

RESOLUTION N° 2002/1 ON THE DEVELOPMENT OF RAILWAYS

[CM(2002)2/FINAL]

The ECMT Council of Ministers meeting in Bucharest in 2002:

REAFFIRMING that the aim of railway reform is to improve effectiveness, quality and economic efficiency in the provision of rail services and foster growth in rail markets whilst ensuring high standards of safety;

HAVING REGARD TO report CEMT/CM(2000)20 on railway reform and in particular its emphasis on improving the quality of European rail services through both competition and alliances, replacing national frontiers with a more commercial logic in creating continent-wide rail markets;

RECALLING Resolution 93/6 on the development of international rail transport and Resolution 99/2 on the removal of obstacles at border crossings for international goods traffic, and the emphasis that both place on ensuring the legal independence and managerial autonomy of rail businesses to make commercial decisions in an international market environment;

RECOGNISING:

- that the need for regulation differs by rail market;
- that the main task for railway reform is to achieve balance in fostering competition through regulatory intervention whilst otherwise fostering management freedom to run businesses commercially and maintaining an effective interface between infrastructure management and train operations;
- the need for a predictable regulatory environment to minimise regulatory risk;

CONSIDERING that the core regulatory tasks for government in the rail sector are:

- ensuring fair conditions for inter-modal competition,
- ensuring high standards of safety,
- ensuring transparency and accountability in the use of public funds,
- ensuring a stable environment for the long term investments that characterise rail systems,
- preventing pricing abuses in captive rail service markets (few in Europe),
- ensuring fair conditions for intra-modal competition, where such competition is feasible,
- creating incentives both to reduce costs and improve quality of service in both train operations and infrastructure management,
- providing for public service requirements;

AGREE to co-operate in developing a policy framework:

- that fosters improvement in the quality of rail services, in terms of reliability and seamless international operation and marketing — this raises specific issues of competition and interoperability addressed below;
- that creates more efficient conditions for road-rail inter-modal competition, notably by gradually reforming the structure of taxation for road haulage;
- that contains the costs of implementation, minimises the administrative burdens imposed on train operators and infrastructure managers, and avoids unnecessary intrusion into the management of commercial rail enterprises;

(A) ON INTEROPERABILITY AND BORDER CROSSINGS

MINDFUL OF:

- the convention concerning international carriage by rail (COTIF) and its uniform rules for technical admission of railway material used in international traffic (ATMF) and uniform rules concerning validation of technical standards (APTU);
- EU Directive 2001/16/EC on the interoperability of the trans-European conventional rail system and Directive 96/48/EC on the interoperability of the trans-European high speed rail system;

CONSIDERING that all cost effective measures to cut delays to international rail services at national borders should be pursued as a matter of urgency and that these include:

- training of drivers, crew, and traffic control staff to facilitate international operations in relation to language skills and operational rules and procedures and particularly those related to safety,
- better co-ordinated investment planning across borders, particularly in respect to locomotives, rolling stock, signalling and control and safety systems — the international co-operation developing between railways in this area is welcome and should be sustained;

REITERATE the recommendations of Resolution 99/2 on the removal of obstacles at border crossings for international goods traffic, covered also in the draft Consolidated Resolution on Combined Transport CEMT/CM(2002)3, whereby they agreed:

- that railways should take prompt action to reduce delays in international freight services as far as is cost effective and in accordance with internationally agreed targets under the UN/ECE agreement on international combined transport (AGTC, where 30 minutes is foreseen as the maximum border stop) and UN/ECE Resolution 248 on the border stopping time of shuttle trains (which sets a maximum limit of 60 minutes in total and 30 minutes for each station either side of a border crossing point);
- that efforts should be made to transfer, as far as possible, non-railway procedures (such as customs formalities) to origin and destination stations instead of borders;
- that where customs inspections remain at borders these should be done jointly by the authorities of the two countries concerned;
- to increase the management independence of railway companies in regard to their international operations in the broadest sense so that decisions related to improving

border crossings (e.g. rationalising marshalling operations, merging marshalling yards on either side of borders, purchasing multi-current locomotives or dual gauge rolling stock, building track or transshipment stations) can be made on a commercial basis in an international market environment;

- in cases where Governments continue to exercise control in the management of railway operations, to eliminate unnecessary shunting and marshalling as far as possible at all points en route (not only at borders);
- to consider possible roles in co-ordinating and providing support to railways in developing adequate integrated information technology systems for transmitting data, on train operations and freight consignments, between networks;
- that Ministers of Transport exercise as much influence as possible, in co-operation with their relevant Ministerial colleagues, to take forward these recommendations as a matter of urgency, with a view to achieving the removal of all unnecessary obstacles to transport on priority corridors by the year 2005;

AGREE also:

- to develop simplified customs procedures, in collaboration with the competent authorities, for new entrants in international rail markets equivalent to those enjoyed by national railways in the past;
- to encourage international co-operation between infrastructure managers and between train operators to foster cost effective planning, purchasing and investment decisions in relation to international traffic, and also in this respect, not hinder mergers and other commercial alliances where consistent with competition law and national policies towards the creation of competition in rail markets.

(B) ON INTRA-MODAL COMPETITION AND RAILWAY COMPETITIVENESS

HAVING REGARD TO report CEMT/CM(2000)20 on railway reform and in particular its conclusions that there is no single model for regulatory reform that can be applied to all railways;

MINDFUL OF EU Directives 91/440/EEC and 2001/12/EC on the development of the Community's railways, 95/18/EC and 2001/13/EC on the licensing of railway undertakings and 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification;

RECALLING the OECD Council Recommendation of 2001 concerning structural separation in regulated industries;

CONSIDERING that in order for rail companies to provide services that are competitive with other modes, developing quality of service according to the price different market segments can bear, regulatory frameworks must provide incentives for efficiency and investment both in train operations and infrastructure management;

OBSERVING:

- that intra-modal competition can stimulate gains in efficiency, quality of service improvements and innovation;
- that intra-modal competition is most effective when it is conducted in transparent and non-discriminatory terms or, as in some Associate Member countries, between operators that each own infrastructure;

NOTING that certain existing or potential railway customers seek to enter European rail markets on their own account, and that these companies require — where access rights are provided under national and/or European Community law — equitable conditions for access to infrastructure capacity;

RECOGNISING:

- that measures to promote non-discriminatory access to rail infrastructure can include separation of the legal responsibility for allocating capacity from the incumbent rail operator and in any case require independent regulatory intervention to prevent discrimination regardless of the distribution of legal responsibilities for allocation;
- that in EU Member States such separation of responsibilities is required by Community law;
- that, even where structural separation has been established, it is necessary to prevent discriminatory behaviour, and fair competition has to be supervised by independent bodies;
- that discrimination can be prevented without structural separation in some markets, backed by the safeguard of intervention through independent bodies when necessary, notably where there is competition between vertically integrated companies that each own infrastructure to which other operators require access and also where markets can be served by parallel or equivalent routes owned by different companies;
- that where there is no potential for competition between vertically integrated companies, separating authority for the allocation of infrastructure capacity is important if non-discriminatory access to rail infrastructure is to be achieved and it may also be necessary to separate train path time-tabling from the incumbent operator;

RECOGNISING also:

- that "competition" for infrastructure capacity not only concerns operators competing for the same business but also different types of train service "competing" for train paths and that maintenance possessions also "compete" for capacity allocation;
- that decisions on the allocation of capacity should seek to reflect the economic value of conflicting demands for train services;
- and that where allocation is regulated, the regulatory system should be designed to help reveal the economic value of competing services and ensure neutrality in allocation decisions, including where the demands of train operators are in conflict with the interests of infrastructure management in programming maintenance and other track possessions;

ACKNOWLEDGING that certain Member countries have taken measures at national level to extend existing access rights, for example, to enable the entry of new train operators in domestic rail markets or to enable cabotage to be undertaken by operators carrying freight traffic internationally;

AGREE:

with regard to rights of access and to regulatory authorities

- to act at a national level to ensure that competition for rail markets and, where access rights exist, in rail markets is conducted in transparent and non-discriminatory terms, and to this end consider creating independent national bodies with powers to take up issues of discrimination in relation to access to infrastructure on their own initiative and a duty to adjudicate in cases of dispute;
- to ensure that, where rights of access exist — without prejudice to regulations on licensing railway undertakings and safety certification, and whilst recognising the case for limiting competitive entry against services receiving compensation under public service obligations — conditions of competitive neutrality are established for train operators that seek to enter international rail markets, and to that end to vest powers in competition or rail regulatory authorities to prevent discriminatory behaviour in the award of access to infrastructure capacity and pricing of the use of infrastructure;
- to ensure that national, and any eventual international, rail regulatory agencies have a clear duty to promote the overall efficiency and competitiveness of the rail sector and that these bodies acquire the expertise to fulfil this duty in conjunction with the narrower legal tasks of enforcing competition rules;

with regard to the interface between infrastructure and train operations

- that where infrastructure management is separated from train operations, organisational arrangements avoid unnecessary fragmentation and limit the risks and costs — both financially and in terms of safety — in managing the train operations-infrastructure interface, with clear identification of responsibilities in this respect;
- that where infrastructure management is separated from train operations, organisational and regulatory arrangements create appropriate incentives for promoting safety, improving the quality of train services and maintaining and investing in infrastructure;
- that restructuring should be phased to ensure new contractual relationships can develop adequately in step with structural change, in order that business is not lost through serious or persistent disruption to the delivery of train services, maintenance of infrastructure or the guarantee of safety standards;

with regard to infrastructure charges

- that discrimination in the charges applied to different operators in the same market seeking the same kind of train path and infrastructure service is to be prevented;
- that, conversely, price discrimination according to train characteristics (such as axle weight) is essential to cost effective infrastructure provision, and price discrimination between market segments is appropriate where infrastructure charges are required to remunerate past or future investment or otherwise cover more than marginal costs;
- that infrastructure pricing regulations designed to prevent discrimination between train operators seeking similar infrastructure services should not result in the elimination of incentives for efficiency in charging systems and in particular do not prevent the adoption of two part tariffs designed to promote efficient development of infrastructure;

- that elements in infrastructure charges related to marginal costs must provide incentives for train operators to reduce those costs (for example through improved design of rolling stock) and not simply match revenues to costs — this applies particularly to wear and tear and to costs related to the environment and accidents;
- that where train operations are separated from infrastructure management, regulatory frameworks, particularly in regard to pricing, should provide incentives for infrastructure managers to maximise efficiency, to invest cost effectively to meet the demands of all their customers, and provide infrastructure services that promote the competitiveness of train services with respect to other modes;
- to co-operate to encourage companies across Europe responsible for rail infrastructure to develop transparent and non-discriminatory charges that facilitate the marketing of international train operations through a sufficient degree of harmonisation in charging structures and by limiting international "cross-subsidy" through a degree of convergence in the level of charges;

with regard to co-operation between infrastructure managers

- to encourage companies responsible for rail infrastructure to co-operate to enable the efficient allocation of and investment in infrastructure capacity which crosses more than one network and ensure that forums for co-operation between infrastructure managers in developing common procedures include companies across all of Europe, in the interests of developing continent-wide rail markets;
- to co-operate to encourage infrastructure managers to extend the one-stop-shop concept for marketing capacity to networks throughout Europe, in order to facilitate the ability of train operators to supply prompt and complete information on prices and services to potential customers;
- to encourage companies responsible for rail infrastructure to respond rapidly to all requests for train paths;

with regard to freight-to-passenger cross subsidies

- to require unprofitable public services from railways only when adequate public compensation payments are provided and, in step with the introduction of competition in rail freight services, to end cross-subsidies from freight to passenger operations where they persist in some of the newer Member countries;

(C) ON INTER-MODAL COMPETITION

HAVING REGARD TO report CEMT/CM(2002)1 on developing a sustainable balance between substitutable modes of freight transport;

MINDFUL of the draft Consolidated Resolution on Combined Transport CEMT/CM(2002)3 and the Resolution of 18 January 2001 of the European Parliament on intermodality and intermodal freight transport;

RECALLING Resolution 2000/3 on Charges and Taxes in Transport and especially:

- its observation that transport charges and taxes will be most efficient when based on marginal social costs, including external costs to the extent these can be identified;
- that incentives for efficient development of infrastructure (reflecting capital costs) need to be provided by charging systems, as well as incentives for efficient use of existing networks;

- that fiscal policy is a national prerogative and that although important, efficiency is not the only criteria on which decisions relating to transport charges are made.

CONSIDERING:

- that current divergences from socio-economically efficient charges for the use of transport infrastructure and efficient decision making rules for investments in transport infrastructure have led to underdevelopment of rail systems and excess road traffic in some areas;
- that a shift in freight transport from the roads to rail is indispensable in the interests of promoting sustainable development in specific locations and in particular within the area of the Alpine Convention and in other mountain valleys;
- that significant modal shift will only be achieved by complete packages of measures to:
 - improve the efficiency and quality of rail services and remove obstacles to international rail operations;
 - provide long term finance for railway infrastructure investments;
 - charge goods vehicles for the use of roads on a differentiated territorial basis and at an efficient level;
 - enforce road haulage regulations effectively, particularly in relation to weight limits, safety, driving and working hours with effective verification procedures and sanctions, as recommended in Resolution 2001/2 on Social Aspects of Road Transport;

CONSIDERING also:

- that good multicriteria and cost benefit analyses must be used as the basis for making decisions on infrastructure investment, incorporating appropriate assumptions for the price of using infrastructure that relate to the scarcity value (or congestion costs) of existing infrastructure capacity, in order to avoid major over-investment or under-investment in rail and road capacity;
- that there can be no simple assumption that one mode performs better than others in terms of social and environmental impacts — this depends on specific circumstances — and assessments to demonstrate the way social and environmental benefits are to be delivered by investments or policy changes are an essential basis for any measures designed to promote modal shift;

AGREE to co-operate towards development of an international policy framework that promotes:

- gradual implementation of more efficient transport infrastructure use charges;
- co-ordination of major investments in rail and road infrastructure designed to serve international traffic, for example in the case of tunnels crossing mountain barriers, in order to make efficient use of resources at an international level;

AGREE also, whilst respecting the primary goal to develop a fiscal and financial framework that treats all modes of transport equally efficiently:

- to consider providing transfers to rail infrastructure and combined transport services and, where national law allows, to rail freight operations, where this can achieve benefits (for example in terms of reducing environmental costs and road congestion) by correcting failures in the pricing of road and rail infrastructure that prevent market forces from maximising overall welfare — such transfers should be delivered in a manner that does not discriminate between competing rail companies;

- to co-operate to enable, in specific cases, transfers from revenues raised from road use charges to support major long term rail investments that can make a significant contribution to achieving modal shift, where other sources of finance are not available and where positive socio-economic returns can be demonstrated;

REQUESTS the Committee of Deputies to:

- disseminate this Resolution;
- and monitor the implementation of its recommendations.