

Integration of accession countries in the EU: the case for railways¹

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Introduction

Rail has become a mode of transport that passengers and freight forwarders can freely choose in the accession countries and, therefore, the railways have to become increasingly competitive. The railways used to be a state bodies with obligations to carry and whose clients did not have many alternative modes of transport. The railways are moving towards being undertakings independent from the state, competing with other modes of transport and with separate responsibilities for infrastructure and railway services. In May 2004 eight countries with railways will become member of the European Union: Poland, Hungary, Czech Republic, Slovak, Slovenia, Estonia, Latvia and Lithuania. The islands of Cyprus and Malta, also accession countries, have no railways. Bulgaria and Romania may become members in 2007. Turkey is also an accession country. The Copenhagen council of December 2002 decided to take a decision upon opening of the negotiations with Turkey in December 2004. This article gives a general picture of the impact of accession to the EU for railway policy in the accession countries. The present EU Member States will feel the effects of enlarged internal markets for railway services and railway manufacturing.

Characteristics of the railways in the accession countries

Table 1: Basic data railways accession countries, 2001²

	Network Length km	Staff * 1000	Passengerkm Millions	Freighttonkm
Bulgaria	4,320	37.3	2,990	4,904
Czech Republic	9,444	84.1	7,262	16,557
Estonia	967	5.1	183	8,222
Hungary	7,949	56.3	7,387	7,147
Latvia	2,331	15.2	706	14,179
Lithuania	1,696	14.3	533	7,741
Poland	20,134	158.8	18,208	47,656
Romania	11,346	101.4	10,965	15,899
Slovak	3,662	44.5	2,805	10,929
Slovenia	1,229	9.1	715	2,600
Turkey	8,671	39.9	5,568	7,387

¹ The opinions expressed in this article are those of the author and in no way may be taken as the official views of the European Commission

² Source UIC

Total	71,749	566	57,322	143,221
EU-15	150,351	702.7	304,958	240,494

Traditionally, railways in accession countries were the most important mode of transport and were operated by a single state undertaking. Railways in accession countries still have a relatively high modal share of the transport market (see also *Figures 1* and *2* on modal share) but need a large amount of restructuring in order to stay competitive. In the European market, PKP, the incumbent Polish railway undertaking is, after DB and SNCF, the third largest rail freight operator in terms of volume of goods carried.

Railway service market and restructuring of railway undertakings

After the fall of the Berlin wall, railway transport in the accession countries has decreased considerably. This decrease has largely been caused by changes in the trade patterns of the accession countries: trade was eastern oriented and in particular towards the Soviet-Union: this trade collapsed. Another important factor was the greater freedom of movement of citizens and partly greater disposable income of the accession countries leading to the increase of car-ownership. Market share of railways fell considerably as a result. This is shown also in *Figure 3*. Railway transport was falling in absolute terms as well, e.g. in Hungary rail freight transport has fallen by around. 50% between 1989 and 1994 and rail passenger by app. 20% in the same period. In accession countries, rail freight and especially rail freight transit had been a profitable business segment. Trans-Siberian railway transport and transport on the Traceca corridors were usually running through one or more accession countries. Rail freight tended to cross-subsidise railway passenger operations. Today, rail's modal shares in the accession countries are still higher than in the EU-15, both for passenger and freight transport. In the past, many passengers and freight forwarders were, in fact, captive customers to the railways and had virtually no choice of an alternative mode of transport. With the increased intermodal competition, railways have had to become more efficient and offer a more competitive transport service. This has led to huge social restructuring programs in the railways where, in the course of a decade, railway companies have cut their staff numbers considerably. In the EU, railway companies have reduced their staff numbers considerably during the same period .

In the recent years in some accession countries, like the Czech republic and Hungary there has been a stabilisation or even a small improvement in the market situation for railways.

Railway services are usually provided by the incumbent operator. However, in some accession countries, particularly Poland, Estonia and the Czech Republic, new railway undertakings are allowed to perform some railway services. In particular, in the market for domestic rail freight, some new operators have gained a couple of percentage points of market share. Steel manufacturers and coal producers providing transport of their own goods over relatively short distances are among these new railway operators.

Railway infrastructure networks

Accession countries have relatively large railway networks (e.g. Poland has about 20,000 km of track, Hungary about 7,000km) including many regional railway lines.

Many rural lines are currently endangered: they are sometimes in a poor state of repair (leading to speed restrictions of 40 to 50% of the lines in Poland and Hungary), with few services are running on them carrying low numbers of passengers and goods. There is political reluctance either to close these loss-making lines or to raise sufficient government funding for appropriate compensation for public services. In addition, and in spite of the Commission's intention and policy, the governments seem to favour investment in road rather than rail infrastructure.

As within the EU, the accession countries face interoperability problems, e.g. with the differences in track gauges between Poland and Lithuania and the wide range of different signalling systems currently in place.

Challenges for the railways as regards accession to EU

For the accession negotiations the EU has decided that accession countries have to fulfil a number of criteria in the field of the railway sector:

- Contributing to the more general objective of economic “readiness” and the ability to withstand market pressure which is one of the general criteria for EU membership defined by the Council at the Copenhagen summit in 1996;
- Implementing the EU railways legislation (*‘acquis’*) in the accession countries by the time of accession;
- Building up sufficient administrative capacity.

The role of the European Commission is to prepare and lead the negotiations with accession countries. The European Commission makes proposals to be submitted to the Council that determine the final and global position of the EU, taking into account 31 different chapters one of which is Transport.

Restructuring of railway undertakings

As in most EU Member States, railway undertakings tend to be among the largest employers in the country and transport as a whole has an external effect on economic growth in other sectors. This underlines the importance to the overall state of the economy of restructuring of the railway sector. More efficient management, new technologies (e.g. signalling) and scaling down of services have, in some cases, led to a negative impact on the number of people employed. To facilitate such social changes, railway undertakings, like PKP in Poland, have launched early retirement schemes, financial support for starting up new businesses and educational schemes, some with the help of European Union programs.

Implementation of the EU railway acquis

Accession countries have committed themselves to implementing the EU *acquis* as regards railways upon accession. Each accession country has presented its position on implementation of the *acquis* to the European Commission and outlined a plan for full implementation. In the transport sub-committee (set up in the framework of the Europe agreements concluded in the nineties between EU and each accession country) the progress on implementation is monitored and problems are discussed.

Main elements of the *acquis communautaire* in railways³

- Firstly the ‘91/440’ package has to be implemented. The Directive 91/440/EC is generally regarded as the milestone directive for railways. This means basically that the railways should have independent management from the state. Railway undertakings shall be free to set service levels and prices for transport. Restructuring of railway debt, which is also required, aims at giving railway undertakings a sound financial standing. Infrastructure management and railway operations have to be separated in terms of accounts. The market for international groupings providing international rail passenger and freight transport and for combined transport shall be opened up. Closely related to 91/440/EC are the requirements of Directive 95/18/EC and 95/19/EC which require the creation of a licensing system for railway undertakings, for non-discriminatory infrastructure charging scheme and a non-discriminatory capacity allocation scheme. Railway undertakings need to have a safety certificate for their operations.
- Secondly the infrastructure package, adopted in 2001, extended the provisions of the ‘91/440’ package. The infrastructure package (Directives 2001/12/EC, 2001/13/EC and 2001/14/EC) opens up the market for international rail freight services, starting in March 2003 with the all main rail freight lines described in the Trans European Rail Freight Network. In March 2008 the market will be opened for all international rail freight services. This will increase competition between railway undertakings. The infrastructure package lays down requirements for separate accounting for transport services and infrastructure, and for independence from the railway undertaking of the essential functions determining access to the infrastructure such as infrastructure charging, allocation of capacity and licensing. It extends the requirements on licensing and safety certification to all railways services. Licenses will be valid throughout the whole European Community. A comprehensive framework for infrastructure charging and capacity allocation is provided. Infrastructure managers have to draw up a network statement, which describes all the requirements for access to the infrastructure in a transparent way: the infrastructure characteristics, the framework for charging and the framework for allocation of capacity. A regulatory body has to be put in place to act as appeal body for railway undertakings who feel badly treated by the infrastructure manager e.g. as regards charging or allocation. The regulator should also supervise the proper functioning of the railway market.
- The directives for interoperability for high-speed and conventional railways (96/48/EC and 2001/16/EC) give a legal framework for achieving European rail interoperability. The technical specifications (TSI) for high speed rail services were published on 12 September 2002⁴; the ones for conventional railways are under development. It is important for the accession countries to put in place the legal framework for interoperability in order to ensure that investments in railway rolling stock and infrastructure meet the technical standards for interoperability.
- Another element of the EU *acquis* for railways is the regulation on public service obligations (1191/69/EC as amended by 1893/91/EC) which is applicable for the

³ Please note that a more detailed description of the *acquis communautaire* is covered in other articles of this magazine

⁴ See website http://europa.eu.int/comm/transport/rail/interoperability/interope_en.htm

whole inland public transport sector. It means that the state or a regional or local public authority may impose public service obligations on railway and other transport operators (e.g. providing higher service levels than commercially viable or compulsory fare reduction for certain groups of passengers). When imposing such obligations, public authorities have to compensate the railway undertaking financially for these obligations. The amount of compensation should be sufficient for the carrying out of the public service obligation and should not be overcompensation. The amount of compensation needs to be calculated on the basis of efficient management. The regulation also obliges the public authorities when granting financial compensation for public service obligations to establish a contract between the public authority and the railway undertaking (purely local or regional services can be exempted from this requirement). In this way, mutual agreement between the public authority and the railway undertaking that is subject to the public service obligations, and the transparency of financial compensation, should be safeguarded.

While this *acquis* must be implemented upon accession, legal developments within the EU are continuing. At present Council and Parliament are discussing legislative proposals on railway safety, railway interoperability, a European railway agency and complete opening of the rail freight market⁵. An amended proposal for mandatory tendering of public service contracts (with few exceptions) is also on the table. Legislation on rail passenger rights and on rail freight quality is under preparation within the European Commission. For accession countries it is important to follow these legal developments and where possible anticipate them.

Building an administrative capacity

A very important aspect of assessing the effectiveness of railway restructuring in the accession countries is the administrative capacity for a successful reform. It means adequate staffing and empowerment of state-bodies applying the legal framework. Administrative capacity is important for ensuring that the regulatory framework actually works. Therefore the staffing and capabilities of the relevant bodies responsible for applying the railway legislation is closely monitored by the Commission.

State of play of the accession negotiations

The accession negotiations have been closed at the Copenhagen council of December 2002. The signature of the accession treaties will take place at April 16th 2003 then be followed by national ratification processes enabling the full accession on 1 May 2004. The criteria for accession as regards railways have been negotiated with the accession countries. All the accession countries agreed to fulfil the conditions at the latest at the time of accession. For Hungary and Poland a transitional period until 31 December 2006 has been agreed for the implementation of the Trans European Rail Freight Market to allow for further restructuring of their incumbent railway undertakings (MAV and PKP respectively). The transitional period has been granted with two conditions:

- The freight divisions of PKP and MAV must co-operate with licensed railway undertakings to provide international rail freight for imports,

⁵ For an overview see website under New Package
http://europa.eu.int/comm/transport/rail/index/index_en.html

exports and transit on a non-discriminatory basis. Access rights accorded to international groupings providing international transport and for combined transport (i.e. art 10.1 and 10.2 of Directive 91/440/EEC, as amended), must be granted without limitation;

- At least 20% of the annual total capacity of the TERFN network in Poland and Hungary must be reserved for railway undertakings other than the freight companies of PKP and MAV, and all origin-destinations should allow for journey times comparable to those enjoyed by the freight companies of PKP and MAV.

The results of the negotiations, which for transport are provisionally closed, will now be written into the accession treaties to be concluded in 2003 between the EU and the accession countries.

Community instruments for assistance

In the pre-accession phase, there are several Community instruments available for supporting the accession process.

For the development of railway infrastructure ISPA provides funding to the accession countries. The Commission in 1996 launched the Transport Infrastructure Needs Assessment (TINA) process. This network development has taken into account relevant work of the UN-ECE (WP 5) and previous analysis of the European Commission assisted by experts groups from the Member States, and it complies with the principles, objectives and criteria set out in the guidelines for the development of a Trans-European Transport Network in the territory of the European Union (Decision 1692/96/EC of the European Parliament and of the Council on Community guidelines for the development of the Trans-European Transport Network).

Table 2: Size of TINA rail network and funding from ISPA and EIB⁶

	TINA lines for TEN-T (km)	TINA lines existing, to be upgraded	ISPA funding railways 2000-2001 (€mln)	EIB loans on rail since 1990 (€mln)
Bulgaria	To be defined	To be defined	156	150
Czech Rep	2,344.00	2,344.00	45	560
Estonia	639.80	639.80	22	16
Hungary	2,832.50	2,756.90	191	250
Latvia	1,318.20	1,318.20	101	34
Lithuania	985.80	895.20	24	40
Poland	1,491.20	1,491.20	344	540
Romania	To be defined	To be defined	232	215
Slovakia	1,365.00	1,365.00	96	200
Slovenia	725.40	233.40	19	60
Total	11,701.90	11,043.70	1,230	2,065

⁶ Sources: European Commission DGREGIO, website http://europa.eu.int/comm/regional_policy/funds/ispa/ispa_en.htm, EIB

** Maps of Trans European Transport Networks Bulgaria and Romania are not finalised yet*

There is strong Community support to develop the railway network in the accession countries, in spite of the priority given to road by most of them.

Between 1 January 2000 and 31 December 2001, €1,230 mln was allocated for railway projects from the ISPA funds. The total project value of these projects is €2,020mln. The support from ISPA accounts for 50.74% of the total ISPA budget allocated in that period to transport projects. It means that railway projects have a high priority in the allocation of funds available. EIB is also active in lending for infrastructure projects. Table 2 shows the amount of loans granted to the accession countries for railway projects from 1990 onwards. In addition, EBRD (European Bank for Reconstruction and Development) provides loans for both infrastructure projects and for projects enhancing management efficiency. The World Bank is also active in this sector and has made loans subject to the adoption of structural reform programs.

The EU Phare program provides funds for technical assistance to prepare the accession countries for membership. Projects can support the preparation, implementation and enforcement of the EU *acquis* and the restructuring of a sector. Studies on implementation of the legislation can be carried out under the Phare program also through a twinning program, i.e. with the involvement of the authorities of a Member State offering expertise in the sector.

From the moment of their accession, all the regular Community instruments will be available for the accession countries. Accession countries will be eligible for Cohesion funds and Structural funds and for funding of the Trans-European Transport Networks. For the Cohesion fund, €3,833mln is planned for Transport for the period 2004-2006. The total budget for Structural Funds ERDF is planned to be €15,420 in the period 2004-2006 part of which may be allocated to railways. Here again there is a strong need for building up sufficient administrative capacity and strong infrastructure project management in order to use the available funds in time and in the most effective way.

However, a key issue is the willingness of the country concerned to invest in rail rather than in road infrastructure and the ability of the railways to make the most of the financial help by running projects efficiently.

Progress so far of the institutional set-up

The process of aligning railway policy in the accession countries with the EU has been going on for several years now. In this section a short overview is given, on a number of themes, of progress so far. The overview is partly based on the regular reports adopted by the Commission on the 9th of October 2002⁷.

Competition

⁷ For details see website <http://europa.eu.int/comm/enlargement/report2002/index.htm>

Competition on the railways of the accession countries is slowly being introduced. In Poland, Czech republic and Estonia, competition for (primarily) domestic rail freight transport has been introduced. Several new, small railway undertakings, are already operating rail freight services.

In the provision of railway public services, some railway undertakings from the EU are now showing an interest in providing these services in the accession countries (particularly Poland and Czech Republic) under public service contracts.

Independent functions of capacity allocation, infrastructure charging and licensing

The accession countries are exploring this issue at the moment. The issuing of railway licences is usually dealt with by a state-body. As regards infrastructure charging and capacity allocation some have chosen for full separation of the infrastructure manager from the railway undertaking (e.g. Slovakia, and Romania) and have already implemented this change. Some accession countries (Czech Republic, Lithuania) are in the process of setting up an infrastructure agency close to the state which will be responsible for development of the network but contract out a large part of the infrastructure works to the incumbent railway undertaking. They are still considering how to make allocation of capacity and infrastructure charging independent from the railway undertaking. Some others e.g. Poland and Hungary have set up a holding structure for the railway undertaking with separate subsidiaries for infrastructure management and railway operations and are also considering further steps.

Setting a framework of infrastructure charging and capacity allocation

Charging for infrastructure use requires a good knowledge of infrastructure coststructures. According to the infrastructure package the charging framework should be non-discriminatory and the basic charge should be the marginal cost of using the infrastructure. Some accession countries (like Poland) tend to charge the railway undertakings for the full cost of the infrastructure - that may lead to high charges. The legal framework for infrastructure charging is usually left to secondary legislation and is currently under preparation.

The framework for infrastructure capacity allocation also needs to be transformed in many accession countries in order to be compatible with the infrastructure package. In particular, the capacity allocation framework should be non-discriminatory and not grant grandfather rights to the incumbent railway undertaking.

Railway regulatory body

All the accession countries are in the process of setting up a regulatory body for railways. The regulatory body should handle appeals e.g. on charging and capacity allocation issues and supervise fair competition. In many accession countries the railway regulatory body will become the same body as the (already existing) inspectorate dealing with railway safety issues.

Interoperability

The accession countries are in the process of drawing up the legal framework for interoperability. At the same time railway infrastructure projects are taking into account or are anticipating interoperability requirements.

Selling shares of the railway undertakings

Some accession countries are considering the sale of part of the share of the state-owned railway undertakings to private investors. This is mostly considered for rail freight undertakings. Estonia has already sold part of its shares in 2 (integrated) railway undertakings. Such partial privatisations are usually undertaken to raise efficiency and/or raise funds for the state.

Privatisation of (all or part) of the railway undertaking is not an EU requirement, and the EU treaty is neutral to the question of ownership of undertakings. If privatisation of railway undertakings is taking place, it is based on an entirely national policy decision.

Problems encountered

The challenge for accession countries is to restructure further their railways and promote higher quality railway services. However, accession countries also face problems in implementing the EU *acquis* and investing in infrastructure.

The institutional set-up of allocation of capacity, infrastructure charging, licensing of railway undertakings and the establishment of the railway regulatory body remains a difficult issue. Different models - ranging from full separation of the infrastructure manager from the railway undertaking to only separation of the essential functions from the railway undertaking - are under investigation. The relationships between the newly created bodies also have to be worked out.

Many accession countries face difficulties with achieving a sound financial set-up. Separation of assets between the state, the infrastructure manager and the railway undertakings is sometimes difficult to achieve because of unclear ownership status of assets.

Financing public service contracts is difficult for the state. At present some railway undertakings still fulfil public service obligations without proper financial compensation from the state or other public authorities. The railways cross-finance the rail passenger operations by profits from rail freight operations or accumulate debt. In the long run this is not sustainable for either the rail passenger services or for the rail freight services. Important in this respect is policy regarding rail passenger services on many rural lines: these can hardly be kept operational but still put a burden on the railway undertakings. Some countries like Poland are shifting the financial burden to regions, like in the EU, if they want to keep the service.

Financing infrastructure maintenance and development is a key issue: a medium-to-long term framework for the infrastructure manager is essential. Therefore a network development plan is needed which covers the entire network including the funding sources. In the accession countries there is strong pressure to spend public money on more and better roads. This is understandable but should be balanced with the needs of the railway sector in order to develop the transport sector in a more sustainable way. Also a framework should be created for the infrastructure charging that is attractive to railway traffic but also (partly) finances the railway infrastructure.

The interoperability of the railway network needs clear enhancements but can be complicated to achieve. Implementation of the European Railway Traffic Management System and improved gauge changing devices are important examples where progress is being made. Bulgaria recently introduced ERTMS level 1 on 200-km lines and equipped 136 locomotives at the cost of €12 mln supported by Phare funds.

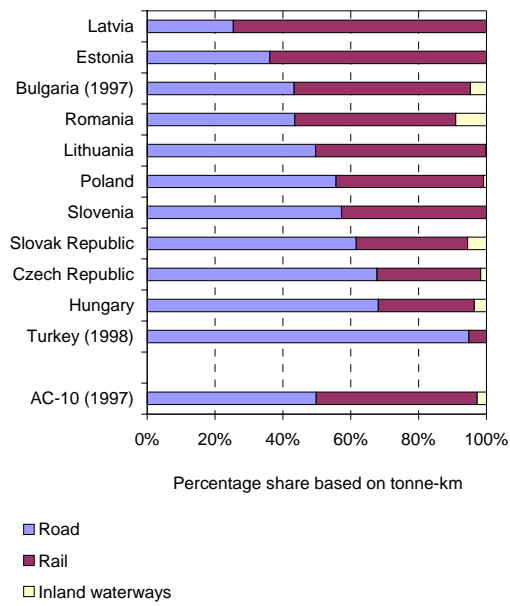
Conclusions

Railway services in accession countries still achieve significant market share . Competition both from other modes of transport and from within the rail mode will increase. The market for international services will increase with the accession to the Union because of intensifying trade relations within the Community. This leaves the accession countries with a huge potential improvement to their railway services.

It is of vital importance to establish a clear regulatory framework for railways identifying the actors and conditions for access to the railway infrastructure. The present conditions for access are licensing, capacity allocation, charging and safety certification. As soon as the Technical Specifications for Interoperability are developed, interoperability will also be such a condition for new investments in rolling stock and infrastructure. Only when the railway undertakings and clients of the railways have confidence in the system they will (re) consider transport by rail as a viable alternative to road transport.

One important element of the change that has to take place is the role of the state. The state acts as the legislator, in many cases as the owner or shareholder of the incumbent railway undertaking and as the public authority defining and financing infrastructure (projects) and public services obligations. It is important that these roles are clearly defined and separated and that a multi-annual plan is developed, including all the financial aspects. This will require political courage to maintain the right balance between the modes as advocated by the White Paper on European Transport Policy.

Accession countries



EU Member States

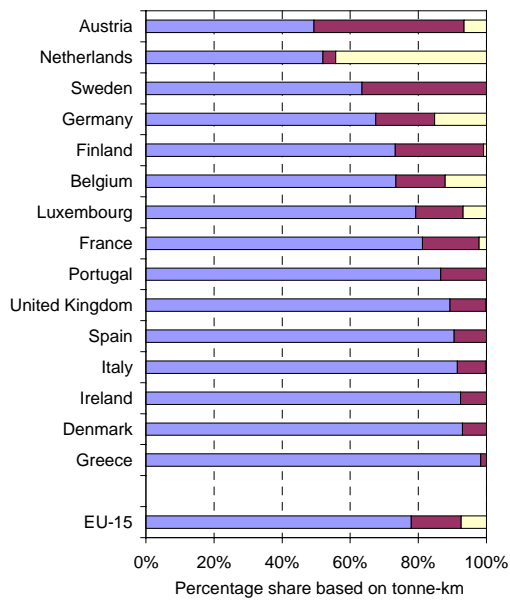


Figure 1: modal split in freight transport for road, rail and inland waterways in 1999⁹

⁸ Source for Figures 1, 2 and 3: Commission expert working group on transport and environment, working group III Enlargement and Transport, intermediate report, 17 October 2002. The specific figures are derived from TERM 2002, Final draft for comment. 30 August 2002.

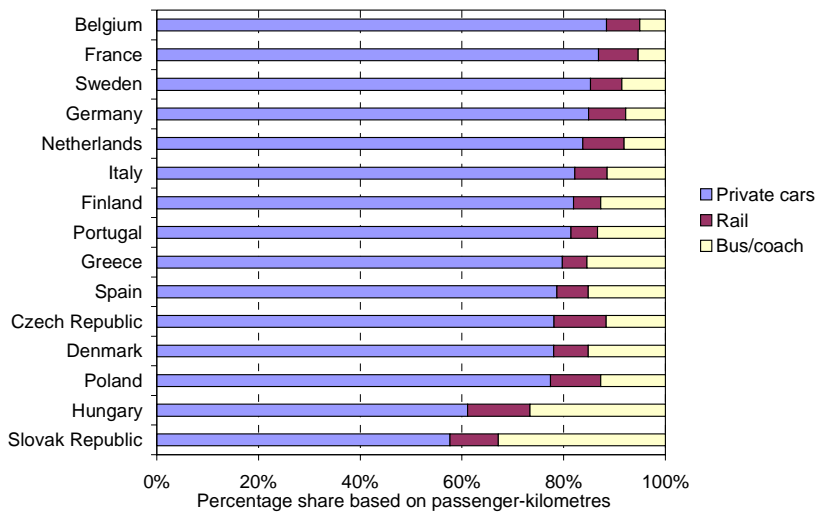
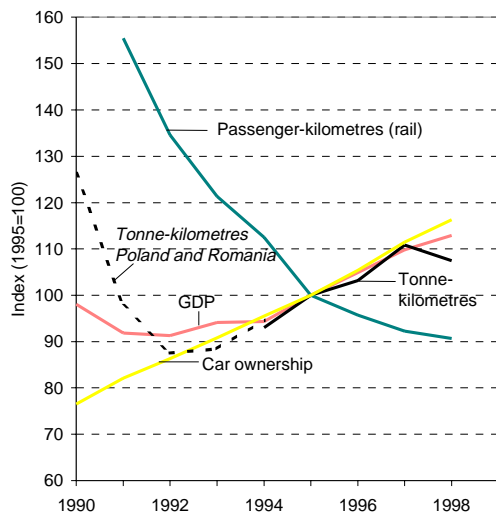


Figure 2: Modal split in passenger transport in selected EU and accession countries

Accession countries



EU Member States

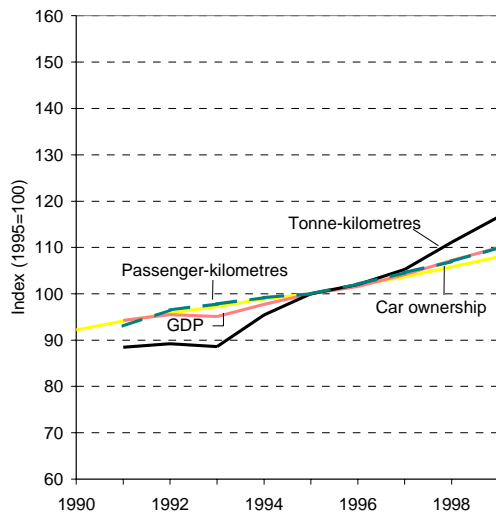


Figure 3: Transport volumes, GDP and car ownership, 1990-1999

Voetnoten apart

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² Source UIC

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⁴ See website http://europa.eu.int/comm/transport/rail/interoperability/interope_en.htm

⁵ For an overview see website under New Package
http://europa.eu.int/comm/transport/rail/index/index_en.html

⁶ Sources: European Commission DGREGIO, website
http://europa.eu.int/comm/regional_policy/funds/ispa/ispa_en.htm, EIB

⁷ For details see website <http://europa.eu.int/comm/enlargement/report2002/index.htm>

⁸ Source for *Figures 1, 2 and 3*: Commission expert working group on transport and environment, working group III Enlargement and Transport, intermediate report, 17 October 2002. The specific figures are derived from TERM 2002, Final draft for comment. 30 August 2002.