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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	13423/13 STATIS 84 TRANS 468 CODEC 1969
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, as regards the collection of data on goods, passengers and accidents - Confirmation of the final compromise text with a view to agreement

1. On 30 August 2013, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, as regards the collection of data on goods, passengers and accidents.
2. The 1st reading position of the European Parliament was adopted in the Plenary on 11 March 2014.
3. The Working Party on Statistics met on 31 October 2014 and granted the Presidency with a mandate for a trilogue with the European Parliament based on the outcome of the discussions.

4. An informal trilogue meeting took place on 25 November 2014 with representatives of the three institutions. During this meeting, a compromise text was agreed.
5. On 19 December 2014, COREPER took note but did not endorse the compromise reached during the Trilogue, the main issue being the compulsory pilot studies to be conducted by Member States.
6. Intense informal negotiations then took place between the successive presidencies : LV, LU and NL with the European Parliament and the Commission. A consensus was eventually reached as the signature of two memoranda, one between Eurostat and DG Move and one between Eurostat and European Rail Agency, gave the European Parliament the guarantee that the data they requested are dealt with and available. The text has also been adapted according to the new Inter-Institutional Agreement.
7. On 27 April 2016, COREPER granted the Presidency with a new mandate in order to finalise the negotiations with the European Parliament.
8. On 24 May 2016, based on the mandate, a final informal trilogue took place between the three institutions where an agreement was reached on a final compromise text which is annexed to this note.
9. In view of the above, it is recommended that the Permanent Representatives' Committee approve the final compromise text in the annex with a view to reaching an early second reading agreement on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, as regards the collection of data on goods, passengers and accidents.

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16
December 2002 on rail transport statistics, as regards the collection of data on goods,
passengers and accidents.

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 338(1) thereof,

having regard to the proposal from the European Commission,
after transmission of the draft legislative act to the national Parliaments,
acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics¹ establishes a common framework for producing, transmitting, evaluating and disseminating comparable rail transport statistics in the Union.
- (2) Statistics on the transport of goods and passengers by rail are necessary to enable the Commission to monitor and develop the common transport policy, and the transport elements of policies on the regions and on trans-European networks.

¹ Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, OJ L 14, 21.1.2003, p. 1.

- (3) Statistics on rail safety are also necessary to enable the Commission to prepare and monitor Union action in the field of transport safety. The European Rail Agency collects data on accidents under the Statistical Annex to Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways as regards common safety indicators and common methods of calculating accident costs.
- (3a) It is important to avoid duplication of work and to optimise the use of existing information that can be used for statistical purposes. To that end, and with a view to providing easily accessible and useful information to Union citizens and other stakeholders on rail transport safety and interoperability of the rail system, including the rail infrastructure, appropriate cooperation agreements on statistical activities should be established between the Commission's services and relevant entities, including at international level.
- (4) Most Member States transmitting passenger data to the Commission (Eurostat) under Regulation (EC) No 91/2003 have regularly provided the same data for both the provisional and final datasets.
- (5) There should be a balance between the needs of the users and the burden on respondents when producing European statistics.
- (6) Eurostat has conducted a technical analysis of the existing data on rail statistics collected under the Union legislation and of the dissemination policy, within its Working Group and Task Force on rail transport statistics, to simplify as much as possible the various activities necessary for producing statistics, while keeping the final output in line with present and future user needs.

- (7) In its report to the European Parliament and the Council on the experience acquired in the application of the Regulation (EC) No 91/2003, the Commission mentions that long-term developments will probably mean the suppression or simplification of the data already collected under the Regulation, and that the intention is to reduce the data transmission period for annual data on rail passengers. The Commission should continue to provide reports at regular intervals on the way in which this Regulation is implemented.
- (8) Regulation (EC) No 91/2003 confers powers on the Commission to implement some of the provisions of this Regulation. As a consequence of the entry into force of the Treaty on the Functioning of the European Union ('the Treaty'), the powers conferred on the Commission under this Regulation need to be aligned with Articles 290 and 291 of the Treaty.
- (9) In order to reflect new developments in the Member States whilst at the same time maintaining the harmonised collection of rail data across the Union and with a view to maintaining the high quality of the data transmitted by the Member States, the power to adopt acts in accordance with Article 290 of the Treaty on the functioning of the European Union should be delegated to the Commission, in respect of the adaptation of the technical definitions and the provision of additional technical definitions. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016². In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

² OJ L 123, 12.5.2016, p. 1.

- (11) The Commission should ensure that these delegated acts do not impose a significant additional burden on the Member States and on the respondents.
- (12) In order to ensure uniform conditions for implementation of Regulation (EC) No 91/2003, implementing powers should be conferred on the Commission as regards the specification of information to be supplied for the reports on the quality and comparability of the results, and on arrangements for the dissemination of results by the Commission (Eurostat). These powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers³.
- (13) The European Statistical System Committee has been consulted.
- (14) Regulation (EC) No 91/2003 should therefore be amended accordingly,

³ OJ L 55, 28.2.2011, p. 13.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 91/2003 is amended as follows:

(1) Article 3 is amended as follows:

(a) In paragraph 1, points 24-30 are deleted;

(b) Paragraph 2 is replaced by the following:

2. The Commission is empowered to adopt delegated acts, in accordance with Article 10 concerning the adaptation of the technical definitions set out in points 8 to 10 and 21 to 23 of paragraph 1, as well as the provision of additional technical definitions when needed to take into account new developments which require a certain level of technical detail to be defined in order to ensure harmonisation of statistics.'

When exercising this power the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States and on the respondents. In addition, the Commission shall duly justify the statistical actions provided for in those delegated acts using, where appropriate, cost-effectiveness analysis, including an assessment of the burden on respondents and of the production costs, as referred to in point (c) of Article 14(3) of Regulation (EC) No 223/2009.

(2) Article 4 is amended as follows:

(a) In paragraph 1, points b, d and h are deleted;

(b) Paragraph 2 is replaced by the following:

‘2. Under Annexes A and C, Member States shall report data for undertakings:

(a) whose total volume of goods transport is at least 200 million tonne-km or at least 500 000 tonnes;

(b) whose total volume of passenger transport is at least 100 million passenger-km.

Reporting in Annex A and Annex C shall be optional below the thresholds referred to in points (a) and (b).’

(c) Paragraph 3 is replaced by the following:

‘3. Under Annex L, Member States shall provide the total data for undertakings below the threshold referred to in paragraph 2 if these data are not reported under Annexes A and C, as specified in Annex L. ’

(3) In Article 5 (2), point b is replaced by the following:

‘(b) administrative data, including data collected by regulatory authorities, in particular the rail freight waybill if one is available’.

(4) Article 7 is replaced by the following:

‘Article 7
Dissemination

Statistics based on the data specified in Annexes A, C, E, F, G, and L shall be disseminated by the Commission (Eurostat).

The Commission shall adopt implementing acts laying down the arrangements for the dissemination of results. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

(5) In Article 8, paragraphs 1a, 3 and 4 are added:

‘1a. Member States shall take all measures necessary to ensure the quality of the data transmitted.’

3. For the purposes of this Regulation, the quality criteria to be applied to the data to be transmitted are those referred to in Article 12(1) of Regulation (EC) No 223/2009*.

4. The Commission shall, by means of implementing acts, specify the modalities, structure, periodicity and comparability elements for the standard quality reports.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).’

*

Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom

(6) Article 9 is replaced by the following:

‘Article 9
Report

The Commission, after consulting the European Statistical System Committee, shall submit a report to the European Parliament and to the Council by 31 December 2020 and every four years thereafter on the implementation of this Regulation and future developments.

In that report, the Commission shall take account of relevant information provided by Member States related to quality of the data transmitted, the data collection methods used and information on potential improvements and users’ needs.

In particular, that report shall:

- (a) assess the benefits₂ accruing to the Union, the Member States and the providers and users of statistical information₂ of the statistics produced, in relation to their costs;
- (b) assess the quality of the data transmitted, the data collection methods used and the quality of the statistics produced;’

(7) Article 10 is replaced by the following:

‘Article 10
Exercise of the delegation

1. The power to adopt delegated acts *is* conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 3(2) shall be conferred on the Commission for a period of five years from [Publications office: please insert the exact date of the entry into force of the amending Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 3(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
- 3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016⁴.

⁴ OJ L 123, 12.5.2016, p. 1.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 3(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'

(8) Article 11 is replaced by the following:

‘Article 11
Committee

1. The Commission shall be assisted by the European Statistical System Committee, established by Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European Statistics. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.’

- (9) Article 12 is deleted.
- (10) Annexes B, D, H and I are deleted.
- (11) Annex C is replaced as set out in the Annex to this Regulation.
- (12) Annex L is added as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX
'Annex C'

ANNUAL STATISTICS ON PASSENGER TRANSPORT — DETAILED REPORTING	
List of variables and units of measurement	Passengers transported in: <ul style="list-style-type: none"> – number of passengers – passenger-km Passenger train movements in: <ul style="list-style-type: none"> – train-km
Reference period	Year
Frequency	Every year
List of tables with the breakdown for each table	Table C3: passengers transported, by type of transport Table C4: international passengers transported, by country of embarkation and by country of disembarkation Table C5: passenger train movements
Deadline for transmission of data	Eight months after end of reference period.
First reference period	201X *
Notes	1. Type of transport is broken down as follows: <ul style="list-style-type: none"> – national – international 2. For Tables C3 and C4, Member States shall report data including information from ticket sales outside the reporting country. This information may be obtained either directly from the national authorities of other countries or through international compensation arrangements for tickets.

*** OJ: Please insert the year of entry into force of this Regulation**

'Annex L'

Table L.1

LEVEL OF TRANSPORT ACTIVITY IN GOODS TRANSPORT	
List of variables and units of measurement	Goods transported in: – total tonnes – total tonne-km Goods train movements in: – total train-km
Reference period	One year
Frequency	Every year
Deadline for transmission of data	Five months after end of reference period
First reference period	201X (<i>the year following the adoption of this Regulation</i>)
Notes	Only for undertakings with a total volume of freight transport of less than 200 million tonne-km and less than 500 000 tonnes and not reporting under Annex A (detailed reporting)

Table L.2

LEVEL OF TRANSPORT ACTIVITY IN PASSENGER TRANSPORT	
List of variables and units of measurement	Passengers transported in: <ul style="list-style-type: none"> – total passengers – total passenger-km Passenger train movements in: <ul style="list-style-type: none"> – total train-km
Reference period	One year
Frequency	Every year
Deadline for transmission of data	Eight months after end of reference period
First reference period	201X (<i>the year following the adoption of this Regulation</i>)
Notes	Only for undertakings with a total volume of passenger transport of less than 100 million passenger-km and not reporting under Annex C (detailed reporting)