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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT pursuant to Article 294(6) of the Treaty on the Functioning of the European Union concerning the position of the Council on the adoption of a Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 91/2003 on rail transport statistics, as regards the collection of data on goods, passengers and accidents

Delegations will find attached document COM(2016) 506 final.

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Brussels, 10.8.2016
COM(2016) 506 final

2013/0297 (COD)

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TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

position of the Council on the adoption of a Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 91/2003 on rail transport statistics, as regards the collection of data on goods, passengers and accidents

(Text with EEA relevance)

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council 30 August 2013

COM(2013) 611–2013/297(COD)

Date of the opinion of the European Economic and Social Committee: NA

Date of the position of the European Parliament, first reading: 11 March 2014

Date of transmission of the amended proposal: NA

Date of adoption of the position of the Council: 18 July 2016

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The aim of the Commission's proposal is to modify Regulation (EC) No 91/2003¹ in order to update, simplify and optimise the existing legal framework for European statistics on rail transport and to align it with the Treaty on the Functioning of the European Union (TFEU), as far as delegated and implementing powers is concerned.

The proposed Regulation would empower the Commission to adopt delegated acts for the purpose of adapting the definitions and thresholds for reporting, amending the content of the Annexes, and specifying the information to be supplied.

It would also confer implementing powers on the Commission with a view to ensuring uniform conditions as regards the specification of information to be supplied for producing

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).

the reports on the quality and comparability of the results, in accordance with the examination procedure laid down in Article 5 of Regulation (EU) No 182/2011².

3. COMMENTS ON THE POSITION OF THE COUNCIL

3.1 General comments

The position of the Council reflects on the one hand the agreement reached between the Council, the European Parliament Transport and Tourism Committee and the Commission in the tripartite discussions of 24 May 2016 and, on the other hand, the new Inter-Institutional Agreement on Better law-making of 13 April 2016³.

The main issue blocking the file was reaching an understanding with the European Parliament on the formalisation of the sharing of data between Eurostat, the European Railway Agency (ERA)⁴ and the Directorate-General for Mobility and Transport (DG MOVE) through bilateral Memoranda of Understanding (MoU).

A consensus was eventually reached with the signature of two MoU, one between Eurostat and DG MOVE and one between Eurostat and ERA. These gave the European Parliament the guarantee that the data it requested will be processed and made available.

The text does not contain any explicit reference to MoUs, but a recital refers to “appropriate cooperation agreements on statistical activities”.

The Council adopted its position at first reading on 18 July 2016.

The Council’s position is acceptable for the Commission.

3.2 Comments on the amendments adopted by the European Parliament

3.2.1. European Parliament amendments included in full, in part or in principle in the Councils position at first reading

On 11 March 2014, the European Parliament adopted a legislative resolution proposing 23 amendments. The Commission rejected the majority of them, including the requests for additional variables. In particular the European Parliament was of the opinion that data collection should be extended further to include rail infrastructure data, and that there should be more measurement variables for statistics on passenger transport, in particular with regard to cross-border connections that it considered should be at the heart of the EU’s transport policy.

² 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 powers (OJ L 55, 28.2.2011, p.13).

³ OJ L 123, 12.5.2016, p.1.

⁴ Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European railway agency (OJ L 164, 30.4.2004, p. 1). On 16 June 2016, following the entry into force of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004(OJ L 138, 26.5.2016, p. 1), the European Union Agency for Railways replaces and succeeds the European Railway Agency (ERA).

3.2.2. European Parliament amendments not included in the Council position at first reading

The main amendments relating to the explicit addition of new variables were not included in the Council position.

3.3 Provisions modified by the Council and the Commission's position

The new recital (3a) addresses the issue of further data collection with a view to avoiding duplication of work and optimizing the use of existing information. It also specifies that “appropriate cooperation agreements on statistical activities should be established between the Commission’s services and relevant entities, including at international level”.

Article 3(2) refers to the sole power conferred on the Commission to adopt delegated acts in order to adapt existing technical definitions and introduce new technical definitions. It also specifies that, when exercising this power the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents. In addition, the Commission shall duly justify the measures provided for in the delegated acts using, where appropriate, analysis of their cost-effectiveness, including assessments of the burden on respondents and of the production costs, as referred to in Article 14(3) (c) of Regulation (EC) No [223/2009](#).

Although the Commission regrets the limited nature of the empowerment given relative to the original proposal, it can however consider the current provision acceptable in the spirit of reaching an agreement.

Two further changes have been introduced:

A new paragraph has been added to Article 7 on implementing measures to be adopted laying down the arrangements for the dissemination of results.

The new Article 9 on reporting provides for the Commission to report to the European Parliament and to the Council on the implementation of Regulation (EC) No [91/2003](#) by 31 December 2020, and every four years thereafter instead of only reporting once as specified in the current Regulation.

The standard recital and Article 10 on the exercise of the delegation of power are in line with the new Inter-Institutional Agreement on Better Law-Making.

The Commission supports the above.

4. CONCLUSION

The Commission supports the compromise reached as it is very close to the Commission’s original proposal. Furthermore, it creates no additional burden for data providers and is thus in line with the aim of simplifying the existing legal framework for European statistics on rail transport. With regard to the alignment of Regulation (EC) No [91/2003](#) with the TFEU, despite some limitations, the compromise provides a good balance between delegated and implementing acts. The text is an example of the successful application of the new Inter-Institutional Agreement on Better Law-Making.