



EIM position paper
on the European Commission consultation document
on the progressive implementation of a rail freight-oriented network
issued by the Commission on 22nd May 2006

EIM, the European Rail Infrastructure Managers, was established in April 2002 in Brussels. It is a not for profit organisation under Belgian law overseen by a Board and a General Assembly.

EIM's role is to first and foremost to promote the interests of infrastructure managers vis-à-vis the European institutions in co-operation with other railway organisations and a variety of stakeholders and to promote and develop the efficient use and operation of the railway network.. EIM is committed to delivering an efficient contribution to the European legislative process on rail transport, whilst allowing for the expression of minority opinions.

EIM is also a representative body (infrastructure managers) with the European Railway Agency Working Groups

This position paper describes more in depth and completes our views already presented at the workshop organised by DG Tren on June 1st.

RESPONSE TO CONSULTATION

a) Summary

EIM welcomes the opportunity to comment on the European commission's consultation document on the progressive implementation of a rail freight orientated network.

EIM agrees that action needs to be taken to further promote the rail-freight industry in those corridors where it is not achieving an appropriate market share. It argues that prior to any new action being taken in this area, existing rail market directives, such as 2001/14 should be properly implemented in member states, in order to increase levels of competition, which is unarguably one of the key drivers for freight quality improvements.

EIM supports the general principles of the option B proposal contained in the consultation document, but has a number of specific concerns therein. It argues that any such European Action Plan to support option B must incorporate the existing work from the Vinck Corridor studies, as well as other sector research.

b) Response to the 3 Key Questions

The Commission has asked three specific questions in section 7 of its Consultation issued on 22nd May 2005. EIM's views are shown below;

- Should priorities be set in the action plan, and on which criteria?

EIM believes that the priorities should be set by stakeholders in each corridor, but these should be within a common framework of the most easy and effective first, and most difficult



and least effective last. EIM recognises that this basic approach will need to be modified to take account of the various investment and operational constraints and opportunities that will apply at any given time in the creation of the network.

- Should other measures be added and should the ones proposed be deepened?

EIM strongly believes, and emphasises this elsewhere in the response, that the Commission should additionally take advantage of the Communication due later in 2006 to re-enforce the need for all Member States to fully implement the various Railway “re-vitalisation” Directives, and commence infringement proceedings immediately against those who have not yet done so. Member States should be encouraged to fully implement article 11 of Directive 2001/14 which mandates the creation of a performance and compensation schemes, and allows the use of financial incentives. EIM believes that this action alone will drive significant improvements to competition, and performance of the rail freight sector, resulting in a rise in quality and reliability. EIM acknowledges that this requirement is included within the Consultation (Option B Measure 1), but this needs strengthening in the final Communication.

- How do they assess the costs and benefits of implementing these actions?

EIM believes that there are a number of assessment criteria to measure relative costs and benefits of investment and actions. These must include as a minimum;

- Opportunity cost (could the investment or resource have generated a better return if used elsewhere?)
- Environmental benefits (internalisation of external cost)
- Avoidance of costs to the investor in other areas (e.g. avoidance of road building./maintenance costs)
- Performance improvement benefits (direct financial benefit to the investing IM or RU through compensation delivered via a performance scheme). This clearly requires full implementation of article 11 of Directive 2001/14
- Indirect benefit to another Member State or IM/RU. This could be where a Member State invests on its side of the border to remove a bottleneck which will assist traffic flow on the rest of the corridor, but not necessarily to itself.

EIM urges the Commission not to be prescriptive on this matter, as any such investments or deployment of resources must reflect the commercial benefits, thus the long term sustainability of the sector. The Commission must be prepared to consider closing any funding gap where this is not the case.

b) Response to the overall document

The text below details EIM’s reactions on each section (as listed in the section header) of the Consultation document.

1. INTRODUCTION

1. EIM shares the views expressed in the consultation document concerning the current poor state of rail freight traffic in some Member States, and the urgent need to improve its competitive edge against competing modes.
2. EIM agrees with the concept of an Action Plan, on a corridor basis, to encourage the emergence of a freight-oriented network. The action plan would need to identify actions, with priorities, to be taken by infrastructure managers, railway undertakings and Member States to improve the reliability, performance and competitiveness of international rail freight services.



3. Whilst EIM agrees that, in the long term, this freight-oriented network could lead to a dedicated freight network, this should only be where such a change meets an identified and long term business need.
4. EIM shares the Commission's ambition to reach the stated targets on reliability, performance, and competitiveness. It also agrees that flexibility is required in terms of average speed, as this will vary between the differing commercial and physical realities of each corridor and traffic type. It would be wrong to define a single "one size fits all" target.

2. INFORMATION SOURCES

2.1 Research Projects

1. EIM shares the view that the Action Plan should take into account the findings of several on-going research projects financed by the European Commission (TREND, REORIENT, NEW OPERA) as well as the UIC DIOMIS project and other corridor based relevant studies.

2.2. Corridor Studies

1. EIM agrees that the Action Plan should integrate the output from the Vinck Corridor Studies required by the Memorandum of Understanding between the Commission and the European representative bodies (CER-UIC-UNIFE-EIM) on the EU deployment strategy for ERTMS signed on 17 March 2005.
2. EIM would not support using the results of the UIC ERIM project in support of defining the European Action Plan as it believes that the Vinck corridor studies are based on more robust methodology.
3. On corridor capacity, EIM believes that DG TREN should give priority to the views of RNE, who are in charge of cross border path coordination, and therefore have a good understanding of corridor capacity demands. This is also the case in respect of Member States who have implemented Directive 2001/14 to the extent that the legal concept of "congested infrastructure" is recognised.

3. CURRENT SITUATION

1. Whilst EIM agrees with the majority of the Commission's opinions on the current poor quality of the European rail freight sector, and the resultant decline of its market share, it should be noted that this is not the case in all parts of Europe. EIM draws the Commission's attention to the rail freight position in the UK, where market share has grown from 8.5% to 11.5%, and traffic grown by 60%, since privatisation of the sector in 1994.¹
2. EIM fully endorses the Commission's comments in section 3.2.1 on the value of "performance schemes". We believe that the planned Communication on Rail Freight Oriented Networks should strongly recommend a full implementation of article 11 of Directive 2001/14, **including the use of financial incentives and penalties between RU's and IM's.**

4. THE COMMUNITIES ACTIONS FOR REVITALISING THE RAIL FREIGHT SECTOR

¹ Source: Rail Freight Group UK – February 2006



4.1 Three Packages for the consultation of a European integrated rail area

EIM has no comment.

4.2 Reforms in place need to be fastened

1. EIM strongly believe as stated by the 2001 White Paper on Transport Policy that competition (intramodal and intermodal) is one of the key elements for revitalising the rail freight industry.
2. The necessary legislation has been adopted by the European Institutions in 2001 and 2004 (first and second Railway Packages). But the results are only partly there because the needed fair and efficient national implementations of these European laws are still missing in many countries for some of the major elements².
3. The legislation seems to be in place (on 1 January 2006, all the Member States formally transposed the directives of the first railway package, except Luxembourg which intends to do so by the end of the year). But it is in fact necessary to ensure that the implementation is done in the spirit of Community legislation as well as to the letter.
4. EIM believe that rail freight traffic will increase its performance and quality by genuine competition, which is still more visual than real and biased where complete separation has not been achieved (no European corridor at the moment).
5. The reforms undertaken in the Member States rest on in particular the following essential elements, a number among them remain however to be deepened/improved.
 - **Separation between essential functions:** EIM encourages the Commission to examine, on the basis of the clear and transparent criteria set up in the annex 5 to its report on the implementation of the 1st railway package, whether the infrastructure manager acts neutrally in allocating capacity and charging for infrastructure use, in particular where the separation of functions is not guaranteed by means of institutional separation.
 - An **independent regulatory body** is essential to monitor the railway market. This body must have human, financial and administrative resources on a sufficient scale to enable it to play an active part in the operation of the market, which is not the case everywhere.
 - **The granting of infrastructure access rights**, including access rights to the necessary services, on a fair and non-discriminatory basis to all railway undertakings. The introduction of standard contracts between the infrastructure manager and the railway undertaking(s) is urgent to facilitate access³.
 - **The enabling of authorised candidates** (e.g. freight forwarders, and the competent authorities for public transport service contracts) to have access to infrastructure is a regulatory option for Member States which see a need to provide rail customers with an additional way of obtaining a better transport service.
 - The **certification of rolling stock**, mainly traction units, which is the subject of long, arbitrary and costly procedures which are out of kilter with the requirement of creating an internal market in railway equipment. An approach to facilitate the mutual recognition of such equipment is being developed and should be implemented during the course of 2006.

² See EIM/ERFA/ERFCP report on the implementation of the 1st Railway Package

³ The UK Network Code is a good example



6. The directive 2001/14 makes rail infrastructure charging obligatory, but it does not address by itself the question of intermodal competition between rail and road. **The new Eurovignette Directive** only gives a partial response to this question. The new regulation is applicable to all heavy goods vehicles, and on the trans-European network. The toll level has to be calculated according to the infrastructure costs. External costs are excluded. The text requests the Commission to work out a model for the incorporation of external costs into charging for the use of infrastructure in all modes by 2008, and come forward with legislative proposals if necessary. The sooner, the better.
7. EIM proposes that the section title would be clearer as, “Existing legislations needs to be fully implemented”

5. OBJECTIVES

1. EIM shares the Commission's views that an action plan for the development of a rail freight-oriented network should aim at
 - improving rail freight transport's performance by improving traffic and infrastructure management on some major European corridors,
 - encouraging the modal transfer from road to rail, especially on long distance traffic.

However, EIM believes the Commission should recognise, and explicitly state, in its Communication that the Action Plan's objectives must be as much commercially and business-need driven as they should be operationally driven.

EIM also believes that the Commission should recognise the key role of rail in an efficient inter-modal logistics chain.

6. POSSIBLE OPTIONS AND ACTIONS

1. EIM supports Option B (Rail freight-oriented network), which could, when and where needed, evolve towards rail freight dedicated sections, lines and, ultimately, network (option C).
2. The proposed measures for option B are broadly agreed.
3. EIM want to re-emphasise that it is vital that the Commission (see section 3 above) strongly requires full implementation of the various directives discussed in Section 3 of the Consultation. We believe that some Member States have adopted only the minimum elements of the spirit of this legislation, and therefore do not have the legal framework in place to build an open and competitive rail freight market. This will inevitably delay and/or prevent achievement of the Commissions objectives stated in section 5 above.

COMMENTS ON THE PROPOSED OPTION B MEASURES

Definition of a rail freight-oriented network

EIM agrees with the Commission proposal to define a network of rail corridors for freight, on which the measures described would be implemented in priority.

Measure B1: Optimise priority rules in case of delays

The Commission encourages the infrastructure managers to optimise their priority rules on the main trans-European corridors, in order to take better into account the needs of rail



freight transport, especially those of international freight. For that purpose the Commission insists on the importance to analyse the capacity on the network and to implement “performance schemes” according to the procedure laid down in Directive 2001/14/EC. The optimisation of priority rules supposes the introduction of flexible real time train planning and suitable pan-European IT system for timetabling.

EIM comments:

- EIM fully endorses the Commission’s wish to seek implementation of performance schemes
- There is a need to link this measure with the 3rd Rail Package: the wider the scope of passenger rights regulation, the more we need some priority rules for freight
- Harmonisation of train regulation rules along the major corridors is also an issue in the event of delay or perturbation. EIM draws the attention of the commission to the UK use of contingency plans as a mandated requirement of the Access Conditions and Network Code
- This is the easiest measure to implement

Measure B2: Optimise path allocation process

The Commission highly recommends optimising train path allocation processes by where appropriate, separating traffics, homogenising commercial speeds, developing international paths guaranteed in operation.

EIM comments:

This appears too prescriptive. EIM believes that the objective of B2 can be achieved if the allocation of train paths follows strict priority criteria, and is subject to the scrutiny of the appropriate national regulatory body where a RU believes the IM has not followed them correctly. The UK model is a good example of this in practice.

Measure B3: Generalise bi-or multi-lateral operation centres

The Commission encourages railways undertakings to set up such common operation centres and to broaden the competencies they give them. As far as possible and according to needs, the implementation of operation centres in charge of a whole corridor could also be an option. Setting up these operation centres has to be done in compliance with the existing legislation on market access: one should be careful that this doesn’t create barriers to the entry of new railways enterprises on the market.

EIM comments: EIM endorses the Commission’s views, but believes the text should be strengthened to encourage the sector to set up joint operational centres *which include the relevant IM’s*. This is seen as a further opportunity to reduce cross border transition times through the shortening of communication, and decision making, chains in the event of traffic disruption. Such centres are already implemented in the UK, the Netherlands, and partly in France

Measure B4: Simplify cross-border operations

The Commission recommends that multilateral mutual recognition agreements are signed, in order to limit the number of cross-border controls. Trust-based handover of trains should be encouraged. In addition, the Commission encourages the actors to perform electronic, instead of manual, exchange of documents, on common formats (train sheet, braking sheet, composition, vehicles’ list, technical documentation...) and to send them in advance to cross-border operation centres.

EIM comments: The European Rail Agency should urgently focus on this issue (TSI operations). The workshop organised on July 13th on that issue should encourage Member States and the industry to share and spread best practice without delay.

Measure B5: Improve the circulation of information and data management

The Commission insists on the importance for the stakeholders to develop a coherent framework at European level to deploy telematic applications which would contribute to the harmonious adoption of continuous information services on the trans-European rail network, in compliance with the common strategy for trans-European transport networks.

The Commission will encourage all initiatives aiming at improving IT systems and interfaces, including paperless transfer of consignment notes. All administrations concerned need to participate actively. Information database for planners, sales staff and customers are needed to improve customer focus.

EIM comments:

- The Commission should note that implementation of the TAF TSI is in progress, through the SEDP project: In addition, Europtirails, which is being developed through UIC and RNE, should meet many of the IT needs identified in this element of option B.
- EIM believes that RNE's role should be recognised as mandatory by all stakeholders.

Measure B6: Optimise terminals' operations

The Commission recommends that terminals' operating conditions are modified so as to adapt them, as much as possible, to the constraints of rail freight traffic.

EIM comments:

- The Commission must make access to terminals a priority of its audit on compliance with the 1st Railway Package (non discrimination)
- EIM believes that terminals access arrangements and opening times must reflect the commercial needs of relevant RU's. This should not be subject to specific mandates by the Commission, but be driven by market and economic needs.

Measure B7: Generalise quality clauses and financial compensations for non-compliance in the contracts signed between the stakeholders

The Commission recommends that more quality clauses are signed between final customers, railways undertakings and infrastructure managers.

EIM comments:

- EIM believes that the function of the performance and compensation schemes required by article 11 of Directive 2001/14 will drive the aspired quality improvements. EIM also reminds the Commission that this issue was rejected both Council and Parliament in 2005 as part of its consideration of the 3rd Railway Package.
- Where the aforementioned article 11 has not been implemented, EIM urges the Commission to commence infringement procedures.

Measure B8: Ensure coherent marginal cost pricing on the network

The Commission recommends the setting up of a common methodology to compare the cost and efficiency of infrastructure development, operation and maintenance. At the same time multi-annual contracts between Member States and Infrastructure Managers may be envisaged to give stability to the financial contributions of States.

EIM comments:

- Marginal cost pricing and competitiveness with other modes is difficult to combine
- Eurovignette and the need for a level playing field (internalisation of external costs) between the transport modes should be stated by the Commission in its Communication



- Financing should be found for the investment needed for implementing a freight-oriented network
- The Commission should be mindful of the need in some circumstances for some Member States and/or IM's to invest for the benefit of those from other countries on a corridor. (TEN-Ts financing rules). Suitable incentives should be provided to make this happen quickly and easily.

Measure B9: Ensure a management/monitoring of the operations on the network by the setting up of a “common corridor organisation”

The possible model for a common corridor organisation may involve: (i) a Supervising and decision-making structure with representatives of the ministries concerned (“Executive Committee”); (ii) an Operational Structure of the infrastructure managers to carry out the work (“Management Committee”). A European Economic Interest Grouping (EEIG) per corridor could be suitable vehicle. In addition, structured cooperations between national safety authorities, notified bodies and regulatory authorities concerned may help to streamline authorisation, certification, appeal procedures.

EIM comments: existing coordinators (the 6 EC coordinators and RNE One Stop Shop) should ensure that bottleneck exercises are undertaken, in conjunction with IMs, where congestion exists (as per Directive 2001/14/EC, Articles 22 etc).

Measure B10: Encourage emergence of new business models

The Commission will encourage the initiatives to set up new business models that will participate in revitalising rail freight transport: differential services for different market sectors to better meet individual requirements. These services would offer faster/more frequent/more reliable service with a higher added value for the final customers.

EIM comments:

- EIM supports the principles the Commission outlines in measure 10.

Measure B11: Focus infrastructure and terminals works on priority sections and coordinate them at a corridor-level

Within the Trans-European Transport Network programme and Cohesion policy, the Commission will be able to grant financial aid for projects helping to improve the efficiency of freight rail corridors, insofar as the projects is made in association with several infrastructure managers along a given corridor and helps to reach the technical characteristics above mentioned. EIB instruments shall be mobilised too.

EIM comments:

- As with Measure B8, the Commission should be mindful of the need in some circumstances for some Member States and/or IM's to invest for the benefit of those from other countries on a corridor. (TEN-Ts financing rules). Suitable incentives should be provided to make this happen quickly and easily.
- Investment optimisation and priorities are to be examined by the Corridor Coordinators, EIB, and the proposed TEN-Agency. Such issues should include,
 - Train length
 - Loading gauge
 - Axle and metric load
- Gauge C is either too expensive or is not feasible in some areas
- TSI's will define mandatory requirements, and care should be taken not to duplicate effort in this area.



1. Measure B12: Encourage implementation of interoperable systems and highly-efficient technologies

The Commission intends to encourage all measures aiming at implementing and deploying interoperable systems beyond the strict legal requirements in force.

The Commission will encourage and support the use of new highly-efficient technologies, insofar as they comply with the legislation' requirements.

EIM comments:

- Studies should be carried out “under the supervision” of the EU coordinator (and not “by the coordinator”)
- A prerequisite to B12 is B4: simplification of cross-border operation.

RANKING THE MEASURES

1. Ranking of measures where EU action is needed

Measure by order	Content	Comment
B Zero	Competition framework	Competition needs to be enforced
B1/B2	Priority rules and path allocation	Harmonisation of priority rules and implement contingency plans
B11	Corridor infra works	To be assessed by independent bodies and financed
B4/B12	Interoperability	Put more pressure on ERA
B8	Charging / financing	Create a level playing field
B6	Terminal's operation	Fair access in general, traffic needs in particular
B7	Quality clauses & compensations	Performance schemes already foreseen by EU law

2. Ranking of measures where EU action is not needed

Measure by order	Content	Comment
B9	Common organisation corridor	Coordinators and RNE to intervene with IMs when necessary
B3	Operations Centres	Involve IMs
B5	Info & data management	With help of RNE
B10	New business models	new models will emerge from real competition (B zero)



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