



European Rail  
Infrastructure Managers



February 2007



# EIM Position Paper



“Keep Europe moving – Sustainable  
mobility for our continent”



Mid-term review of  
the Transport White Paper



THE ROAD TO SUSTAINABLE MOBILITY PASSES THROUGH RAIL

## EIM'S POSITION - SUMMARY

The association of European Rail Infrastructure Managers (EIM) welcomes the publication of the revised 2001 Transport White Paper. EIM acknowledges the Commission's commitment to consult further before proposing new measures. However, EIM wonders what has become of the intention of the original White Paper to decide on European transport policy. It is now even high time to act.

A declared support to railways is not enough as the transfer from road to rail has not happened so far. We even face the danger of a transfer from rail to road if we simply stand by the proposed new approach of "co-modality" (optimal use and combination of all appropriate transport modes). A courageous and pragmatic transport policy is about achieving what is best for sustainable mobility in the long run, hence re-launch the modal shift and implement the regulatory means to reach this objective.

## OVERVIEW

In this paper EIM explains why it is cautious about the Commission approach concerning the:

1. Concept of co-modality
2. True will of Member States to implement the rail acquis
3. Level playing field in the transport sector with regards to charging
4. Priorities of the transport policy

## "CO-MODALITY", NOT AT THE EXPENSE OF SUSTAINABLE MOBILITY

The 2001 White Paper advocated a strong policy in favour of a modal shift from road to more environmentally friendly and safer transport modes. Rail will have by far the lowest CO2 emission of all modes over the next 15 years and use less than 1% of total energy consumption (more than 25% for road). These structural assets will make railways the best contributor to the development of a European sustainable mobility policy. Therefore, EIM welcomes the Commission's support on the renewed Sustainable Development strategy of June 2006, which implies a number of major infrastructure projects aiming at alleviating environmental pressure on specific corridors. Indeed, *"shifts to more environmentally friendly modes must be achieved, especially on long distance, in urban areas and on congested corridors"*.

The European Council had it right when adopting its Sustainable Development Strategy. It set clear objectives in terms of pollutant emissions from transport or in terms of energy use. The Commission should now make sure that this strategy is respected.

## THE IMPLEMENTATION OF THE RAIL ACQUIS: A PRELIMINARY CONDITION

Rail policy (e.g. First and Second Railway Packages) has paid off, in terms of rail market share, only in those countries that have respected the true spirit of EU railway legislation (UK and Sweden in particular). Customers have then experienced decreasing prices and increasing quality.

EIM supports the Commission in its intention to take a more proactive role in enforcing the current legal framework through infringement procedures. Also, the Commission should strongly promote the creation of competent and efficient regulatory bodies and the genuine unbundling of infrastructure and operations.

Furthermore, access to the rail freight market for logistics operators should be enhanced by the extension of the concept of “authorised applicants”. This concept has already been put into practice in several EU countries (for example, Italy, Germany, the UK or Sweden), but there is no mutual recognition of the status of “authorised applicants” in any European country. Indeed, if freight forwarders or major freight clients were entitled to reserve rail capacity and put rail operators in competition, the rail freight market would quickly benefit.

## CHARGING AND FINANCING: A LEVEL-PLAYING FIELD IS URGENTLY NEEDED

The co-modality approach only makes sense if all modes can compete on a level-playing field. Though the road charging Directive requires the Commission to examine external costs charging in all modes by 2008, EIM strongly believes that the agenda of smart charging should be brought forward whilst making sure that the social marginal charging cost principle applies to all modes.

EIM appreciates the will of the Commission to mobilise “*all available sources of financing*” but recognises that these resources are tight. Therefore, these scarce means should be properly allocated to a limited number of pre-identified projects. In this context, EIM strongly urges the Commission and the Parliament to seize the opportunity of the 2008 EU budget revision to address this issue. The solution could be the introduction of a European tax on transport infrastructure toll-receipts as a new own resource for the EU budget.

Public funds are not only scarce, but they are also instable. This should come as an incentive for the Commission to monitor compliance of Member States with their obligations under directive 2001/14/EC. In the first place, there is a requirement for management independence of the infrastructure manager; secondly, there is the obligation for Member States to ensure the long term balance of expenditures and revenues of the IM, ie. the long term financial viability of infrastructure managers.

The Mid-Term Review of the Transport White Paper hardly mentions State aid. However, it is becoming an issue of major concern particularly for Infrastructure Managers. Up till now, railways benefited from the special regime for the transport sector (Article 73 of the Treaty<sup>1</sup>) and from the application of Regulation 1191/69 and Regulation 1107/70. With the repeal of these two regulations proposed by the European Commission<sup>2</sup>, Infrastructure Managers face some legal uncertainty. Indeed, the new proposal for a Public Service Obligation replaces

<sup>1</sup> *Aids shall be compatible with this Treaty if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.*

<sup>2</sup> Revised proposal for a regulation on public passenger transport services by rail and by road

Regulation 1191/69 and repeals Regulation 1107/70 but it is **limited to the passenger transport**. This means that the general regime of State aids will apply instead of the special regime. No specific regulatory framework will define the obligation of Infrastructure Managers regarding the notification of State subsidy received.

Therefore, EIM believes that the Commission should exempt Infrastructure Managers from this requirement via its proposed future guidelines on State Aids for railways. More importantly, the Commission should explicitly define this exemption in its currently proposed amendment to Regulation 994/98. In the absence of such a block exemption, article 73 of the Treaty will only apply to the passenger transport and no longer to infrastructure matters.

<p style="text-align: center;"><b>RAIL INFRASTRUCTURE SHOULD REMAIN HIGH ON THE LONG TERM POLITICAL AGENDA</b></p>
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European transport infrastructure spending has slumped from 1,5% to 0,8% of GDP over the last 30 years and within that amount, the percentage allocated to road transport has increased consistently. However, EIM agrees with the global approach of the Commission and rejects any Manichaeism regarding transport modes. This applies to charging and financing of the infrastructure as they affect traffic flows between modes and across the entire internal market. For the same reason, EIM supports the strategy of the Commission concerning freight logistics aiming at improving coordination of transport infrastructure and at using synergies between sea and rail. Many hopes are also embodied by the announced 2007 action plan on a rail freight oriented network. Safety remains an important matter in this respect and EIM calls on the Commission to monitor the scrupulous implementation of the second railway package.

Railway infrastructures are largely affected by intelligent systems. ERTMS has already proved to be a major tool for the improvement of rail traffic so it should have its place in the same list of actions as Gallileo in order to be promoted "*on a continuing basis*". This remark applies to research and development in general as the Commission does not put enough emphasis on the need to strengthen R&D in the rail sector<sup>3</sup>.

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<sup>3</sup> In the European aerospace sector, yearly research spendings in 2004 were €12,6 bn and in the automotive sector of €20bn while in the railway sector, a mere €3bn were invested in research in 2004.

## CONCLUSION

EIM recognises that the industrial, political and international contexts have indeed evolved and therefore the transport policy needs to be adapted in order to ensure sustainable mobility. However, this is exactly why EIM urges the Member States to truly implement the rail acquis and the Commission to launch infringement procedures against the Member States that do not execute it. Not only does the Commission need to keep transport high on its political agenda, but it also has to keep inter- and intra-modal fair competition as a top priority of its transport policy.

EIM believes that these policy axes should be present in the transport scenarios with a 20 and 40-year horizon.

EIM supports the concerns expressed in the draft report on the implementation of the legislation, financing of rail infrastructure, higher selectivity of TEN projects and technical