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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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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 Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast)

Delegations will find attached document COM(2016) 35 final.

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Brussels, 26.1.2016
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**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 Directive of the European Parliament and of
the Council on the interoperability of the rail system within the European Union
(Recast)**

(Text with EEA relevance)

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1. BACKGROUND

On 30 January 2013, the Commission adopted a comprehensive package of six legislative proposals to deliver better quality and more choice in rail services in Europe.

Improvements in service quality and efficiency are needed to make rail a more attractive choice for passengers and to encourage modal shift. Better value for money and sustainability can be achieved for scarce public funds.

The Package also aims to encourage innovation in EU railways to meet user expectations. It does this in three different and interrelated ways:

- (1) opening domestic passenger markets to competition and making it mandatory to tender for public service contracts;
- (2) strengthening the independence of infrastructure managers so that they control all the core functions of the rail network and ensuring fair access for all to the railway;
- (3) strengthening the role of the Agency to make it a ‘one stop shop’ for issuing EU-wide vehicle authorisations for placing on the market as well as EU-wide safety certificates for operators.

Date the proposal was sent to the European Parliament and to the Council

(document COM(2013) 30 final — 2013/0015 COD):

31 January 2013

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

10 July 2013

Date of the opinion of the Committee of Regions:

8 October 2013

Date of the position of the European Parliament, first reading: 26 February 2014

Date of adoption of the Council position: 10 December 2015

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The Commission proposed recasting the Interoperability Directive (2008/57/EC) to resolve major shortcomings. Despite the changes introduced by the previous railway packages, a wide array of national technical rules remain in force throughout the EU, and vehicle authorisation procedures differ greatly between Member States. Maintaining strong market access barriers for new entrants and rail vehicle manufacturers in this way prevents the completion of a genuine single European rail area.

The Commission proposed introducing a simplified and unified vehicle authorisation framework, and also proposed extending the scope of Technical Specifications for Interoperability (TSI) and clarifying their link with national rules. To achieve these objectives, the Commission proposed further empowering the European Railway Agency ("the Agency").

3. COMMENTS ON THE COUNCIL POSITION

The position at first reading adopted by the Transport Council on 10 December 2015 supports the main objectives of the Commission proposal of introducing a Single Vehicle Authorisation.

The Council position also includes new provisions addressing specific cases and the concerns of some Member States:

- Placing in service of trackside control-command and signalling subsystem. The Council position maintains the competence of placing this subsystem in service in the hands of the national safety authorities;
- a transitional period of three years for Chapter V of Directive 2008/57/EC instead of the proposed two years; and
- the deadlines for implementing the TSIs. The Council position has diluted the proposed text which allowed a clear indication of deadlines for the application of TSIs to existing subsystems. .

The Commission welcomes that the Council position added:

- a one stop shop for vehicle authorisations, because this will facilitate the exchange of information between the applicants, the Agency and the national safety authorities.
- a new provision requesting the Agency to set up a new European Vehicle Register, because this will simplify the current situation with 26 National Vehicle Registers and is consistent with the new role of the Agency in terms of vehicle authorisation.

However, the Commission regrets:

- all modifications introduced in relation to delegated and implementing powers, including the systematic recourse to the non-opinion clause, which is contrary to the letter and to the spirit of Article 5§4 second subparagraph, point b) of Regulation (EU) No 182/2011;
- the suppression of the obligation of the Member State to supply to the Commission information which is clear and precise as regards the transposition of Directives in national law, as acknowledged by the European parliament, the Council and the Commission in their Joint Political Declaration of 27 October 2011 on explanatory documents.

4. CONCLUSION

The Commission considers that updating legislation on the interoperability of the railway system is crucial to introducing a simplified and unified vehicle authorisation framework. Updated legislation would reduce significantly the wide array of national technical rules in the EU and, equally importantly, the major discrepancies in Member States' vehicle authorisation procedures.

In a spirit of compromise, the Commission accepts the position adopted by the Council thus allowing the European Parliament to adopt the final text in a second reading, together with the other five proposals under the Fourth Railway Package. Indeed, the Commission considers that simultaneously adopting both the market and technical pillars would maximise the benefits in terms of the quality of service, efficiency and the competitiveness of the rail industry.