Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight (Text with EEA relevance)

REGULATION (EU) No 913/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 22 September 2010

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 on the Functioning of the European Union, and in particular Article 91 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Within the framework of the European Union new Strategy for jobs and growth, 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) Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways[(4)] and 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[(5)] have been important steps 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 and sufficiently financed railway infrastructure, namely, one which allows freight transport services to be provided under good conditions in terms of commercial speed and journey times and to be reliable, namely, that the service it provides actually corresponds to the contractual agreements entered into with the railway undertakings.

(4) Although the opening of the rail freight market has made it possible for new operators to enter the rail network, market mechanisms have not been and are not sufficient to organise, regulate and secure rail freight traffic. To optimise the use of the network and ensure its reliability it is useful to introduce additional procedures to

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strengthen cooperation on allocation of international train paths for freight trains between infrastructure managers.

(5) In this context, the establishment of international rail corridors for a European rail network for competitive freight on which freight trains can run under good conditions and easily pass from one national network to another would allow for improvements in the conditions of use of the infrastructure.

(6) In order to establish international rail corridors for a European rail network for competitive freight, the initiatives already taken in terms of railway infrastructure show that the establishment of international corridors, which meet specific needs in one or more clearly identified segments of the freight market, is the most appropriate method.

(7) This Regulation should, unless otherwise provided, be without prejudice to the rights and obligations of infrastructure managers set out in Directive 91/440/EEC and Directive 2001/14/EC and, where relevant, allocation bodies as referred to in Article 14(2) of Directive 2001/14/EC. Those acts remain in force, including in respect of provisions which affect freight corridors.

(8) The establishment of a freight corridor should take into account, where appropriate, the need for better interconnections with the rail infrastructure of European third countries.

(9) The design of freight corridors should seek to ensure continuity along the corridors by enabling the required interconnections between existing railway infrastructure.

(10) The implementation of international rail freight corridors forming a European rail network for competitive freight should be conducted in a manner consistent with the trans-European Transport Network (TEN-T) and/or the European Railway Traffic Management System (ERTMS) corridors. To that end, the coordinated development of the networks is necessary, and in particular as regards the integration of the international corridors for rail freight into the existing TEN-T and the ERTMS corridors. Furthermore, harmonising rules relating to those freight corridors should be established at Union level. Projects aimed at reducing noise from freight trains should be encouraged. If necessary, the establishment of those corridors should be supported financially within the framework of the TEN-T, research and Marco Polo programmes, and other Union policies and funds, such as the European Regional Development Fund or the Cohesion Fund as well as the European Investment Bank.

(11) Within the framework of a freight corridor, good coordination between the Member States and the infrastructure managers concerned should be ensured, sufficient priority should be given to rail freight traffic, effective and adequate links to other modes of transport should be set up and conditions should be created which are favourable to the development of competition between rail freight service providers.

(12) Further to the freight corridors set up in accordance with Article 3, the establishment of additional freight corridors should be examined and approved at Union level in accordance with clearly defined transparent procedures and criteria which allow Member States and infrastructure managers sufficient decision-making and management scope so that they can take into account existing initiatives for special

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corridors, e.g. ERTMS, RailNetEurope (RNE) and TEN-T, and take measures adapted to their specific needs.

(13) In order to stimulate coordination between the Member States and the infrastructure managers and to provide continuity along the corridor, an appropriate governance structure for each freight corridor should be established, taking into account the need to avoid duplication with already existing governance structures.

(14) In order to meet market needs, the methods for establishing 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 establishment of a freight corridor meet the needs or expectations of all of the users of the freight corridor, the applicants likely to use the freight corridor must be regularly consulted in accordance with procedures defined by the management board.

(15) The development of intermodal freight terminals should also be considered necessary to support the establishment of rail freight corridors in the Union.

(16) 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, as well as, where appropriate, between Member States and European third countries, and planned in a way which meets, subject to economic viability, 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.

(17) For the same reasons, all the works on infrastructure and its equipment that would restrict available capacity on the freight corridor should also be coordinated at the level of the freight corridor and be the subject of updated publications.

(18) In order to facilitate requests for infrastructure capacities for international rail freight services, it is appropriate to designate or establish a one-stop shop for each freight corridor. For this, existing initiatives should be built upon, in particular those undertaken by RNE, a body which acts as a coordination tool for the infrastructure managers and provides a number of services to international freight undertakings.

(19) The management of freight corridors should also include procedures for the allocation of the infrastructure capacity for international freight trains running on such corridors. Those procedures should recognise the need for capacity of other types of transport, including passenger transport.

(20) To ensure that the railway infrastructure is better used, the operation of that infrastructure and the terminals along the freight corridor need to be coordinated.

(21) Priority rules may also mean priority targets depending on the situation in the respective Member State.

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(22) Freight trains running on the freight corridor should be able to enjoy, as far as possible, sufficient punctuality in the event of disturbance with regard to the needs of all types of transport.

(23) In order to promote the development of competition between providers of rail freight services on the freight corridor, applicants other than railway undertakings or their groupings should be allowed to request infrastructure capacity on the freight corridors.

(24) In order to evaluate objectively the benefits of the measures aimed at the establishment of the freight corridor, the performance of the rail freight services along the freight corridor should be monitored and quality reports should be published regularly. The evaluation of the performance should include the outcome of satisfaction surveys of the users of the freight corridor.

(25) In order to ensure non-discriminatory access to international rail services, it is necessary to ensure efficient coordination between the regulatory bodies with regard to the different networks covered by the freight corridor.

(26) To facilitate access to information concerning the use of all the main infrastructure on the freight corridor and to guarantee non-discriminatory access to that corridor, the management board should draw up, regularly update and publish a document containing all of this information.

(27) Since the objective of this Regulation, namely the establishment of a European rail network for competitive freight made up of freight corridors, cannot be sufficiently achieved by the Member States alone and can therefore by reason of its scale and effects be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(28) Fair rules based on cooperation between the infrastructure managers, who must provide a quality service to freight undertakings within the framework of an international rail corridor, should be introduced in respect of the coordination of investment and the management of capacities and traffic.

(29) As international trains need to run itineraries combining several corridors, as defined in this Regulation, the infrastructure managers of several corridors may also coordinate their activities in order to ensure, on the corridors concerned, the availability of capacity, fluid movements and a coherent application of priority rules to the different types of traffic in the event of disturbance.

(30) The aim of this Regulation is to improve the efficiency of rail freight transport relative to other modes of transport. Coordination should be ensured between Member States and infrastructure managers in order to guarantee the most efficient functioning of freight corridors. To allow this, operational measures should be taken in parallel with investments in infrastructure and in technical equipment such as ERTMS that should aim at increasing rail freight capacity and efficiency.

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(31) The implementation of the rules on the establishment and modification of the freight corridors and on the exemptions granted to the Member States needs to be achieved under uniform conditions in order to ensure the compliance of the proposals for the establishment of freight corridors with the criteria set out in this Regulation and should therefore be conferred upon the Commission. In accordance with Article 291 of the Treaty on the Functioning of the European Union, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of implementing powers shall be laid down in advance by means of a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[6] continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL

Article 1

Purpose and scope

1 This Regulation lays down rules for the establishment and organisation of international rail corridors for competitive rail freight with a view to the development of a European rail network for competitive freight. It sets out rules for the selection, organisation, management and the indicative investment planning of freight corridors.

2 This Regulation shall apply to the management and use of railway infrastructure included in freight corridors.

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' means all designated railway lines, including railway ferry lines, on the territory of or between Member States, and, where appropriate, European third countries, linking two or more terminals, along a principal route and, where appropriate, diversionary routes and sections connecting them, including the railway infrastructure and its equipment and relevant rail services in accordance with Article 5 of Directive 2001/14/EC;

b 'implementation plan' means the document presenting the means and the strategy that the parties concerned intend to implement in order to develop over a specified period the measures which are necessary and sufficient to establish the freight corridor;