

Opinion of the European Economic and Social Committee on the ‘Fourth Railway Package’, comprising the following seven documents: ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on “The Fourth Railway Package — completing the Single European Railway Area to foster European competitiveness and growth”’

COM(2013) 25 final,

‘Proposal for a Regulation of the European Parliament and of the Council repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings’

COM(2013) 26 final — 2013/0013 (COD),

‘Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004’

COM(2013) 27 final — 2013/0014 (COD),

‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail’

COM(2013) 28 final — 2013/0028 (COD),

‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure’

COM(2013) 29 final — 2013/0029 (COD),

‘Proposal for a Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union’

COM(2013) 30 final — 2013/0015 (COD), and

‘Proposal for a Directive of the European Parliament and of the Council on railway safety’

COM(2013) 31 final — 2013/0016 (COD)

(2013/C 327/21)

Rapporteur: **Mr MORDANT**

On 19 February 2013, 21 and 22 February 2013 and 7 February 2013 respectively, the Commission, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 91, 91(1), 109, 170, 171 and 304 of the Treaty on the Functioning of the European Union, on the

Fourth Railway Package

comprising the following seven documents:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "The Fourth Railway Package – completing the Single European Railway Area to foster European competitiveness and growth"

COM(2013) 25 final;

Proposal for a Regulation of the European Parliament and of the Council repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings

COM(2013) 26 final — 2013/0013 (COD);

Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004

COM(2013) 27 final — 2013/0014 (COD);

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail

COM(2013) 28 final — 2013/0028 (COD);

Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure

COM(2013) 29 final — 2013/0029 (COD);

Proposal for a Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast)

COM(2013) 30 final — 2013/0015 (COD);

Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast)

COM(2013) 31 final — 2013/0016 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 20 June 2013.

At its 491st plenary session, held on 10 and 11 July 2013 (meeting of 11 July), the European Economic and Social Committee adopted the following opinion by 82 votes to 20 with 8 abstentions.

1. Conclusions and recommendations

1.1 The EESC calls on the Commission to have an assessment drawn up, overseen by all of the stakeholders concerned, of the consequences of the railway packages in relation to meeting the needs of the public, the modal shift, regional planning, development of cross-border connections, factual measures of the quality of rail services, accessibility, improvement of passenger rights and so on.

1.2 The EESC calls for the new "railway package" legislative initiative to be based on the contribution that the railways can make to the European project, economically, socially and environmentally.

1.3 The aim of this legislative initiative should be to eliminate "border effects" between Member States. It should allow the development of cross-border connections between neighbouring countries, by taking action in the fields of sustainable development and regional planning; putting infrastructure in place between Member States where such infrastructure is inadequate or non-existent.

1.4 The EESC calls on the European Union to provide for the possibility of creating cross-border bodies and of establishing the arrangements for them to intervene in the regions

they cover, allowing for the tasks of services of general interest, as provided for by Article 14 and Protocol No 26 of the Treaty, to be defined and organised.

1.5 The EESC calls for the Member States to retain the power to organise their national rail systems and open their domestic markets to competition in line with their geographical, demographic and historical situation and the prevailing economic, social and environmental conditions.

1.6 The EESC calls for the power to decide whether to award public service tasks directly to an operator or to use a tender procedure, as currently provided for in Regulation 1370/2007/EC, to be left to the competent authorities, and for these authorities to be given free rein in organising the procedure.

1.7 In connection with the obligation to draw up the public transport plans required by the Commission, the EESC opposes any restriction on the definition of public service tasks by the competent authorities and calls for the adoption of clear targets on improving accessibility for disabled people and on passenger involvement, by way of consultation and monitoring of service quality levels.

1.8 The EESC also calls for operators to retain control of the industrial aspects of railway operations, allowing them to own their rolling stock and other equipment, in order to encourage the research and innovation efforts that are essential if the sector is to improve safety and quality.

1.9 The EESC recommends that the Commission launch an initiative to monitor rail safety, which is essential to the development of the railways, by setting up national monitoring centres or joint safety committees. The Committee suggests ensuring that railway operating conditions are transparent, making the public authorities' approach to safety more democratic and complying with Article 91 of the Treaty, which requires the EU to achieve certain results in relation to transport safety.

1.10 The EESC proposes that the European Railways Agency be tasked with incorporating the question of workers' health and safety, which is essential in order to maintain a high level of operating safety for passengers, workers and those living near railway installations.

1.11 Furthermore, the EESC believes it is crucial that the agency be liable for all of its decisions.

1.12 The EESC considers that the package's technical chapter should be prioritised, in order to boost the modal shift towards rail.

1.13 The EESC calls for employers and public authorities to take account of the onerous and dangerous nature of railway work through specific social protection, collective agreements, salaries and career development, as well as by keeping their promises on pensions.

1.14 The EESC also calls for a system of continuing education and recognition of experience, to allow workers to benefit from acquiring and maintaining skills.

1.15 The EESC would like each Member State, when selecting the organisation or opening up a market to competition, to uphold job numbers for their traditional operators, collective agreements for employees and their pay and working conditions. When the operator does change, the aim should be to retain the staff concerned and their collective guarantees.

2. General observations

2.1 This opinion draws on the following opinions and their recommendations:

— TEN/432-433 of 16 March 2011 on a Single European Railway Area ⁽¹⁾;

— TEN/445 of 15 June 2011 on social aspects of EU transport policy ⁽²⁾;

— TEN/454 of 25 October 2011 on the Roadmap to a Single European Transport Area ⁽³⁾; and

— TEN/495 of 13 December 2012 on the quality of rail services in the EU ⁽⁴⁾.

2.2 The fourth railway package involves the amendment, recasting or (in one case) repeal of six legislative texts, presented by a general communication and accompanied by a number of reports and impact assessments.

2.3 The review of the proposal focuses on the four pillars of the fourth railway package, which deal with governance and opening of long-distance passenger traffic; revision of Regulation 1370/2007/EC on public service obligations; the role of the European Railway Agency and interactions with interoperability and safety; and social provisions.

2.4 The current situation is taken as the starting point for these thoughts and proposals, taking into account foreseeable developments in the sector and in connection with the Lisbon Treaty. To check whether the proposed solutions are appropriate, the results of the EU policies that have been in place for more than 20 years should be evaluated, perspectives for the future should be drawn from that evaluation and objectives should be set for the role that the rail transport mode can and should play in relation to regional planning and equality, regional development, the service provided to loaders and the public and the accessibility of this transport mode.

2.5 More broadly, the preparation of the new legislation should be based on the contribution that this mode of transport can make to European integration – which is in need of a project – from an economic, social and environmental point of view.

2.6 It should allow the development of cross-border connections between neighbouring Member States that lack common infrastructure, providing the people of those countries with easy connections by putting that infrastructure in place, especially for people with a disability or with reduced mobility.

⁽¹⁾ OJ, C 132 – 3.5.2011, p. 99-107.

⁽²⁾ OJ, C 248 – 25.8.2011, p. 22-30.

⁽³⁾ OJ, C 24 – 28.1.2012, p. 146-153.

⁽⁴⁾ OJ, C 44 – 15.2.2013, p. 49-52.

2.7 In that respect, close attention should be paid to the results of EU policies in terms of developing cross-border connections to eliminate a persistent "border effect", which is holding back European integration, free movement and the modal shift to rail.

2.8 Attention should be drawn to the level of operational safety in this network industry, whose development depends on the level of public trust in it and on the transparency that must be applied to the conditions of production in the sector.

2.9 The review should address compliance with Article 10(3) of the Treaty on citizens' right to participate in the democratic life of the Union. Decisions must be taken as openly and as closely as possible to the citizen.

2.10 A projection should be produced concerning social developments in the rail sector, in view of the restructuring that is under way, the redefinition of the scope of its activities, the transfer of responsibilities at a period of high turnover of railway workers and their social and working conditions in relation to the goal of protecting workers' health and safety.

3. Governance and opening of domestic passenger services to competition

3.1 The Commission aims to use this legislative proposal to revitalise the railways by introducing competition for domestic passenger traffic. The Commission believes that such competition should be stimulated by means of EU legislation that provides for separation between the functions of infrastructure managers – which are extended to include the tasks of traffic management and network maintenance and investment – and those of carriers. It also intends to strengthen the regulatory bodies that are to govern the rail market.

3.2 To that end, the Commission proposes to amend Directive 2012/34/EU of 21 November 2012, which is to be transposed into national law by 16 June 2015. It is worth noting that this initiative is being taken without waiting to see how effective the measures taken in the context of that recast are.

3.3 Similarly, it has not been possible to measure the full effects of the provisions adopted in terms of managing the operation of major corridors.

3.4 The Commission makes a certain number of observations in the impact assessments connected with the fourth railway package, while acknowledging that some of them are

recent or ambiguous. Nevertheless, it presents several points as arguments in favour of the proposed solutions.

3.5 A number of studies present highly divergent conclusions as regards the consequences of separating rail infrastructure and business. A review of the statistical data provided by the Commission, however, shows that there is no automatic correlation between this separation, the opening-up of the market and improved railway results, but the latter would appear to be linked directly to funding levels and toll prices. Furthermore, the McNulty report provides a very mixed picture of the situation in the United Kingdom, recognising that the UK rail system is proving to be more costly both for the State and for the user, and suffers as a result of the various stakeholders not being aligned, which requires greater State involvement in bringing the different aspects into line (such as charges, distribution, timetabling, etc.), which is essential. To solve this problem, Sir Roy McNulty made three recommendations, to be implemented gradually: a sharing of costs and revenues between the infrastructure manager and railway operators, the creation of a joint venture between them and also experiments re-incorporating certain franchises.

3.6 Certain national studies that have looked at the quality of rail services, such as the one carried out by the British consumer organisation *Which?*, have shown a mixed picture in terms of users' view of rail services, with user satisfaction levels of 50 % or less for half of all operators and only 22 % of passengers considering that the system is improving (<http://which.co.uk/home-and-garden/leisure/reviews-ns/best-and-worst-uk-train-companies/best-train-companies-overall/>)

3.7 Furthermore, the Commission's proposal does nothing to improve accessibility for disabled people. The various parties involved should consult and listen to passengers in that respect.

3.8 The Commission refers to a satisfaction survey on passenger rail services carried out in 2012, which the EESC considered, in point 1.6 of opinion TEN/495 of 13 December 2012, to be inadequate.

3.9 The Commission also highlights the scale of the public subsidies paid to the sector and the call for public contributions to reduce the indebtedness of the system, the possibility of which was included and recommended in Directive 91/440 and in the April 2008 state aid guidelines. Such a grant of public aid is not unique in view of the volume of physical capital that needs to be made available to meet environmental targets or for general interest or public policy purposes. Other operators – public and private – in other sectors benefit from the same arrangements.

3.10 To establish the necessary conditions for market opening, the Commission proposes strict separation between the functions of infrastructure managers – the scope of which is extended – and those of carriers. The proposal aims to avoid conflicts of interest and discriminatory practices and to help with the identification and prevention of cross-subsidies but it does not provide evidence that such practices exist, or it uses data which are disputed by the parties concerned and by the ECJ. For this reason, among others, the ECJ rejected in their entirety the infringement proceedings brought by the Commission against Germany and Austria. The EESC stresses that whereas freight shippers and logistics operators generally, and new rail operators especially, are in favour of a separated and deregulated EU border free rail market, more integrated with normal business practices of other modes of transport, other actors on the rail market like incumbent rail operators, rail consumer organizations, public transport authorities etc. have a more cautious view, caring for upholding current service quality.

3.11 Under Article 63(1) of Directive 2012/34 establishing a single European railway area, the two co-legislators asked the Commission to draw up reports *"on the implementation of Chapter II [of the Directive]"*. This chapter essentially concerns the autonomy and structures of the EU's railways, concerning *"the development of the market, including the state of preparation of a further opening-up of the rail market"*, and *"shall also analyse the different models for organising this market and the impact of this [recast] on public service contracts and their financing"*. In order to achieve this, the Commission should also have taken *"into account the implementation of Regulation (EC) No 1307/2007 and the intrinsic differences between Member States (density of networks, number of passengers, average travel distance)"*. That debate revealed the need to give Member States the power to organise their national systems and, if they consider it appropriate, to continue to organise production in an integrated way that allows pooling to take place, thus reducing interfaces, which are harmful both economically and from the point of view of safety.

3.12 Separating infrastructure management in a single-degree-of-freedom guided transport system usually brings more problems than benefits by complicating operations a great deal, leading to an increase in costs and a reduction in service quality. This particularly applies to networks where there is intensive mixed-traffic use.

3.13 Technical developments are integrated more slowly and with greater difficulty. Innovation – which usually involves both fixed elements (infrastructure) and mobile elements (rolling stock) at the same time – is held back. Bureaucracy and unnecessary interfaces increase significantly, leading to higher operating costs and inertia in the decision-making process.

3.14 Separating the functions of infrastructure managers and carriers also takes network or infrastructure managers further away from end users (passengers and loaders) and their service quality requirements (particularly in terms of punctuality). There should therefore continue to be a role for a pivotal player in the railway system, while preserving the independence of the core functions of infrastructure managers.

3.15 In relation to service facilities, recommendation 1.7 of EESC opinion TEN/432-433 of 16 March 2011 states that: "As regards conditions of access to railway service facilities, the EESC cannot endorse any requirement of legal, organisational and decision-making independence that would jeopardise current structures which cannot be replaced." No new facts have come up in the analysis that would require it to revise that recommendation.

3.16 The Commission however acknowledges that pooling certain functions would allow the system to improve its performance and the quality of its service to passengers. The EESC supports this view.

3.17 As regards the liberalisation of international passenger rail transport in the EU, which has been in force since January 2010, it can hardly be claimed that this liberalisation has to date systematically led to any steep fall in the prices charged for this type of service or to spectacular growth of this segment.

3.18 European high-speed rail began long before 2010, thanks to substantial public investment in some Member States, and competition in the field is likely to remain much more intermodal than intramodal for some time to come. One particular development after the 2010 liberalisation was the withdrawal of several existing connections using traditional (not high-speed) equipment and operating conditions and by the termination of long-standing cooperation arrangements. The EESC regrets these developments and strongly urges the Commission to take the necessary steps to improve and expand cross-border passenger rail transport services.

3.19 As for rail freight, the situation here in a number of Member States is disastrous. The main reason is that the modernisation and expansion of the railways has not kept pace with the modernisation of the road network and that rail traffic is subject to mandatory track access charges. In addition, competition for the most profitable connections does bring improvements for a number of block trains.

However, this is partially at the expense of single wagon load services, whose systems are more and more stretched. This can turn certain areas into industrial deserts and bring thousands of lorries onto the roads. Furthermore, many players willingly admit that in a number of Member States, not a single tonne of goods has been transferred to rail as a result of liberalisation.

3.20 The above observations lead the EESC, despite the obvious need for market reform, to suggest that the Commission adopt a prudent approach to the liberalisation of domestic passenger traffic, in the light of the current experience of the liberalisation of international traffic. In any event, the Commission acknowledges the difficulty of revitalising international rail activities, which are too disconnected from the national connections that would allow them to benefit from clear network effects.

3.21 On this point, the EESC agrees that there has been little growth in international passenger rail traffic, despite the European Commission's unquestionably activist approach in terms of the legal framework.

3.22 That means that the inadequacy of the results of the proposed solutions is clear, particularly because in the absence of adequate investment and a suitable political impetus, the market cannot address the issues raised. However, ensuring that areas on the fringes of national territories are served by modern, environmentally-friendly means of transport is a particular issue here.

3.23 That objective should be a priority for the EU, with the aim of creating a homogeneous European area by eliminating border effects and bringing coherence in economic, social and development terms to whole areas that have so far been fossilised by the confrontation between them.

3.24 The European Union must provide for the possibility of creating cross-border bodies and of establishing the arrangements for them to intervene in the regions they cover, allowing for the tasks of services of general interest, as provided for by Article 14 and Protocol No 26 of the Treaty, to be defined and organised.

3.25 Only a political initiative involving significant public sector support will make it possible to create an area and connections that a mature market can move into. The EESC urges the Commission to focus strongly on the actual development of the quality and of the safety of the services on the EU rail market, especially cross-border, and also taking account of the development in other modes of transport. Growing rail market shares and customer satisfaction must be the overall aim; the tools to reach this goal might however be different in different member states.

4. Revision of Regulation 1370/2007 on public service obligations

4.1 The amendment of Regulation 1370/2007/EC involves mandatory tendering for rail transport, the organisation of such tendering procedures, the preparation of public transport plans and the provision of rolling stock to new entrants.

4.2 In recommendation 1.7 of its opinion TEN/495 of 13 December 2012, the EESC expressed major concerns about the revision of the PSO regulation. The review provided for clearly falls short of expectations in view of the results presented in the impact assessments.

4.3 Several studies – some of which, including the "Study on Regulatory Options on Further Market Opening in Rail Passenger Transport", were carried out for the Commission – have produced disparate and conflicting data that do not allow for a uniform solution to issues related to traffic levels, service frequency, developments in relation to state aid and productivity.

4.4 Very similar results were obtained in relation to networks governed by different legal frameworks (i.e. open or closed to competition), which should lead us to steer clear of an excessively general approach that fails to take account of national aspects of transport arrangements, such as geography, weather and the location of production and living areas, some of which, as noted in opinion TEN/495 of 13 December 2012, are still very far from rail services.

4.5 These elements should lead the EU to ensure that the resources used can make it possible to meet the proposed aims for action, provided they cannot be achieved at the national, regional or local level, and do not go further than what is necessary to meet these goals.

4.6 A careful assessment of compliance with this objective should also be made in relation to the Commission's proposal to set upper limits for direct awards, this provision restricts the administrative freedom of public authorities in a way that is open to question.

4.7 Simply setting a threshold limiting the size of franchise that can be offered to operators will inevitably lead to threshold effects, which are liable to harm the coherence of the service and which, by preventing cross-subsidy, will mean that the overall competitiveness gains expected as a result of market opening will be lost. That implies that, as currently provided by Regulation 1370/2007/EC, the decision on whether to award one or more lots directly to an operator or through a tender procedure should be left to the competent authorities, along with the responsibility for structuring such procedures, including any necessary division into lots, to avoid threshold effects.

4.8 The benefit of so many details concerning the preparation of public transport plans, which appears to restrict the "wide discretion of national, regional and local authorities in [...] public service obligations" as provided for in the Treaty, should be questioned.

4.9 Particular attention should be given to the conditions on which the Commission intends to make the necessary physical capital for rail operations available to new players, which do not have to invest or work on research and innovation, aspects which are, however, important for the quality and safety of the railways.

4.10 The British example shows that such leasing is carried out by banks acting through finance companies, posing considerable risks to the availability of such physical capital and raising the issue of who controls it.

5. Role of the European Railway Agency and railway safety and interoperability

5.1 The second railway package set up the European Railway Agency (ERA), based at Valenciennes in France, which is responsible for the technical harmonisation of European networks and equipment, for developing interoperability through the production of common standards (Technical Specifications for Interoperability (TSIs) and Common Safety Methods (CSMs) and for improving railway safety.

5.2 Article 91 of the Treaty requires the EU to achieve certain results in terms of transport safety, the level of which must be continuously improved.

5.3 Furthermore, it is completely inappropriate to measure the level of railway safety, and its developments in view of the institutional and technical changes that are taking place, in terms of the number of recorded victims. Rather, it must be assessed in the light of indicators that make it possible to see how it is changing and to take early action to ensure the highest possible level of safety for users and trackside dwellers.

5.4 Creating a European Railway Area requires improvements in "interoperability". Compatibility of infrastructure, rolling stock and fixed equipment must be based on simple, quick procedures which maintain their existing level of safety and ensure their development, modernisation and adaptation to new needs.

5.5 From that point of view, contrary to the presentation in the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of the provisions of Directive 2007/58/EC on the opening of the market of international rail passenger transport accompanying

the Communication to the Council and the European Parliament on the fourth Railway Package, safety must not be treated as an obstacle. Recent experiences in other fields have shown how detrimental an unduly lax approach can be to public perceptions of the role of the EU. The Viareggio and more recently, Schellebelle accidents should also act as an incentive for all players in the sector to adopt the greatest possible care and rigour when it comes to rail operations.

5.6 The European Railway Agency plays a central role in that respect, in cooperation with the National Safety Authorities, which are linked together in an exchange and coordination network. Its tasks, as well as those of the National Safety Authorities, also need to expand to cover the human dimension of rail operations and to take account of aspects relating to workers' health and safety, which is unquestionably an aspect of rail safety.

5.7 In view of the growing number of players with an involvement in the railways and the consequences that inadequate working arrangements can have, the NSAs' role should also be extended to include monitoring the conditions in which rail production takes place, with the NSAs becoming genuine railway enforcement authorities, responsible for verifying that the rules in force, which constitute public social policy provisions, are being applied.

5.8 In April 2011, an evaluation of the Agency's role was carried out at the request of the Commission. That evaluation shows that the Agency could be given the task of promoting innovation aimed at improving interoperability and rail safety, especially use of the new information technologies and monitoring and tracking systems. The Agency would, however, remain liable for its decisions.

5.9 That links back to the adoption of an industrial policy based on research, innovation and investment, which requires support by the public authorities to address a major European issue which can make a contribution to economic recovery. The European industry and research project Shift2Rail may be a suitable approach for the appropriate integration of all railway businesses.

5.10 In accordance with the obligations on the EU under Article 91 of the Treaty and to improve the health and safety of workers, the Agency could be given powers to ensure that all parties apply the interoperability decisions taken.

6. Social aspects

6.1 The previous point, relating to the relaunch of industrial policy at EU level, needs to be linked to the issues of the demographic profile of workers and the spread of skills in the railway and railway construction sectors.

6.2 Workers are ageing and the social profile within these sectors is changing, and management, engineers and technicians will in future account for an increasing number of employees.

6.3 In the coming years, that will lead to significant turnover of railway operating staff and large-scale turnover among new entrants, which raises the issue of the working conditions applied by such new entrants and the reduction in the specific level of social protection applying to the sector, which took account of the onerous and dangerous nature of railway work and which, before liberalisation, ensured that such work was attractive.

6.4 The attractiveness of railway work, particularly to young people and women, is therefore a major issue in terms of guaranteeing the reliability of rail operations in the Member States and at EU level, which requires new workers to enter the sector and staff loyalty to be ensured.

6.5 The twin objectives of attractiveness and loyalty mean that the commitments that have been undertaken must be kept

by the Member States, in terms of social protection (particularly pensions), collective guarantees, working conditions and long-term job and career development prospects for staff based on acquisition and recognition of skills. Specific programmes such as Erasmus could be harnessed with a view to achieving these objectives.

6.6 EESC opinion TEN/445 of 15 June 2011 on social aspects of EU transport policy makes a certain number of recommendations in this field that have the capacity to improve the attractiveness of the sector, which the Commission should include in its legislative proposals.

6.7 The EESC calls for each Member State when selecting the organisation or opening up a market to competition, to uphold job numbers for their traditional operators, collective agreements for employees and their pay and working conditions. When the operator does change, the aim should be to retain the staff concerned and their collective guarantees.

Brussels, 11 July 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

APPENDIX

to the Opinion of the European Economic and Social Committee

The following amendments, which received at least a quarter of the votes cast, were rejected during the discussions:

Point 1.5

Amend as follows:

~~The EESC calls for the Member States to retain the power to organise their national rail systems and open their domestic markets to competition in line with their geographical, demographic and historical situation and the prevailing economic, social and environmental conditions. The EESC supports the aim of the Commission proposal to fulfil the creation of a common rail market in Europe with high transport quality and without border problems. The Committee urges the Commission to focus strongly on the actual development of the quality of the services on the EU rail market, especially cross-border, and also taking account of the development in other modes of transport. Growing rail market shares and customer satisfaction must be the overall aim; the tools to reach this goal might however be different in different Member States.~~

Outcome of vote (points 1.5 and 3.1 voted and rejected together)

Votes in favour: 30
Votes against: 71
Abstentions: 7

Point 3.1

Amend as follows:

~~The Commission in this fourth legislative rail package proposal continue its work aims to use this legislative proposal to revitalise the European railways. Like the packages before, that has already been decided on, it has its background in the fact that railways form an important part of a sustainable transport system in the EU both for passengers and freight and that market reform is deemed necessary to create a common rail market that can play the potential role that rail transport has not been able to play in the past decades. After having introduced competition in rail freight and international passenger traffic, the current proposal now also introduces by introducing competition for domestic passenger traffic. The Commission believes that such competition should be stimulated by means of EU legislation that provides for separation between the functions of infrastructure managers – which are extended to include the tasks of traffic management and network maintenance and investment – and those of rail operators/carriers. It also intends to strengthen the regulatory bodies that are to govern the rail market. The EESC supports the aim of the Commission proposal to fulfil the creation of a common rail market in Europe with high transport quality and without border problems.~~

Outcome of vote (points 1.5 and 3.1 voted and rejected together)

Votes in favour: 30
Votes against: 71
Abstentions: 7

Point 3.5

Amend as follows:

~~A number of studies present highly divergent conclusions as regards the consequences of separating rail infrastructure and business and of deregulation of rail markets. A review of the statistical data provided by the Commission however also shows that there is no automatic correlation between this separation, the opening-up of the market and improved railway results. There are also clearly different experiences in the different Member States who have carried out separation and/or deregulation of rail markets and in those markets that have not reformed. Market shares for rail transport not only seems to depend on governance models, but also on general investment levels and national geographical, demographical and industrial factors, but the latter would appear to be linked directly to funding levels and toll prices. Furthermore, the McNulty report provides a very mixed picture of the situation in the United Kingdom, recognising that the UK rail system is proving to be more costly both for the State and for the user, and suffers as a result of the various stakeholders not being aligned, which requires greater State involvement in bringing the different aspects into line (such as charges, distribution, timetabling, etc.), which is essential. To solve this problem, Sir Roy McNulty made three recommendations, to be implemented gradually: a sharing of costs and revenues between the infrastructure manager and railway operators, the creation of a joint venture between them and also experiments re-incorporating certain franchises.~~

Outcome of vote (points 3.5 and 3.6 voted and rejected together)

Votes in favour: 27

Votes against: 70

Abstentions: 7

Point 3.6

Delete paragraph:

~~Certain national studies that have looked at the quality of rail services, such as the one carried out by the British consumer organisation Which?, have shown a mixed picture in terms of users' view of rail services, with user satisfaction levels of 50 % or less for half of all operators and only 22 % of passengers considering that the system is improving (<http://which.co.uk/home-and-garden/leisure/reviews-ns/best-and-worst-uk-train-companies/best-train-companies-overall/>)~~

Outcome of vote (points 3.5 and 3.6 voted and rejected together)

Votes in favour: 27

Votes against: 70

Abstentions: 7

Point 3.11

Amend as follows:

~~Under Article 63(1) of Directive 2012/34 establishing a single European railway area, the two co-legislators asked the Commission to draw up reports "on the implementation of Chapter II [of the Directive]". This chapter essentially concerns the autonomy and structures of the EU's railways, concerning "the development of the market, including the state of preparation of a further opening-up of the rail market", and "shall also analyse the different models for organising this market and the impact of this [recast] on public service contracts and their financing". In order to achieve this, the Commission should also have taken "into account the implementation of Regulation (EC) No 1307/2007 and the intrinsic differences between Member States (density of networks, number of passengers, average travel distance)". That debate revealed support for the need to give Member States the power to organise their national systems and, if they consider it appropriate, to continue to organise production in an integrated way that allows pooling to take place, thus reducing interfaces, which are harmful both economically and from the point of view of safety.~~

Outcome of vote (points 3.11; 3.12; 3.13 and 3.14 voted and rejected together)

Votes in favour: 35

Votes against: 67

Abstentions: 2

Point 3.12

Delete the point:

~~Separating infrastructure management in a single degree of freedom guided transport system usually brings more problems than benefits by complicating operations a great deal, leading to an increase in costs and a reduction in service quality. This particularly applies to networks where there is intensive mixed traffic use.~~

Outcome of vote (points 3.11; 3.12; 3.13 and 3.14 voted and rejected together)

Votes in favour: 35

Votes against: 67

Abstentions: 2

Point 3.13

Delete the point:

~~Technical developments are integrated more slowly and with greater difficulty. Innovation — which usually involves both fixed elements (infrastructure) and mobile elements (rolling stock) at the same time — is held back. Bureaucracy and unnecessary interfaces increase significantly, leading to higher operating costs and inertia in the decision-making process.~~

Outcome of vote (points 3.11; 3.12; 3.13 and 3.14 voted and rejected together)

Votes in favour: 35

Votes against: 67

Abstentions: 2

Point 3.14

Amend as follows:

Separating the functions of infrastructure managers and carriers ~~also takes an~~ risk taking network or infrastructure managers further away from end users (passengers and loaders) and their service quality requirements (particularly in terms of punctuality). ~~This stresses the need for a good regulator function on such markets. There should therefore continue to be a role for a pivotal player in the railway system, while preserving the independence of the core functions of infrastructure managers.~~

Outcome of vote (points 3.11; 3.12; 3.13 and 3.14 voted and rejected together)

Votes in favour: 35

Votes against: 67

Abstentions: 2

Point 3.19

Amend as follows:

As for rail freight, ~~the situation here in a number of the effects of deregulation vary much among Member States and markets. In some Member States, especially in Eastern Europe, the recent development is very problematic is disastrous.~~ The main reason is ~~however not deregulation as such but~~ that the modernisation and expansion of the railways has not kept pace with the modernisation of the road network and that rail traffic is subject to mandatory track access charges. ~~In some other countries the service to the customers has risen significantly and consequently more goods are transported on rail than before. Generally, the growing competition especially in the block train market has been positive. However, the single wagon load business, a long standing problem area in Europe, has continued its downturn in most countries, leading to network effects and abandonment of low-traffic rail infrastructure. In addition, competition for the most profitable connections does bring improvements for a number of block trains. However, this is partially at the expense of single wagon load services, whose systems are more and more stretched. This can turn certain areas into industrial deserts and bring thousands of lorries onto the roads. Furthermore, many players willingly admit that in a number of Member States. It is clear from the Commission communication that EU rail freight deregulation has not been enough to create a new competitive rail freight market. Some operators even claim that not a single tonne of goods has been transferred to rail as a direct result of liberalisation.~~

Outcome of vote

Votes in favour: 39

Votes against: 72

Abstentions: 3