



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.11.2006
COM(2006) 660 final

**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN
PARLIAMENT**

**Progress report 2000 to 2005 on the implementation of the Interoperability Directives
(96/48/EC for high speed rail and 2001/16/EC for conventional rail)**

{SEC(2006) 1418}

TABLE OF CONTENTS

1.	Introduction	3
2.	Activities under the Directives.....	3
2.1.	The Committee.....	3
2.2.	The Joint Representative Body and the European Railway Agency.....	4
2.3.	Technical Specifications for Interoperability (TSIs).....	4
2.4.	Cost Benefit Analysis.....	4
2.5.	Stakeholder Dialogue	4
2.6.	Amendment Directive 2004/50	5
2.7.	The Safety Directive 2004/49/EC and the European Railway Agency	5
3.	Transposition of the Directives	5
3.1.	High Speed Rail Directive 96/48/EC	5
3.2.	Conventional Rail Directive 2001/16/EC	5
4.	Progress of Interoperability.....	6
4.1.	The Trans European Networks.....	6
4.2.	Interoperability of the Trans-European Rail Network	6
4.3.	Registers of Infrastructure and Rolling Stock.....	7
4.4.	Non Application of the TSIs	7
4.5.	ERTMS	7
4.6.	Notified Bodies and their Activities.....	7
4.7.	Standardisation.....	8
5.	Conclusions and Recommendations	8

Annexes : Commission Staff Working Paper containing six annexes related to the contents of the report.

1. INTRODUCTION

The basis for this report is provided by Article 24 of Directive 96/48/EC which states :

“Every two years the Commission shall report to the European Parliament and the Council on the progress made towards achieving interoperability of the trans-European high-speed rail system”

Similarly, Article 28 of Directive 2001/16/EC requires:

“Every two years, and for the first time 20 April 2005 the Commission shall report to the European Parliament and the Council on the progress made towards achieving interoperability of the trans-European conventional rail system.”

This report intends to fulfil these obligations in a single report. It describes the current status of the interoperability Directives, their transposition by Member States, the activities undertaken to fulfil the provisions of the directives, the progress of interoperability and the future relationship with the European Railway Agency, which started its activities in the course of 2005. The delay in presenting this report reflects the time necessary to enable all these elements to be collated and examined in a complete and coherent manner.

2. ACTIVITIES UNDER THE DIRECTIVES

The high speed rail directive 96/48/EC entered into force in 1996 and its implementation into national legislation was required by April 1999.

The conventional rail Directive 2001/16/EC entered into force in 2001 and its implementation into national legislation was required by April 2003.

Annex 3 and 4 detail state of transposition for these directives in each Member State.

The scope of the trans-European rail network is described in Decision 1692/96/EC of the European Parliament and Council on Community Guidelines for the development of the trans-European transport network, amended in 2004 by Decision 884/2004/EC.

2.1. The Committee

A Committee of Member State representatives was established under Article 21 of Directive 96/48/EC. The Committee rules of procedure, adopted in October 1997, were further modified and adopted in April 2002 in order to expand the scope of Committee activities to include tasks arising under Directive 2001/16/EC.

This same Committee also acts under Article 27 of Directive 2004/49/EC on the safety of the Community’s railways. The extension of the competence of this Committee to cover rail safety ensures better integration of safety and interoperability requirements. In the long term this could lead to a single set of rules for interoperability and safety, to the benefit of the whole railway system.

2.2. The Joint Representative Body and the European Railway Agency

At the end of 1996 the European Association for Railway Interoperability (AEIF) were appointed to act as the joint representative body established under Directive 96/48/EC. The European Railway Agency takes over the role of the AEIF, and will draft all future TSIs from 2006 onwards. In February 2006 the Agency was awarded its first mandate to carry the drafting of the third set of TSIs under the conventional rail directive.

2.3. Technical Specifications for Interoperability (TSIs)

Under the high speed rail Directive 96/48/EC five TSIs were drawn up and these came into force in May 2002 as described in Annex 2 to this report. These TSIs are currently being revised; final drafts of the revised texts are expected to be put to the Committee for voting in mid 2006 and formally adopted by the Commission by the end of 2006.

The first group of priority TSIs under the conventional rail directive 2001/16/EC, adopted by the Commission in 2005/2006, are described in Annex 2 of this report. The second priority, prepared by the AEIF, are the proposed TSIs for Safety in Railway Tunnels and the Accessibility of Persons with Reduced Mobility. First drafts have been prepared and are now under review.

In the development of the first and second priority TSIs a number of common requirements between conventional rail and high speed rail emerged that are independent of the speed of the line such as in the areas of noise, traffic operations and management, safety in railway tunnels and persons with reduced mobility. In the future there may be benefit in considering the merger of certain TSIs, where they are independent of rail speed, allowing legislative documentation to be reduced and for rail systems to be considered from a 'total system' perspective with the potential to reduce overall cost and improve benefits.

2.4. Cost Benefit Analysis

In accordance with Article 6(4) of Directives 2001/16/EC and 96/48/EC, each TSI shall be supported by a cost benefit analysis. Member States are obliged to participate in this activity through providing the requisite data. This participation is essential as detailed information on the structure and functioning of the rail system is only available at a national level and is needed in order to ensure the complete impact of the TSI is rigorously determined.

2.5. Stakeholder Dialogue

According to Article 6(8) of both interoperability directives, social partners shall be consulted during the development of the TSIs. This has been carried out for all conventional rail TSIs, and high speed rail TSI revisions. This has been done within the context of the Social Dialogue Committee, set up in accordance with Commission Decision 98/500/EC. Despite initial difficulties in organising the dialogue between AEIF and the social partners, experience has shown a positive evolution of the process and useful contributions, adding to the quality of the TSIs.

Similarly the drafting of TSIs has taken the views of users into consideration via consultations arranged by AEIF, as provided for under Article 6(7) of both directives.

2.6. Amendment Directive 2004/50

In their Resolution of May 2000 the European Parliament and Council called on the Commission to submit proposals for the amendment of 96/48/EC in order to align it with Directive 2001/16/EC.

Consequentially Directive 2004/50/EC, which amends both directive 96/48/EC and 2001/16/EC, was adopted in April 2004 as part of the second railway package. Member States must transpose this directive into national legislation by 1 May 2006. Its key provisions are described in Annex 2.

These provisions have been successfully implemented for the adopted TSIs and for those under development and revision.

2.7. The Safety Directive 2004/49/EC and the European Railway Agency

The Safety Directive makes provisions for a harmonised European approach to safety and establishes national safety authorities responsible for the regulation of safety and national accident investigation bodies.

The Agency is established through Regulations 881/2004/EC, and will be responsible for the future development of the TSIs, the monitoring of interoperability, as well as developing specific safety measures identified in Directive 2004/49/EC. The activities of the Agency in these areas will progressively establish stronger links between safety and the TSIs.

3. TRANSPOSITION OF THE DIRECTIVES

3.1. High Speed Rail Directive 96/48/EC

With the exception of Slovakia, all Member States which have a rail system implemented Directive 96/48/EC and notified their transpositions. Infringement procedures have been opened by the Commission against Slovakia. Whilst Cypress and Malta have no railway system, they are still obliged to transpose the interoperability directives, according to the jurisprudence of the European Court of Justice¹. However the Commission is currently undertaking a review of the situation and may if appropriate consider launching infringement proceedings.

3.2. Conventional Rail Directive 2001/16/EC

The entering into force of the Conventional Rail Directive 2001/16/EC expands the scope of the interoperable rail network to that defined in Commission Decision 1692/96/EC.

All of the EU Member States which have a rail system have implemented Directive 2001/16.

Annex 3 and 4 list the national implementation measures for the two Directives.

¹ Case C-372/00, Commission v Ireland, [2001] ECR p.I-10303

4. PROGRESS OF INTEROPERABILITY

4.1. The Trans European Networks

A key objective of the TEN-T network is interoperability and the characteristics of the priority rail projects must comply with the provisions of the high speed and conventional rail directives. When seeking Community funding for these projects, Member States are required to confirm their compliance with the interoperability directives, or clarify that a derogation, under the specific conditions defined under Article 7 of both directive 96/48/EC and 2001/16/EC, has been granted.

4.2. Interoperability of the Trans-European Rail Network

Member States comply with the basic parameters of the high speed TSIs, with the exception of control-command systems. Hence the movement of interoperable trains, although possible with respect to the characteristics of the infrastructure, is hampered by the need to equip rolling stock with national control-command systems.

However, other barriers exist that prevent the full interoperability of high speed trains, such as track gauge, traction power supply voltages and maximum axle loads. In these cases a 'Specific Case' is granted in the TSI. Modification of these systems to enable compliance with the TSIs is a national decision, and should take into consideration the benefits to interoperable traffic and the cost of maintaining national systems.

With regards to track (rail) gauge, with the exception of Ireland, Finland, Portugal Spain, Estonia, Latvia and Lithuania, all Member States use a standard track gauge of 1435mm. Solutions have been found for trains that transit between different gauges, but these solutions are expensive and in some cases have a substantial impact on border crossing times.

Category I high speed lines (those suitable for a minimum speed of 250km per hour) expanded across these Member States, specifically:

Length of high speed lines on 01.01.1996	2409km
Increase in the length of high speed lines 1996 to 2002	1281km
Total length of high speed lines in 2002	3690km

Further it was found that the length of high speed lines under construction or planned in 2002 was 8417km, however this figure also includes Category II² and Category III³ lines

Since 2002 the situation has evolved, due to the revised scope of the trans-European networks, the reclassification of the high speed lines by Member States and the coming into force of the high speed TSIs, and there is a need for a further detailed examination of the situation.

² specially upgraded high speed lines equipped for speeds of the order of 200 km/h

³ specially upgraded high speed lines which have special features as a result of topographical, relief or town planning constraints, on which the speed must be adapted to each case

As the conventional rail TSIs are not fully in force yet, it is somewhat early to determine the impact of these on the conventional rail network and a detailed study should be carried out at a later stage. It should be noted that it is the task of the Agency to report on the progress of interoperability every two years.

4.3. Registers of Infrastructure and Rolling Stock

The interoperability directives require Member States to publish and update annually national infrastructure and rolling stock registers. These national registers will provide an accurate indication of the progress of interoperability within each Member State, and will be made available to the Agency.

In January 2003, a model structure for these registers was put in place, and the first priority group of conventional rail TSIs and the revised high speed TSIs will contain a specification of the data to be held within them. The links and interoperation of all registers has been identified as an issue to be further examined by the Agency.

4.4. Non Application of the TSIs

The interoperability directives allow for the non-application of the TSIs, under Article 7 of directives 96/48/EC and 2001/16/EC, as amended by 2004/50/EC. Member States must notify the Commission and Committee of any intended derogations and, in particular cases the Commission will take a decision on the derogation. In 2005 the Committee established guidelines on the interpretation of Article 7 and the processes to be applied to derogations.

A number of derogations have been granted and listed in Annex 6. The Commission, assisted by the Committee, will regularly review derogations, and the Agency shall monitor the progress of interoperability on the network.

4.5. ERTMS

Since March 2003, all new high speed lines must be equipped with ERTMS and with the entry into force of the TSI for conventional rail in September 2006, all new sections for conventional priority projects shall also be equipped with ERTMS.

In March 2005 the Commission agreed a Memorandum of Understanding with the main stakeholders within the railway industry to commit to supporting Member States in rapidly deploying ERTMS. However deployment of the system would be slow if it was carried out only as and when required by legislation, although overall costs may be lower. As a consequence a real joined-up network would take many years to achieve and the first companies and networks to equip themselves would have to bear the costs of dual equipment (ERTMS and the national equipment) for longer.

To compensate for this and to give an incentive to the first implementer, the Commission has proposed to fund up to 50% of the cost of the deployment of this interoperable system. This strong incentive –focussed on a short time period- is necessary to quick start the deployment.

4.6. Notified Bodies and their Activities

Notified Bodies are responsible for assessing subsystems for conformity against the TSIs. Member States are responsible for the appointment of these bodies in accordance with Article 20(2) of both directives 96/48/EC and 2001/16/EC.

A coordination group of Notified Bodies – NB Rail – has been established with the first meeting taking place in December 2000 under the leadership of DG Enterprise. They meet regularly to agree common methods of working and coordination.

The total number of Notified Bodies under Directive 96/48/EC is at 27. For Directive 2001/16/EC, 15 Notified Bodies exist.

For high speed, although all the Notified Bodies notified to the Commission fulfil the minimum criteria as set out in the Annex to Directive 96/48/EC, the additional criteria and procedures to become a Notified Body vary considerably at national level. This issue shall be considered further in the context of the Committee, particularly as the activities and participants in NB Rail will increase once the conventional rail TSIs are published.

Directive 2004/50/EC strengthened the criteria to be fulfilled by Notified Bodies, requiring them to be independent of the Member State authorities granting the authorisation for placing into service.

4.7. Standardisation

To date a total of 47 harmonised standards have been published in relation to Directive 96/48/EC, for the period 1997 to 2005. Although no harmonised standards are yet published in relation to Directive 2001/16/EC, several standards are currently in development and are expected to become available in 2007.

5. CONCLUSIONS AND RECOMMENDATIONS

The high speed interoperability directive is now well established and fully implemented (with the exception of Slovakia) and extensive experience has been gained in the implementation of the TSIs, their conformity assessment and the progression of the high speed rail network. With regards to Slovakia, the Commission has now referred the case to the Court of Justice.

The conventional rail interoperability directive expands the scope of the interoperable rail network; the directive is now implemented within the Community and the first group of TSIs are expected to come into force by mid 2006.

The cost benefit analysis supporting the TSIs is a crucial activity which enables the full impact of the TSI to be known. Member States should be encouraged to participate early in the development process of the TSI with the Agency.

In the future there is benefit in considering the merger of particular TSIs for high speed and conventional rail so that legislative documentation can be reduced and rail can be considered from a ‘total system’ perspective with the potential to reduce overall cost and improve benefits. A merger of both interoperability directives is also being considered in the context of simplification and better regulation.

The monitoring of the derogations granted against TSI is an important activity of the Committee, as the scope and quantity of derogations has a direct impact on the progress of interoperability.

Future reporting on the progress of interoperability, taking into consideration the information available in the national rolling stock and infrastructure registers, will be provided by the European Rail Agency and the first of their reports will be made in 2007.