



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.12.2008  
COM(2008) 852 final

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**concerning a European rail network for competitive freight**

**(Text with EEA relevance)**

**{SEC(2008) 3028}**

**{SEC(2008) 3029}**

## EXPLANATORY MEMORANDUM

### **1. THE ISSUES INVOLVED IN THE DEVELOPMENT OF RAIL FREIGHT.**

#### **1.1. The construction of a sustainable system of transport: a major objective for the Community.**

The need for the Community to meet its commitments in terms of reducing greenhouse gases, improving the environmental performance of its economy and the constraints weighing more and more heavily on energy resources are very important features of Community transport policy.

The Community would therefore like to create a transport system for the benefit of its citizens and undertakings which is the cleanest and most efficient possible. In order to achieve this, the Commission, in its mid-term review of the White Paper on Transport<sup>1</sup>, proposed concentrating on the development of "co-modality", that is the optimal use of all modes of transport, combined or otherwise.

This development is based in particular on creating a true internal European transport market. Much progress in this direction has already been made in the aviation and road transport sectors. However, rail transport still has some way to go in this respect.

#### **1.2. Issues regarding rail transport**

Rail freight services have been opened up to competition since 1 January 2007. Existing undertakings have restructured themselves or are in the process of doing so. New stakeholders are also appearing. The quality of services provided by the infrastructure managers to the undertakings remains low in many Member States and must be improved. However, the demand for rail transport could significantly increase in the years to come in many regions of the Union.

Indeed the rail freight market, approximately half of which is accounted for by international services, will not be able to develop properly if railway infrastructure does not offer a better service to freight undertakings. Several difficulties must be surmounted for this to happen: much more attention is paid to passenger trains than to freight trains, both in terms of investment choices and in terms of managing capacity and traffic, which greatly penalises freight transported by rail in the majority of Member States; national infrastructure managers who continue to act in a too disjointed manner, and inefficient or restricted connections between railway infrastructure and other modes of transport.

Infrastructure managers must therefore cooperate more. The balance of traffic between passenger trains and freight trains must be managed differently, at least on significant routes for freight. Lastly, providing freight undertakings with a sufficient number of intermodal installations capable of providing quality services is a very important factor in the development of combined traffic, which constitutes a strategic segment of the modern rail freight market.

---

<sup>1</sup> COM(2006) 314 final, 22.6.2006.

Without this, rail freight will not be able to develop properly and fully play its role in the construction of "co-modality" in Europe.

## **2. IMPROVING THE QUALITY OF THE SERVICE PROVIDED BY INFRASTRUCTURE TO THE FREIGHT UNDERTAKINGS ON A SPECIFIC NETWORK**

### **2.1. Details of measures already taken**

Many initiatives have already been taken in recent years, both at national and Community level, to ensure that the service provided by the infrastructure managers becomes more efficient. Progress is being made on rationalising investment, the use of new technologies, and adopting management rules for increasingly sophisticated infrastructures.

More particularly, at European level successive railway packages have set the Member States on the path to modernising their railways and to integrating national systems. With provisions relating to access and the levying of charges for infrastructure, managing its capacities and traffic, railway safety and the development of interoperability, the directives making up the first, second, and third railway packages represent a European legislative and policy framework which encourages the modernisation of rail transport.

Furthermore, the Trans-European Transport Network (TEN-T) programme, the development and the deployment of the European Rail Traffic Management System (ERTMS), and the technical specification relating to telematics applications relating to freight (TAF-TSI) contribute to the development of interoperability and better-integrated management of the railway infrastructure in Europe. Within the framework of the deployment of ERTMS, for example, international freight-oriented corridors have been defined. Their creation gives rise to active cooperation between infrastructure managers. The latter have also taken the initiative of uniting in the form of a body named RailNetEurope, which provides a number of services to international freight undertakings and encourages cooperation between infrastructure managers in terms of managing capacities.

### **2.2. Problems persist**

All of these initiatives help to improve infrastructure management. They must be increased and their pace accelerated to ensure that the progress necessary for integrating rail transport and developing freight becomes a reality. In the first place this means improving or increasing:

- cooperation between infrastructure managers in order to eliminate border effects for freight traffic and optimising their investment and the use of their capacities at an international level, initially on the most important routes;
- development and management of the intermodal terminals used for the railways;
- the quality and reliability of the infrastructure capacities allocated to freight.

Within the framework of the ERTMS corridors already created, cooperation between Member States and infrastructure managers basically relates to investment and varies noticeably in terms of intensity between corridors. Moreover, creating a better balance, in terms of the use of the railway network, between the different types of traffic has not been the subject of significant action at this stage, although this represents a primordial factor in the improvement

of the quality of rail freight services in Europe (see Communication COM(2008)536 on the quality of rail freight services).

### **3. NEW INITIATIVES SEEM NECESSARY**

#### **3.1. All stakeholders would like Community action on this matter**

The Commission undertook, in its Communication of 18 October 2007 *Towards a rail network giving priority to freight*, to present in 2008 proposals for the creation, in a coordinated manner, of international rail corridors giving priority to freight. This option was favoured over the creation of rail corridors dedicated to freight, which was deemed too one-sided, expensive and slow to implement. Further to making this commitment, the Commission carried out a large-scale consultation of all of the stakeholders concerned.

Initially, fifteen experts in the sector, together with Commission departments, pinpointed rail freight problems linked to infrastructure and identified possible ways forward. The conclusions of the group, included in a report listing recommendations by area of intervention, formed the main basis for the work on this proposal.

Subsequently, a public consultation procedure was launched. It offered the opportunity for many stakeholders, Member States, railway undertakings, infrastructure managers, industrialists, associations and freight-service users, to express their opinions on this matter and to give their opinion on the Commission's proposals.

The main conclusion drawn from these two exercises is that the short-term creation of international rail corridors for competitive freight would contribute substantially to improving the competitiveness of rail transport.

Moreover, the Council of Ministers meeting on 7 and 8 April 2008 invited the Commission to "devise measures for achieving the efficient operation of international rail freight services through reinforcement of the cooperation between infrastructure managers in the fields of operations and investment and through identification of those cross-border corridors, including co-modal sections, along which the efficient flow of international rail freight traffic should be ensured, in terms of capacity and investment planning and in terms of reliable and sufficient train paths". The European Parliament, which has adopted a report on this subject, the European Economic and Social Committee and the Committee of the Regions, have also expressed their wish for progress to be made on this matter as soon as possible.

#### **3.2. A regulation concerning the European rail network for competitive freight and additional initiatives**

Taking into account all of these elements, the Commission has examined three options (not undertaking any new measure; enhancing measures which have already been implemented and, where necessary, undertaking new policy initiatives; proposing new legislative measures) which could lead to the creation of a European rail network for competitive freight consisting of international corridors. It has carried out an analysis of the qualitative and quantitative impact of these options<sup>2</sup>.

---

<sup>2</sup> Commission Staff Working Paper (COM)

According to this analysis, the third option would offer the most positive effects, and provide a number of guarantees to both the Community and the Member States themselves concerning collective involvement in the objective being pursued. The main uncertainty regarding this option concerns the deadline for the adoption and entry into force of the new legislative measures.

These conclusions, the need to make rapid progress in terms of integrating the national railway infrastructure networks to ensure that the integration of rail transport is similar to that of other modes of transport, and the need, to that end, to specifically harmonise the rules for managing infrastructure along a freight corridor, lead the Commission to propose to the Parliament and the Council that they adopt a regulation concerning the creation of a European rail network for competitive freight.

The Commission proposal for a Regulation relates in particular to the procedures for the selection of corridors, together with the governance of all the corridors, and to the characteristics that these corridors must have. It is based on the continuance of the initiatives and provisions quoted above, such as the TEN-T programme, the ERTMS corridors and current Community legislation relating to rail transport.

To meet the need to act rapidly and to stimulate and guide current measures having the same objectives as this initiative, the Commission also proposes supplementing its proposal for a regulation with other initiatives. It will encourage the creation of associations between Member States for the creation of corridors and joint investment planning. It will regularly bring together all the railway infrastructure managers in the Union to encourage the exchange of good practices and raise subjects of common interest.

Furthermore, the review of the TEN-T policy which is currently underway will offer an opportunity to coordinate this initiative with the TEN-T policy, which should lead to a significant amount of synergy, both in terms of measures to be implemented to obtain greater efficiency in construction and the use of infrastructure in the European interest, and in terms of investment.

#### **4. THE GENERAL PRINCIPLES OF THE PROPOSAL FOR A REGULATION**

The proposal is in accordance with the principle of subsidiarity. It contains provisions regarding the transnational management of railway infrastructure which could not be implemented individually by each Member State. It is also in accordance with the principle of proportionality. It sets objectives and joint procedures for the Member States and the railway infrastructure managers. Finally, the proposal supplements and is based on existing rail legislation. This makes its interpretation easier and thereby contributes towards the simplification of legislation which has been decided at Community level.

The proposal is organised into five chapters, of which three relate to: the design and governance of the European rail network for competitive freight; investment in the infrastructure, the terminals and their equipment; and finally, the operation of freight corridors. Chapter 1 relates to general provisions and Chapter 5 relates to final provisions.

For each freight corridor, the measure proposed is based on a regular analysis of the market and regular consultation of customers, the definition of an implementation plan containing measures intended to meet their needs and to guarantee compliance with provisions in the

proposal for a regulation. The infrastructure and terminal managers are responsible for carrying this out, with the support and at the instigation of the Member States involved in the creation of the freight corridor in question.

#### **4.1. Concerning the definition and governance of the European rail network for competitive freight**

Chapter 2 first of all stipulates the obligations of the Member States in terms of creating international rail corridors for competitive freight and the procedure for selecting these corridors. These provisions must guarantee both the quality of the proposed corridors and consistency between the different corridors proposed. They also provide for all of the Member States which do not have specific geographical features incompatible with this objective to participate in the creation of the European rail network for competitive freight.

The proposed method is as follows: the legislation lays down a general obligation for the Member States to create freight corridors within the TEN-T; the Member States together define the corridors that they would like to create; this choice is validated at Community level, in the comitology procedure, after examining the relevance of the proposed corridor and the consistency between all of the freight corridors proposed.

This chapter also contains the essential characteristics of the governance body for each freight corridor. The Commission brought the experience that it has gained, in particular within the framework of ERTMS corridors and corridors implemented by RailNetEurope, to bear on the issues brought up by the group of experts, and the results of the public consultation to define these essential characteristics. In general, it appeared that putting in place an international structure capable of encouraging coordination between Member States and infrastructure managers along a corridor is a vital element in the success of this exercise.

#### **4.2. Concerning investment**

Chapter 3 specifies the obligations to be complied with regarding a freight corridor in terms of coordinating and programming investment and developing interoperability between the different networks covered and improving the capacity for the trains. Developing interoperability will enable significant gains to be made in terms of journey times, capacity and the productivity of rail freight. Increasing train capacity, for example by increasing the maximum length of the trains which can run along the whole corridor, will also efficiently improve the productivity of rail freight.

In this chapter, the Commission also proposes defining a network of strategic terminals for each corridor. The good connection of each freight corridor to the rest of the network and to other modes of transport, at maritime ports or inland, will indeed play a fundamental role in the success of this initiative. Each corridor must therefore have an effective strategy regarding the development of intermodal terminals in particular, and also the adequacy of their capacity in terms of the needs of freight running along the corridor.

#### **4.3. Concerning the operation of a freight corridor**

Chapter 4 concerns seven essential points: the development of interoperable procedures; improving coordination of traffic operations between infrastructure managers on the one hand, and infrastructure and terminal managers on the other hand; enhancing access to infrastructure and terminals; preferential treatment of freight trains in terms of allocating train

paths and managing traffic; monitoring the quality of the service along a freight corridor; cooperation between regulatory bodies.

Better coordination of the operation of the freight corridor should lead to the improved performance of international freight transport along the corridor for a limited cost. For example, it involves applicants being provided with a one-stop shop for all requests for train paths across several networks. Furthermore, the impact assessment has shown that efficient coordination of the operation of terminals and the main infrastructure would very significantly improve the performance of rail freight. It would lead in particular to a reduction in waiting times for trains accessing the terminals or the main infrastructure from the terminals.

The quality of information about conditions and means of access to all of the services necessary for the efficient running of a freight train will also allow non-discriminatory access to all of the services provided by the infrastructure of the freight corridor.

With regard to the balance between freight trains and passenger trains, the objective is to ensure that freight trains have access to good-quality, reliable train paths and that, for international train paths, national train paths are consistent amongst themselves. Better treatment of freight trains in terms of traffic operation is also included in this chapter. The issue here is to give guarantees to rail freight as to the reliability and the quality of the service it is being provided by infrastructure managers. These guarantees, which in general rail freight does not have, should have a moderate impact on the performance of passenger traffic. Furthermore, they must not constitute an excessive restraint which is likely to harm improved infrastructure management.

All of the above measures must produce positive effects on the performance of freight rail transport which must be measured and regularly analysed. It is for that reason that Chapter 4 stipulates that each corridor must define performance indicators which are regularly updated.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**concerning a European rail network for competitive freight**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1) thereof,

Having regard to the proposal from the Commission<sup>3</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>4</sup>,

Having regard to the opinion of the Committee of the Regions<sup>5</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>6</sup>,

Whereas:

- (1) Within the framework of the Lisbon Strategy for growth and employment and the sustainable development strategy of the Community, the creation of an internal rail market, in particular with regard to freight transport, is an essential factor in making progress towards sustainable mobility.
- (2) Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification<sup>7</sup> has been an important step in the creation of the internal rail market.
- (3) In order to be competitive with other modes of transport, international and national rail freight services, which have been opened up to competition since 1 January 2007, must be able to benefit from a good-quality railway infrastructure, that is one which allows freight transport services to be provided in good conditions in terms of commercial speed and journey times and to be reliable, that is to say that the service it provides actually corresponds to the contractual agreements entered into with the railway undertakings.

---

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

<sup>5</sup> OJ C [...], [...], p. [...].

<sup>6</sup> Opinion of the European Parliament of ....., Council Common Position of .....

<sup>7</sup> OJ L 75, 15.3.2001, p. 29.

- (4) The Council of Ministers, meeting on 7 and 8 April 2008, concluded that the efficient use of infrastructure must be promoted and that, if necessary, railway infrastructure capacities must be improved by means of measures taken at European and national level, and in particular by means of legislative texts.
- (5) In this context, the creation of a European rail network for competitive freight on which freight trains can run in good conditions and easily pass from one national network to another would allow improvements in the conditions of use of the infrastructure.
- (6) In order to put in place a European rail network for competitive freight, the initiatives already taken in terms of railway infrastructure show that the creation of international corridors, which meet specific needs in one or more clearly identified segments of the freight market, is the most appropriate method.
- (7) The rail network for competitive freight should be set up in a manner consistent with the Transeuropean Transport Network ("TEN-T"). To that end, the coordinated development of the two networks is necessary, and in particular the integration of the international corridors for rail freight into the existing TEN-T. Furthermore, uniform rules relating to these freight corridors should be established at Community level. If necessary, the creation of these corridors could be supported financially within the framework of the TEN-T programme<sup>8</sup>.
- (8) Within the framework of a freight corridor, good coordination between the Member States and the infrastructure managers concerned should be ensured, sufficient priority given to rail freight traffic, effective and adequate links to other modes of transport set up and conditions created which are favourable to the development of competition between rail freight service providers.
- (9) The creation of a freight corridor should be examined and approved at Community level in accordance with a clearly-defined and transparent procedure and criteria which allow Member States and infrastructure managers sufficient decision-making and management scope so that they can take measures adapted to their specific needs.
- (10) In order to stimulate coordination between the Member States and the infrastructure managers, each freight corridor should be supported by a governance body comprised of the various infrastructure managers who are involved with the freight corridor.
- (11) In order to meet market needs, the methods for creating a freight corridor should be presented in an implementation plan which should include identifying and setting a schedule for measures which would improve the performance of rail freight. Furthermore, to ensure that planned or implemented measures for the creation of a freight corridor meet the needs or expectations of all of the users of the freight corridor, the latter must be regularly consulted in accordance with clearly defined procedures.

---

<sup>8</sup> OJ L 228, 23.9.1995, p.1, as amended by Regulation (EC) No 1655/1999 of the European Parliament and of the Council (OJ L 197, 29.7.1999, p.1) and Regulation (EC) No 807/2004 of the European Parliament and of the Council (OJ L 143, 30.4.2004, p.46).

- (12) In order to guarantee the consistency and continuity of the infrastructure capacities available along the freight corridor, investment in the freight corridor should be coordinated between Member States and the infrastructure managers concerned, and planned in a way which meets the needs of the freight corridor. The schedule for carrying out the investment should be published to ensure that applicants who may operate in the corridor are well-informed. The investment should include projects relating to the development of interoperable systems and the increase in capacity of the trains.
- (13) For the same reasons, heavy maintenance work, which very often has a significant impact on railway infrastructure capacity, should also be coordinated at the level of the freight corridor and be the subject of updated publications.
- (14) The putting in place of infrastructure and systems for the development of intermodal freight transport services is also necessary to encourage the development of rail freight in the Community.
- (15) The Member States concerned and the competent national safety authorities on the freight corridor may conclude agreements concerning the mutual recognition of vehicles on the one hand, and train drivers on the other hand. The safety authorities of the Member States involved with the freight corridor should cooperate in order to guarantee the implementation of these agreements.
- (16) In order to facilitate requests for infrastructure capacities for international rail freight services, it is appropriate to set up a one-stop shop for each freight corridor. For this existing initiatives should be built upon, in particular those undertaken by RailNetEurope, a body which acts as a coordination tool for the infrastructure managers and provides a number of services to international freight undertakings.
- (17) In view of the different programming schedules for timetables for the different types of traffic, it should be ensured that the requests for infrastructure capacity for freight traffic are not unduly restricted by requests for passenger transport, particularly in regard to their respective socio-economic values. Fees for using the infrastructure should vary according to the quality and reliability of the train path allocated.
- (18) Trains carrying goods which are very sensitive in terms of the journey time and punctuality should be able to enjoy sufficient priority if there are traffic problems.
- (19) To guarantee the development of competition between suppliers of rail freight services in the freight corridor, it seems desirable to authorise applicants other than railway undertakings or their groupings to request infrastructure capacity.
- (20) In order to optimise the management of the freight corridor and guarantee a better flow and performance of the international rail freight services, it is necessary to ensure efficient coordination between the regulatory bodies over the different networks covered by the freight corridor. To ensure that the railway infrastructure is better used, the management of that infrastructure and the strategic terminals along the freight corridor needs to be coordinated.
- (21) To facilitate access to information concerning the use of all the main infrastructure in the freight corridor and to guarantee non-discriminatory access to it, it seems advisable

to supply all the international rail freight service providers with a reference document containing all this information.

- (22) In order to objectively measure the benefits of the measures aimed at the creation of the freight corridor and to guarantee efficient monitoring of such measures, performance indicators for the service along the freight corridor should be introduced and published regularly.
- (23) With the aim of improving the dissemination of good practices and ensuring efficient monitoring of the management of the European rail network for competitive freight, it is desirable to enhance cooperation between all of the Community infrastructure managers with the support of the Commission.
- (24) Since the objective of this Regulation, namely the creation of a European rail network for competitive freight made up of freight corridors, cannot be adequately achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in the same Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (25) Fair rules based on cooperation between the infrastructure managers who must provide a quality service to freight undertakings within the framework of an international railway corridor, should be introduced in respect of the coordination of investment and the management of capacities and traffic.
- (26) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.
- (27) In particular, the Commission should be empowered to lay down the conditions and criteria necessary for the implementation of this Regulation. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation and to supplement it through the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny laid down in Article 5a of Decision 1999/468/EC,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL

#### *Article 1*

#### **Purpose and scope**

1. This Regulation lays down the rules for the creation and organisation of the European rail network for competitive freight which is made up of international rail corridors for competitive freight (hereinafter referred to as "freight corridors"). It sets

out the rules for the selection and organisation of freight corridors and harmonised principles relating to investment planning, and capacity and traffic management.

2. This Regulation applies to the management and use of railway infrastructure for domestic and international rail services, apart from:
  - a) stand-alone local and regional networks for passenger services using the railway infrastructure;
  - b) networks intended only for the operation of urban or suburban passenger services;
  - c) regional networks which are used for regional freight transport services solely by a railway undertaking that is not covered by Directive 91/440/EEC<sup>9</sup> until capacity on that network is requested by another applicant;
  - d) privately-owned railway infrastructure that exists solely for use by the infrastructure owner for their own freight operations.

## *Article 2*

### **Definitions**

1. For the purposes of this Regulation, the definitions laid down in Article 2 of Directive 2001/14/EC shall apply.
2. In addition to the definitions referred to in paragraph 1:
  - a) "freight corridor" shall mean all of the railway lines created on the territory of Member States and, where necessary, third European countries linking one or more strategic terminals to one or more other strategic terminals, including a principal axis, alternative routes and paths linking them, and railway infrastructure and its equipment in the freight terminals, marshalling yards and train formation facilities, and branch lines to the latter;
  - b) "implementation plan" shall mean the document presenting the strategy, measures and means that the parties concerned intend to implement in order to develop over a specified period the measures which are necessary and sufficient to create the freight corridor;
  - c) "heavy maintenance work" shall mean any intervention or repair to the railway infrastructure and its equipment which is necessary for running the trains along the freight corridor and involving reservations on the capacities for the infrastructure in accordance with Article 28 of Directive 2001/14/EC;
  - d) "terminal" shall mean the installation provided along the freight corridor which has been especially arranged to allow either the loading and/or the unloading of goods onto/from freight trains, and the integration of rail freight services with

---

<sup>9</sup> OJ L 237, 24.8.1991, p. 25.

road, maritime, river and air services, and either the forming or modification of the composition of freight trains;

- e) "strategic terminal" shall mean the terminal of the freight corridor which is open to all the applicants and which plays an important role in the rail transport of freight along the freight corridor;
- f) "one-stop shop" shall mean the joint entity set up by infrastructure managers of the freight corridor which offers applicants the opportunity to request in a single place and a single operation a train path for a journey crossing at least one border.

## CHAPTER II

### DESIGN AND GOVERNANCE OF THE EUROPEAN RAIL NETWORK FOR COMPETITIVE FREIGHT

#### *Article 3*

##### **Selection of freight corridors**

1. The freight corridor shall allow international and national rail freight services to be operated on the territory of at least two Member States. It shall have the following characteristics:
  - a) it shall be part of the TEN-T;
  - b) it shall allow significant development of rail freight traffic;
  - c) it shall be justified on the basis of a socio-economic analysis. This shall include the impact on those parts of the transport system where the allocation of infrastructure capacity in the freight corridor significantly affects freight and passenger traffic. It shall also include an analysis of the major effects in terms of external costs;
  - d) it shall be supported by an implementation plan.
2. The creation or modification of a freight corridor shall be proposed by the Member States concerned. For this purpose they shall send the Commission a proposal drawn up with the infrastructure managers concerned, taking into account the criteria set out in the Annex.
3. The freight corridors shall be created in accordance with the following procedure:
  - a) at the latest one year after the entry into force of this Regulation, the territory of each Member State which has at least two land borders with other Member States must allow at least one proposal for a freight corridor;
  - b) at the latest three years after the entry into force of this Regulation, the territory of each Member State must allow at least:

- i) one freight corridor,
  - ii) two freight corridors if the annual performance of rail freight in the Member State concerned is greater than or equal to 30 billion tonne-kilometres,
  - iii) three freight corridors if the annual performance of rail freight in the Member State concerned is greater than or equal to 70 billion tonne-kilometres.
4. The Commission shall examine the proposals for the creation of the freight corridors referred to in paragraph 2 and, in compliance with the regulatory procedure referred to in Article 18(3), adopt a decision relating to an initial network of freight corridors at the latest one year after the entry into force of this Regulation. As part of this examination, the criteria shown in the Annex shall be taken into consideration.
5. The freight corridor may contain elements of the rail networks of European third countries. Where applicable, these elements must be compatible with the TEN-T policy.
6. The network of freight corridors referred to in paragraph 4 shall be progressively modified and supplemented on the basis of proposals for the creation or modification of a freight corridor, and after a Commission decision has been adopted in compliance with the regulatory procedure referred to in Article 18(3). The proposals from Member States shall be examined taking into consideration the criteria set out in the Annex.
7. Where difficulties arise between two or more Member States regarding the creation or modification of a freight corridor, and with regard to the railway infrastructure located on their territory, the Commission, at the request of one of the Member States concerned, shall consult the committee referred to in Article 18 on this matter. The opinion of the committee shall be sent to the Member States concerned. The Member States concerned shall take this opinion into account in order to find a solution.
9. Measures aimed at adapting the Annex, which are measures with a general scope and the objective of modifying non-essential elements of this Regulation, shall be laid down in compliance with the regulatory procedure with scrutiny referred to in Article 18(4).

#### *Article 4*

#### **Governance of freight corridors**

1. The Member States affected by a freight corridor shall cooperate to ensure the development of the freight corridor in accordance with its implementation plan. They shall define the general objectives for the freight corridor and ensure that the implementation plan is in line with these objectives.
2. For each freight corridor the infrastructure managers concerned, as defined in Article 2 of Directive 2001/14/EC, shall create a governance body responsible for defining and steering the performance and updating of the implementation plan for the freight corridor. The governance body shall make regular reports on its activity to the Member States concerned and, where necessary, to the European coordinators of the

TEN-T priority projects referred to in Article 17a of Decision No 1692/96/EC of the European Parliament and of the Council<sup>10</sup> involved in the freight corridor.

3. The governance body shall be an independent legal entity. It may take the form of a European economic interest grouping within the meaning of Regulation (EEC) No 2137/85<sup>11</sup> and shall enjoy the status of such a grouping.
4. The members of the governance body shall appoint its director, whose term of office shall be at least three years.
5. A working group made up of managers and owners of the strategic terminals of the freight corridor, referred to in Article 9, shall be set up. It may issue an opinion on any proposal by the governance body which has direct consequences for investment and the management of strategic terminals. The governance body may not take any decision contrary to that opinion.

#### *Article 5*

#### **Measures for implementing the freight corridor**

1. The implementation plan, approved by the governance body, shall include:
  - a) a description of the characteristics of the freight corridor, and the implementation programme for the measures necessary for creating the freight corridor;
  - b) the essential elements of the market study referred to in paragraph 3;
  - c) the objectives of the governance body in terms of performance of the freight corridor expressed as the quality of the service and the capacity of the freight corridor in accordance with the provisions referred to in Article 16;
  - d) the programme for the creation and improvement of performance in the freight corridor, as referred to in paragraph 3.
2. The implementation plan shall be regularly adjusted taking into account progress made with carrying out the measures it contains, the rail freight market on the freight corridor and performance measured in accordance with the provisions referred to in Article 16(2).
3. A market study shall be carried out relating to the observed and expected changes in the traffic in the freight corridor and those parts of the transport system which are connected to it. It shall examine changes in the different types of traffic, both regarding the transport of freight and the transport of passengers. It shall include the main features of the socio-economic analysis referred to in Article 3(c). It shall be updated at least once a year. The results of this study shall be used to adjust the implementation plan for the freight corridor.

---

<sup>10</sup> OJ L 228, 9.9.1996.

<sup>11</sup> OJ L 199, 31.7.1985, p.1.

4. A programme shall be drawn up for creating and improving performance in the freight corridor. In particular this programme shall include the common objectives, the technical choices and the schedule for necessary measures in respect of the railway infrastructure and its equipment in order to implement all of the measures referred to in Articles 7 to 16.

#### *Article 6*

#### **Consulting applicants**

1. The governance body shall introduce consultation mechanisms with a view to the proper participation of the applicants likely to use the freight corridor, as defined in Article 2 of Directive 2001/14/EC.
2. Applicants for the use of the freight corridor shall be consulted by the governance body before the implementation plan is approved and when it is updated. In the event of a disagreement between the governance body and the applicants, the latter may contact the Commission, which shall consult the committee referred to in Article 18(1), in accordance with the procedure referred to in Article 18(2), on this matter.

### CHAPTER III

## **INVESTMENT IN THE FREIGHT CORRIDOR**

#### *Article 7*

#### **Investment planning**

1. The governance body shall draw up and approve:
  - a) a long-term joint investment plan for infrastructure in the freight corridor, that is for at least the next 10 years;
  - b) if necessary, a medium-term joint investment plan (at least two years) in the freight corridor.

The investment plans shall list the projects planned for the extension, renewal or redeployment of railway infrastructure and its equipment along the corridor and the relevant financial requirements.

2. The investment plans referred to in paragraph 1 above shall include a strategy relating to the deployment of interoperable systems along the freight corridor which satisfies the essential requirements and the technical specifications for interoperability which apply to the rail networks as defined in Directive 2008/57/EC<sup>12</sup>. This strategy shall be based on a cost-benefit analysis of the use of these systems. It must be consistent with national and European plans for the deployment of interoperable systems, in particular with the deployment plan for the European Rail Traffic Management System (ERTMS).

---

<sup>12</sup> OJ L 191, 18.7.2008, p. 1.

3. Where applicable, investment plans shall refer to the Community contribution envisaged under the TEN-T programme and prove that their strategy is consistent with it.
4. The investment plans referred to in paragraph 1 shall also include a strategy for the growth of the capacity of freight trains which may run in the freight corridor. The strategy may be based on increasing the length, gauge or axle load authorised for the trains running in the freight corridor.
5. The investment plans referred to paragraph 1 above shall be published in the document referred to in Article 15 and updated regularly. They shall form part of the implementation plan for the freight corridor.

#### *Article 8*

### **Heavy maintenance work**

The infrastructure managers in the freight corridor shall coordinate at least once a year their schedule for carrying out heavy maintenance work on the infrastructure and its equipment.

#### *Article 9*

### **Strategic terminals**

1. In agreement with the working group referred to in Article 4(5), the governance body shall draw up a strategy for the development of strategic terminals to enable them to meet the needs of rail freight running on the freight corridor.
2. The governance body shall take appropriate measures to carry out this strategy. It shall revise it regularly.

## CHAPTER IV

### **MANAGEMENT OF THE FREIGHT CORRIDOR**

#### *Article 10*

### **One-stop shop for requests for international train paths**

1. The governance body shall put in place a one-stop shop for requests for train paths for freight trains crossing at least one border along the freight corridor.
2. All requests for train paths for a freight train crossing at least one border or using several networks along the freight corridor must be made to the one-stop shop referred to in paragraph 1 above.

3. The regulatory bodies involved, as referred to in Article 17 of this Regulation, shall ensure that the activities of the one-stop shop are carried out under transparent and non-discriminatory conditions.

#### *Article 11*

##### **Priority freight**

1. The governance body shall define the standard categories of freight traffic, which shall be valid in the whole of the freight corridor. At least one of these categories (hereinafter referred to as "priority freight") shall include goods whose transportation is very time-sensitive and which therefore require an efficient transport time and guaranteed punctuality.
2. The criteria defining the standard categories of freight traffic shall be adopted, where applicable, in compliance with the regulatory procedure referred to in Article 18(3).

#### *Article 12*

##### **Train paths allocated to freight trains**

1. Notwithstanding Article 20(2) of Directive 2001/14/EC, the infrastructure managers of the freight corridor shall reserve the capacity needed for priority freight traffic for the coming financial year, prior to the annual exercise to define the working timetable referred to in Article 18 of Directive 2001/14/EC and using as a basis the freight traffic observed and the market study defined in Article 5(1).
2. The infrastructure managers shall keep a reserve of capacity within the final working timetable to allow them to respond quickly and appropriately to ad hoc requests for capacity as referred to in Article 23 of Directive 2001/14/EC. This capacity must be sufficient to allow requests for train paths to be met while guaranteeing a sufficient level of quality for the allocated train path in terms of journey times on the train path and timetables adapted to freight traffic.
4. Train paths allocated to freight operations may be of a different quality in terms of journey times. Fees for the use of the infrastructure relating to these train paths may vary according to the level of quality proposed in accordance with Articles 7 and 8 of Directive 2001/14/EC.
5. Save in the case of *force majeure*, a train path allocated to a priority freight operation may not be cancelled less than three months before its working timetable if the applicant concerned does not give their approval for such cancellation.
6. Infrastructure managers in the freight corridor and the working group referred to in Article 4(5) shall put in place procedures to ensure optimal coordination of the allocation of railway infrastructure capacity and strategic terminal capacity, as referred to in Article 9.

### *Article 13*

#### **Authorised applicants**

Notwithstanding Article 16(1) of Directive 2001/14/EC, applicants other than railway undertakings and the international groupings that they make up, may request train paths for freight transport where the latter concern one or more sections of the freight corridor.

### *Article 14*

#### **Traffic management**

1. The infrastructure managers of the freight corridor shall draw up and publish the rules of priority between the different types of traffic in the event of traffic disruption in the freight corridor in the network statement referred to in Article 3 of and Annex I to Directive 2001/14/EC.
2. The rules of priority referred to in paragraph 1 above must at least provide that the train path allocated to a priority freight train complying with the initial provisions for its train path may neither be reallocated to another train, nor modified, except where the initial holder of the train path agrees to reallocation to another train or modification of the train path.
3. The infrastructure managers of the freight corridor shall put in place procedures for coordinating traffic management along the freight corridor.
4. Infrastructure managers for the freight corridor and the working group referred to in Article 4(5) shall put in place procedures to ensure optimal coordination between the operation of the railway infrastructure and the strategic terminals referred to in Article 9.

### *Article 15*

#### **Information on the conditions of use of the freight corridor**

The governance body shall draw up and publish a document containing:

- a) all the information contained in the network statement for national networks regarding the freight corridor, drawn up in accordance with the procedure set out in Article 3 of Directive 2001/14/EC;
- b) the list and characteristics of strategic terminals and all information concerning the conditions and methods of accessing the strategic terminals.

### *Article 16*

#### **Quality of service in the freight corridor**

1. The infrastructure managers for the freight corridor shall ensure consistency between the performance schemes along the freight corridor, as defined in Article 11 of Directive 2001/14/EC.
2. In order to measure the quality of the service and the capacity for international and national rail freight services in the freight corridor, the governance body shall define the performance indicators in the freight corridor and publish them at least once a year.  
The implementation rules for these indicators shall be laid down, where applicable, in accordance with the regulatory procedure referred to in Article 18(3).

#### *Article 17*

### **Regulatory bodies**

1. The regulatory bodies referred to in Article 30 of Directive 2001/14/EC which are responsible for the freight corridor shall cooperate to supervise the international activities of the infrastructure managers and applicants in the freight corridor. They shall consult each other and exchange information. Where necessary, they shall request the necessary information from infrastructure managers in the Member State for which they are responsible.
2. In the event of a complaint from an applicant regarding international rail freight services, or within the framework of a routine enquiry, the regulatory body concerned shall consult the regulatory body of any other Member State on the territory of which the freight corridor concerned passes and request the necessary information from them before taking its decision. The other regulatory bodies shall provide all the information that they themselves have the right to request under their national legislation. Where necessary, the regulatory body receiving the complaint or having initiated the routine enquiry shall transfer the file to the regulatory body responsible in order to take measures regarding the parties concerned.

## CHAPTER V

### **FINAL PROVISIONS**

#### *Article 18*

### **Committee**

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The deadline provided for in Article 5(6) of Decision 1999/468/EC is set at three months.

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

#### *Article 19*

### **Cooperation**

The infrastructure managers shall cooperate to implement this Regulation. They shall exchange information concerning best practices in order to coordinate them throughout the Community. The Commission shall support them in these tasks. For this purpose, it shall set up and chair a working group of infrastructure managers.

#### *Article 20*

### **Derogation**

Where applicable, a Member state may derogate from the provisions of this Regulation. In order to do so, it shall send a substantiated request for derogation to the Commission. The Commission shall adopt a decision on that request, in compliance with the consultation procedure referred to in Article 18(2), taking into consideration the geographical situation and the development of rail freight transport services in the Member State which has requested derogation.

#### *Article 21*

### **Monitoring implementation**

The Member States concerned shall submit to the Commission, every two years from the time of creation of the freight corridor, a file showing the results of their cooperation as referred to in Article 4(1). The Commission shall analyse this file and notify the committee referred to in Article 18 of its analysis.

#### *Article 22*

### **Report**

The Commission shall periodically examine the application of this Regulation. It shall draw up a report for the European Parliament and the Council, initially within five years of the entry into force of this Regulation, and subsequently every three years.

#### *Article 23*

### **Review**

If, where the guidelines for TEN-T are reviewed in accordance with the procedures referred to in Article 18(3) of Decision No 1692/96/EC, the Commission concludes that it is appropriate

to adapt this Regulation to those guidelines, it shall present to the European Parliament and the Council a proposal on amending this Regulation accordingly.

*Article 24*

**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

*For the European Parliament*  
*The President*  
[...]

*For the Council*  
*The President*  
[...]

## ANNEX

### Criteria for assessing proposals for the creation of a freight corridor

The selection of freight corridors referred to in Article 3, and the updating of the rail network for competitive freight shall be carried out in accordance with the following criteria:

- (a) there must be a letter of intent from the Member States concerned confirming their wish to create the freight corridor;
- (b) the freight corridor must be part of the TEN-T;
- (c) where the itinerary for the freight corridor coincides with a section (or part of a section) of one or more priority TEN-T projects<sup>13</sup>, this must be integrated into the freight corridor, unless it is dedicated to the passenger transport service;
- (d) the freight corridor whose creation is proposed must cross the territory of at least three Member States or at least two Member States if the distance between the railway terminals served by the freight corridor proposed is greater than 500 kilometres;
- (e) the economic feasibility and the socio-economic benefits of the freight corridor;
- (f) the consistency of all of the freight corridors proposed by the Member States in order to set up a European rail network for competitive freight;
- (g) consistency with existing European rail networks such as the ERTMS corridors and the corridors defined by RailNetEurope;
- (h) the existence of good interconnections with other modes of transport, in particular thanks to an adequate network of strategic terminals, including in the maritime and inland ports;
- (i) the approach proposed to implement the provisions referred to in Articles 4 to 16.

---

<sup>13</sup> See Annex III to Decision No 1692/96/EC.