Council shares the Commission's declaration.

3.4 Problems encountered

Because of the monopolistic structure of the rail transport market, the Commission is slightly disappointed with the confidentiality provisions applied for the disclosure of the data. However, even if the changes of the Article 7(1) and of the Annex I restrict the possibilities of the use and the dissemination of the statistical data, they still are in line with the original proposal of the Commission or the current statistical law and practise. Therefore, the Common Position is acceptable to the Commission.

4 CONCLUSION

The Commission hereby expresses a favourable opinion on the Common Position of the Council.

5 DECLARATION

"COMMISSION STATEMENT ON ANNEX F

The Commission will take account of methodological developments and practical uses of the data to re-examine the regional breakdown to be used for Annex F. If appropriate Annex F shall be adapted in accordance with the procedure specified in Article 11, paragraph 2."