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Opinion

Title **Impact Assessment report on: Regulation on the rights of passengers travelling by sea and inland waterway (2nd RESUBMISSION)**
(draft version of 4 November 2008)

Lead DG **DG TREN**

1) Impact Assessment Board Opinion

(A) Context

In its White Paper "European transport policy for 2010: time to decide" the European Commission envisaged the establishment of passenger rights in all modes of transport. In its Communication of 16 February 2005 on strengthening passenger rights within the European Union, the Commission announced its intention to consider whether the protection already enjoyed by air passengers should be extended to other transport users, with particular reference to the protection of persons with reduced mobility (PRMs). To this end, the Commission undertook to examine the best way of improving and guaranteeing the rights of passengers travelling by sea or inland waterway in the European Union.

(B) Positive aspects

Compared to the last two versions, the IA report has been substantially improved. The report now provides a more realistic picture of the possible number of PRM passengers who would benefit under the options, and, consequently a more realistic assessment of the wider economic impact of this initiative through increased demand. Secondly, while not providing the full analysis of different segments of transport (because of the assumed general character of the lack of passengers rights of the type that this proposal proposes to grant), the report provides a useful overview of the segments of the maritime market and analyses separately the expected impact of the options on cruise passengers. The report also provides the analysis of the "cross-border only" option. The report has clarified why alternative measures for accessibility in ports (Annex 8) were not analysed. It has also answered the Board's questions concerning the concept of reasonable accommodation and the proportionality test under Article 4 of the proposal for a Council directive on implementing the principle of equal treatment. Finally, the new version of the report has strengthened the case for EU action for cruises by explaining that passengers' rights are not currently part of quality standards of cruise operators.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG on 3 October 2008 and are expected to be incorporated in the final version of the impact assessment report.

General recommendation: The report still suffers from the fact that it has not been possible to provide an overall estimate of costs and from the high degree of uncertainty surrounding the number of potential additional beneficiaries, although it explains why this is the case. Beyond this and despite the improvements compared to the previous versions, the report should still be improved on a several number of issues. First, it should develop and analyse a wider range of alternative sub-options for the issues regarding accessibility in ports, assistance provided for PRMs and information needs. Secondly, the report should be clearer about uncertainty surrounding the number of PRM beneficiaries. Thirdly, the report should strengthen further the argumentation (i) why Member States' action alone would be insufficient to achieve the objectives for domestic routes, and (ii) why those objectives would be better achieved through EU action. Finally, the report should provide a clearer analysis of possible impacts on carriers which transport both freight and passengers.

(1) Analyse additional sub-options. While the revised version of the report analyses the "cross-border only" option and describes separately the expected impact of this proposal on cruise passengers, it should still provide alternative sub-options for the issues regarding accessibility in ports, assistance provided for PRMs and information needs, or give reasons why this is not possible.

(2) Be clearer about the uncertainty surrounding the number of PRM beneficiaries. The report has estimated (by assuming 4 different scenarios on the possible range of the current protection of PRM passengers) that the number of PRM passengers who would benefit from the proposal would be between 19 and 38 million. To provide this estimate, the report assumed that the exclusion of a certain percentage of routes would result in an identical percentage decrease in the number of PRM passengers who are beneficiaries. While the report itself admits that this assumption may be wrong (because PSC routes are often minor domestic routes with little passenger numbers), the range of PRM passengers mentioned should be adjusted accordingly. At a minimum, the table presenting the scenarios should be accompanied by a caveat.

(3) Explain better the necessity of EU action to embrace connections which are not cross-border. As regards domestic connections in general, the necessity of EU action should still be strengthened, for example, by demonstrating the scale of the problem of applying different rules during one journey (for example, by approximating the order of magnitude of connections which could be concerned by this problem?).

(4) Provide more analysis of the impact on carriers. While the report has provided additional explanation on why certain carriers may not have sufficient incentives to improve the situation for passengers (this was explained, inter alia, by the fact that where both people and cargo are often transported on the same ship, carriers tend to have more incentives to comply with their obligations regarding freight rather than passengers), it should discuss possible economic impacts on carriers due to possible changes in the

incentives for certain carriers caused by this initiative.

(D) Procedure and presentation

Significant editing work needs to be done to ensure overall coherence of the report following the various revisions, and to ensure consistency of style (for example, avoiding emotive language of Section 5.2.2). The report should not anticipate the preferred option and the final provisions of the proposal before the comparison of options is made (see Section 5.2.1.5). The presentation could also be improved by more closely respecting the recommended maximum length of 30 pages (excl. annexes). Tables in section 6 should preferably reflect the numbers of PRM or general passengers who would be additional beneficiaries. The clarity of the text in Section 5.5.1 should be improved.

2) IAB scrutiny process

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Author DG	TREN
External expertise used	No
Date of Board Meeting	Written procedure
Date of adoption of Opinion	10 NOV. 2008 The present version concerns a resubmitted draft IA report. The previous opinions were issued on 13 and 24 October 2008.