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Activities of Inland Transport Committee and its subsidiary bodies of the United Nations Economic Commission for Europe

Activities of the European Commission in rail transport

Submitted by the European Commission*

I. Fourth Railway Package – Market Pillar

1. The objective of European Union (EU) policy for rail is to create a single European railway area and to increase the competitiveness of rail by improving the quality and cost-effectiveness of services, thereby boosting demand. The EU has been working towards this objective since the late 1990s, and is now completing the legal framework. The market pillar proposals of the Fourth Railway Package were adopted in December 2016 and will be implemented by member States in subsequent steps; it includes in particular:

(a) Regulation (EU) 2016/2338 amending Regulation (EU) 1370/2007, which deals with the award of public service contracts for domestic passenger transport services by rail (“PSO Regulation”);

(b) Directive 2016/2370/EU amending Directive 2012/34/EU, which deals with the opening of the market of domestic passenger transport services by rail and the governance of the railway infrastructure (“Governance Directive”).

2. Member States have until 25 December 2018 to transpose the Governance Directive in national legislation. However, the key market opening provisions will take effect only in 2019 in time for the working timetable starting in December 2020.

* This document was submitted late due to delayed inputs from other sources.

3. As regards the PSO Regulation, which is directly applicable without transposition, the provisions on competitive tendering will take effect as of 2019, with a grace period for the possibility of unconditional direct awards expiring in 2023. After that date, direct awards will remain possible only in specific and well-defined circumstances.
4. The Commission has been preparing further implementing acts to complete the legislative framework in view of market opening:
 - (a) The Commission Implementing Regulation (EU) 2017/2177 is key to ensuring that all operators on the network are granted fair and non-discriminatory access to rail related services and service facilities;
 - (b) The Commission Delegated Decision (EU) 2017/2075 on schedule for the allocation process, amending annex VII of the Directive 2012/34/EU (recast) provides for, additional rules for integrating the information on upcoming capacity restrictions into the scheduling process. It also enhances coordination/consultation between the infrastructure managers and their customers. The provisions of the decision will be implemented gradually with full implementation foreseen for the establishment of the working timetable taking effect in December 2020;
 - (c) The Commission Implementing Regulation laying down procedure and criteria for the application of the economic equilibrium test is finalised and will be adopted before the deadline of 16 December this year. It defines under which conditions EU member States can restrict access to domestic rail infrastructure where a new open access service would endanger the economic equilibrium of a public service contract.
5. At the same time, the Commission is devoting substantial efforts to the monitoring and enforcement of existing legislation, which remains the priority of the Commission's mandate. The Commission is about to adopt the sixth edition of its Rail Market Monitoring Scheme (RMMS) report, to be presented to the European Parliament and the Council every two years, providing a comprehensive analysis of the EU rail markets' developments. Background information may be found on the European Commission's website in: https://ec.europa.eu/transport/modes/rail/market/market_monitoring_en.
6. The Commission is also currently evaluating the application of national schemes of member States for noise differentiated track access charges with a view to a possible revision of the relevant Commission implementing Regulation.
7. On specific aspects (e.g. international contingency management in the event of an international disruption; issues log analysis with the view to eliminating technical and operational barriers to international rail services), the Commission works in close co-operation with railway undertakings, infrastructure managers, and their associations.

II. Fourth Railway Package – Technical pillar

8. The technical pillar of the Fourth Railway Package will enhance rail interoperability and safety in Europe, in particular through inter alia an enhanced role of the European Union Agency for Railways (ERA), a renewed framework for railway safety aiming at promoting the safety culture, an increased harmonisation at EU level to improve railway interoperability.
9. The Fourth Railway Package will drive further harmonisation of the still too complex EU rail system and will drastically reduce the number of national rules that hinder interoperability. The “technical pillar”, which was adopted by the European Parliament and the Council in May 2016, includes:
 - (a) Regulation (EU) 2016/796 on the European Union Agency for Railways and repealing Regulation (EC) No. 881/2004;

(b) Directive (EU) 2016/797 on the interoperability of the rail system within the European Union (Recast of Directive 2008/57/EC);

(c) Directive (EU) 2016/798 on railway safety (Recast of Directive 2004/49/EC).

10. Member States have until 16 June 2019 to transpose the Interoperability and Safety Directives into national legislation, with the possibility to request an extension until 16 June 2020. In the meantime, the Commission has been preparing key implementing and delegated acts to complete the legislative framework. The following legal texts have been adopted so far:

(a) The Commission Delegated Decision (EU) 2017/1474, setting out the specific objectives that should be pursued by the upcoming revisions of the Technical Specifications for Interoperability (TSIs). Following the entry into force of the decision on 4 September 2017, the Commission developed its TSIs revision planning for 2017-2020 and ERA has now started the TSIs drafting process;

(b) The Commission Implementing Regulation (EU) 2018/763 establishing practical arrangements for issuing single safety certificates to railway undertakings;

(c) The Commission Implementing Regulation (EU) 2018/545 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process;

(d) The Commission Implementing Regulation (EU) 2018/764 on the fees and charges payable to the European Union Agency for railways and their conditions of payment;

(e) The Commission Implementing Regulation (EU) 2018/867 laying down the rules of procedure of the Board(s) of Appeal of the European Union Agency for Railways;

(f) The Commission Delegated Regulation (EU) 2018/762 establishing common safety methods on safety management system requirements;

(g) The Commission Delegated Regulation (EU) 2018/761 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation;

(h) The Commission Recommendation on guidance for the harmonised implementation of the European Rail Traffic Management System in the Union.

11. An additional batch of delegated and implementing acts is to be adopted with regard inter alia to the register of infrastructure (RINF), the Classification of National Rules, NVR and EVR specifications, amendment of various TSIs, etc.

12. On 13 September 2017, the Commission published a specific Report on the progress made in preparing for the European Union Agency for Railways enhanced role under Directive (EU) 2016/797 on the interoperability of the rail system within the European Union (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2018:0623:FIN>).

III. European Rail Traffic Management System

13. The European Rail Traffic Management System (ERTMS) is a major industrial programme to harmonise the automatic train control and communication system and underpin interoperability throughout the rail system in Europe. As the differences among the large variety of national legacy train control systems constitute a very significant barrier to interoperability of the European rail system, deployment of ERTMS will provide the backbone for a digital, connected Single European Rail Area.

14. On 5 January 2017 the Commission adopted the Implementing Regulation (EU) 2017/6 setting the new ERTMS European Deployment Plan (EDP). The EDP provides for over 15,500 km of the Core Network Corridors to be equipped by ERTMS by 2023. Only one third of that is currently in operation. Around 2600 km should be put in operation with European Train Control System in 2018. Track-side equipment can be at the same time reduced by as much as 70 per cent thanks to innovative version of ERTMS, with important savings on renewal, maintenance and fostered reliability.

15. Further energy savings linked to Automatic Train Operation (ATO), coupled with future lighter trains and higher loading factor can lead to energy savings between 20 per cent and 50 per cent. Also, ATO in parallel with ERTMS deployment will reduce operating costs for railway undertakings and maintenance costs for infrastructure managers, while further improving network capacity and punctuality. In addition, the use of remote sensing on board, start trackside devices and drones provides the opportunity to collect a great amount of “big data”, monitoring constantly the essential parameters to prevent failure of rail infrastructure and mobile assets, while optimising maintenance. The Commission Staff Working document “Delivering effective and interoperable ERTMS – the way ahead” (SWD(2017) 375) sets out the necessary steps for rail stakeholders to address identified barriers to ERTMS implementation and to achieve ERTMS interoperability.

16. On 26 October 2018 the stakeholders attending the ERTMS Platform Board adopted a declaration that reinforces the commitments of the 2016 Memorandum of Understanding (https://ec.europa.eu/transport/sites/transport/files/mou_for_signatures.pdf), with regard to both the trackside and on-board deployment (e.g. standardisation of interfaces, reduction of national technical rules, automatically update of on-board units for error corrections).

17. Until present the Connecting Europe Facility (CEF) has provided financial support for 69 ERTMS actions, including:

(a) 52 actions under the dedicated ERTMS Call priority. They receive a total CEF Transport funding of €1.2 billion, including €1.1 billion identified as pure ERTMS deployment funding;

(b) 17 actions under the Core Network Corridors Call priority. They contribute, among others to the deployment of ERTMS, and receive a total CEF Transport actual funding of €3.4 billion, including €88.3 million identified as pure ERTMS deployment funding.

IV. European Rail Network for Competitive Freight

18. The creation of an internal rail market, in particular with regard to freight transport, is an essential factor in making progress towards sustainable mobility. In addition to its general railway policy and legislation (railway packages), the European Union adopted in 2010 Regulation (EU) No. 913/2010 concerning a European Rail Network for Competitive Freight. The Regulation requests member States to establish international market-oriented Rail Freight Corridors with the view to:

(a) Strengthening co-operation between Infrastructure Managers on key operational aspects (e.g. allocation of path, deployment of interoperable systems and infrastructure development);

(b) Giving adequate capacity and priority for freight in line with market needs and ensuring that common punctuality targets for freight trains are met;

(c) Promoting intermodality between rail and other transport modes by integrating terminals into the corridor management and development.

19. The implementation of international rail freight corridors forming a European rail network for competitive freight is conducted in a manner consistent with the development of the trans-European Transport Network (TEN-T) and the European Railway Traffic Management System (ERTMS) corridors.

20. There are currently 11 Rail Freight Corridors (RFCs). In addition to the 9 initial RFCs provided for in Regulation (EU) No. 913/2010, and based on a proposal by the member States concerned, the Commission acted in 2017 the creation of the “Amber” rail freight corridor stretching across the territory of Poland, Slovakia and Slovenia (Commission Implementing Decision (EU) 2017/177). In March 2018, the Commission also approved the proposal of Austria, Bulgaria, Croatia, Serbia and Slovenia to create the “Alpine-Western Balkan” rail freight corridor (Commission Implementing Decision (EU) 2018/500). More information and maps may be found on RailNetEurope’s website: <http://www.rne.eu>.

V. Rail Security

21. The Commission adopted on 13 June 2018 concrete short-term measures to improve passenger railway security. This plan contains actions to be carried out by the Commission as well as by member States.

22. On 29 June 2018 the Commission adopted a Decision setting up the EU Rail Passenger Security Platform, with the tasks to provide the Commission with advice and expertise on matters relating to the security of rail passengers in train stations and on-board trains, as well as to facilitate coordination and cooperation with and between member States.

23. The group should be composed of member States’ authorities competent in the field of rail passenger security and would also benefit from the experience and knowledge of relevant rail stakeholders. It should help: to develop recommendations to help member States coordinate rail security actions efficiently with a view to mitigate risks; provide technical expertise and support for updating and implementing a risk assessment methodology, and; to develop guidance for risk management plans.

VI. Combined Transport Directive

24. The proposal for an amendment of the EU Directive on Combined Transport (92/106/EEC) (hereafter CTD) is part of the second wave of the “Mobility Package” adopted by the Commission on 8 November 2017. The EU CTD is the only dedicated legal instrument in effect to promote modal shift and support non-road alternatives for freight transport by defining the conditions for combined transport and providing for incentive measures supporting the shift of road freight transport to rail, inland waterways and short sea shipping. While still relevant, it needs to be modernised to produce its full effect in terms of modal shift, and hence contribute to reducing CO₂ emissions, air pollution, accidents and congestion. The objective of the amendment of the CTD is therefore to further increase the competitiveness of combined transport compared to long distance road freight and, by doing so, to boost the shift from road freight to other modes of transport, thereby reducing the share of transport externalities from freight transport.

25. The proposed amendment of the CTD will increase the effectiveness of the Directive by:

- (a) Simplifying the “eligibility criteria” for the support measures;
- (b) Facilitating the monitoring of eligibility and enforcement;
- (c) Reviewing the economic support measures to bring them up to date and;

(d) Improving the reporting and monitoring conditions by the member States to increase transparency and further assessment of the impact of the measures.

26. Following the ordinary legislative procedure, the TRAN committee of the European Parliament adopted in July its Report on the Commission's proposal (<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2018-0259+0+DOC+XML+V0//EN&language=EN#title5>).

27. In parallel to the legislative procedure for the amendment of the Combined Transport Directive, the Commission earmarked financial support for combined transport in the context of the 2018 CEF Transport call for proposals (https://ec.europa.eu/inea/sites/inea/files/2018_cef_transport_map_mlp.pdf). The selection procedure of the received proposal is due to be completed in the first half of 2019.

VII. Rail Passenger Rights Regulation

28. On 27 September 2017, the Commission adopted a proposal for a revision of the Rail Passenger Rights Regulation. The proposal will improve the protection of rail passengers while taking account of the burden on the rail sector. It addresses the following main issues: (1) today, passengers cannot fully exercise their rights when using rail services. This is mainly due to the extensive exemptions that member States have granted to certain domestic services, but also to outdated provisions for persons with disabilities or reduced mobility and a number of unclear issues such as through-tickets; (2) the introduction of a “force majeure” clause will reduce the burden on railway undertakings which will no longer have to pay compensation when delays were caused by major natural disasters or severe weather conditions. Considering the international obligations to which EU member States committed by signing the UN Convention on the Rights of Persons with Disabilities (UNCRPD), it is also necessary that the EU shows its responsibility for persons with reduced mobility in the rail sector from the angle of passenger rights.

VIII. Transport Community Treaty with Western Balkan States

29. Between 12 July and 9 October 2017, the European Union and six Western Balkan countries (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo,¹ Montenegro and Serbia) signed the Treaty establishing the Transport Community.

30. The Transport Community aims at a deeper integration of the Western Balkan region with the EU transport market towards common standards, network efficiency and quality of service offered to citizens and businesses. It will help put into action reforms affecting people's everyday lives, for instance in the field of road safety. By providing more stability, it will also attract new investors in the region and add to its economic growth. Finally, this Treaty will help the Western Balkan countries align their national transport laws with those of the EU, thereby strengthening neighbourly relations, promoting cross-border cooperation and ultimately bringing these countries closer to the European Union. More information is available in on the European Commission's website (https://ec.europa.eu/transport/themes/international/enlargement/westernbalkans_en).

31. The Transport Community Treaty has been ratified by all Western Balkan partners. A secretariat – located in Belgrade – is being set up and should be operational by mid-2019.

¹ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

32. On 2 February 2018, the Commission adopted Communication (COM(2018) 65 final) on a credible enlargement perspective for and enhanced EU engagement with the Western Balkans. In addition to the key issues of road safety and border crossing facilitation, the Communication also calls for a new rail strategy to bring the Western Balkans into the main EU network and market and to promote opening of the regional rail market. In addition to investments, the priority is to align with EU operational standards. This will require key reforms and enhanced measures to remove administrative bottlenecks and barriers at borders with a view to promote integrated rail operations.
