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DOCUMENT 2-1763/84

Report

drawn up on behalf of the Committee on Transport

on the proposals from the Commission of the European Communities to the Council (COM(83) 764 final - Doc. 1-1375/83) for

- I. a Decision amending Decision 75/327/EEC on the improvement of the situation of railway undertakings and the harmonization of rules governing financial relations between such undertakings and States
- II. a Regulation amending Council Regulation (EEC) No. 1107/70 on the granting of aids for transport by rail, road and inland waterway

Rapporteur: Mr B. VISSER

PE 91.027/fin.

By letter of 1 February 1984 the Council of the European Communities requested the European Parliament to deliver an opinion on the proposals from the Commission to the Council for a Decision amending Decision No. 75/327 /EEC on the improvement of the situation of railway undertakings and the harmonization of rules governing financial relations between such undertakings and States and for a Regulation amending Council Regulation (EEC) No. 1107/70 on the granting of aids to transport by rail, road and inland waterway. On 13 February 1984 the European Parliament referred this document to the Committee on Transport.

At its meeting of 19 March 1984 the Committee on Transport appointed Mr Vandewiele (EPP Group) rapporteur, but at the same meeting decided to postpone the consultation on this document until after the direct elections and to recommend that the newly constituted committee should give priority to this item.

Under Rule 116 of the European Parliament's Rules of Procedure, this request for an opinion was deemed to have lapsed after 25 May 1984. By letter of 20 June 1984, however, the Council informed the President of the European Parliament that the Commission proposals were being resubmitted to the European Parliament for consideration.

At its sitting of 11 September 1984 the European Parliament decided that in accordance with the interpretation of Rule 116 of the Rules of Procedure these proposals had been resubmitted and confirmed their referral to the Committee on Transport.

At its meeting of 17 October 1984, the Committee on Transport appointed Mr Visser rapporteur. It discussed the subject at its meetings of 29 October, 23 November and 17 December 1984. It considered the draft report at its meetings of 29 January and 20 February 1985.

At its meeting of 21 February the committee unanimously decided to recommend to the European Parliament that it approve the Commission's proposal with the following amendments. At the same meeting it unanimously adopted the motion for a resolution as a whole.

The following took part in the vote: Mr Anastassopoulos (chairman); Mr Klinkenborg (vice-chairman); Mr Visser (rapporteur); Mrs Braun-Moser, Mr Buttafuoco, Mr Carossino, Mr Cornelissen (deputizing for Mr Baudis), Mrs Faith, Mr Hoffmann, Mr Lagakos, Mr Marshall, Mr Musso (deputizing for Mr Roux), Mr Newton Dunn, Mr Rossetti, Mr Schreiber (deputizing for Mr Fatous), Mr Starita, Mr Topmann and Mr Van der Waal.

The report was tabled on 25 February 1985.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Committee on Transport hereby submits to the European Parliament the following amendments to the Commission's proposals and motion for a resolution together with explanatory statement:

I. Proposal for a Council decision amending Decision 75/327/EEC on the improvement of the situation of railway undertakings and the harmonization of rules governing financial relations between such undertakings and States

Text proposed by the Commission

Amendments tabled by the Committee on Transport

Amendment No. 1: Preamble, 2nd recital

Whereas, with a view to harmonizing the conditions of competition, the Member States should be assigned the responsibility for decisions with regard to infrastructure and the coverage of infrastructure expenditure, and the undertakings should at least be charged the cost of using the infrastructure in question; whereas, however, this must not place the railway undertakings at a disadvantage compared with their main competitor;

Whereas, with a view to harmonizing the conditions of competition and at the same time improving the financial position of railway undertakings, the Member States should be assigned financial responsibility for the maintenance and development of the railway network; whereas, in return, the railway undertakings are to be charged the cost of using the infrastructure in question, provided that their competitors bear similar costs;

Amendment No. 2: Preamble, 4th recital

Whereas, in return for the financial outlay requested of the States, provision should be made for the possibility of their requiring rationalization measures to be carried out, inter alia in the context of the public service obligations,

Delete

Article 1, paragraphs 1-3

unchanged

Amendment No. 3: Article 1, paragraph 4

4. The following Article 13a shall be inserted:

'Article 13a

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| 1. Not later than 1 January 1990, the State shall ensure that the public service obligations imposed on the undertaking pursuant to Regulation (EEC) No. 1191/69 are replaced where possible by contracts between the undertaking and the national, regional and local authorities to determine the services to be provided and the conditions under which the said services are covered. | 1. Not later than 1 January 1990 the State shall ensure that the public service obligations imposed on the undertaking pursuant to Regulation (EEC) No. 1191/69 are replaced where possible by contracts between the undertaking and the customer authorities to determine the services to be provided and their payment during a three-year trial period compensation should be permitted either through Regulation (EEC) No. 1191/69 or through contracts. |
| 2. Where the State considers it necessary to place a limit on the amount of compensation and aid to be paid, it may request the undertaking to take the necessary rationalization measures entailed thereby.' | 2. unchanged |

Article 1, paragraphs 5 and 6

unchanged

Amendment No. 4: Article 2

As soon as possible and not later than 1 January 1985, Member States shall, after consulting the Commission, bring into force the laws, regulations and administrative provisions necessary for the implementation of this Decision.

Not later than two years after the entry into force of this Decision and after consulting the Commission, Member States shall bring into force the laws, regulations and administrative provisions necessary for its implementation.

Article 3

unchanged

Annex

unchanged

II. Proposal for a Council regulation amending Regulation (EEC) No. 1107/70 on the granting of aids for transport by rail, road and inland waterways

unchanged

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposals from the Commission of the European Communities to the Council for

- a decision amending Decision 75/327/EEC on the improvement of the situation of railway undertakings and the harmonization of rules governing financial relations between such undertakings and States
- a regulation amending Council Regulation (EEC) No. 1107/70 on the granting of aids for transport by rail, road and inland waterway

The European Parliament,

- having regard to the Commission's proposals¹,
- having been consulted by the Council pursuant to Article 75 of the EEC Treaty (Doc. 1375/83),
- having regard to its resolutions of 16 October 1981 on the achievement of financial balance by railway undertakings², of 9 March 1982 on the future of the Community railway network³, of 20 May 1983 on the commercial policy of the railways⁴ and of 30 March 1984 on cooperation between railway undertakings⁵,
- having regard to the report of the Committee on Transport, (Doc. 2-1763/84),
- having regard to the result of the vote on the Commission's proposals,

¹J No. C 36 of 10 February 1984, p. 5 et seq.

²J No. C 287 of 9 November 1981, p. 141
RIPA di MEANA report (Doc. 1-564/81)

³J No. C 87 of 5.4.1982, p. 42
GABERT report (Doc. 1-982/81)

⁴J No. 161 of 20 June 1983, p. 172
GABERT report (Doc. 1-254/83)

⁵J No. C 117 of 30 April 1984, p. 218
GABERT report (Doc. 1-1521/83)

- A. whereas the objectives to be attained by means of the Commission's proposals fit in with the broad guidelines set by the European Parliament for a common railway transport policy, namely:
- harmonization of the conditions of competition between different modes of transport,
 - creation of transparency as regards the financial situation of railways and the relations between railway undertakings and the Member States,
 - achievement of financial balance by railway undertakings,
- B. whereas the Commission's proposals in their present form, however, provide no adequate guarantee that these objectives for Community rail transport will be achieved at a substantially earlier date;
- C. whereas insufficient consideration is given to the following factors in the Commission's proposals:
- railway passenger and goods traffic are different economic and social propositions and therefore cannot always be subject to the same rules; passenger traffic, in particular, cannot be regarded purely as a commercial activity;
 - the ownership and management of railway infrastructures must remain the responsibility of a single authority;
 - a Community policy to improve the financial situation of the railways must not, under any circumstances, entail the risk that under-developed regions of the Community or those affected by economic crisis are further disadvantaged by reductions in transport services;
- D. whereas a genuine improvement in the situation of Community rail transport requires transport planning guidelines which will make clear the important role to be played by rail transport within the Community's transport system offering as it does safe and environmentally acceptable operation and rational use of energy,
1. Welcomes the basic objectives of the Commission's proposals;
 2. Considers, however, that the Commission has disregarded some important principles in its proposals and that various changes to these proposals are called for, and requests the Commission to adopt these amendments;
 3. Calls on the Commission to submit a concrete proposal as soon as possible on the development of a long-term approach to the common transport policy which will define the roles of the various modes of transport in relation to each other;
 4. Calls on the Commission, in its future railway policy, to give greater weight to the public service obligations of the railways in addition to the commercial aspect;
 5. Calls on the Council to adopt the Commission's proposals as amended by the European Parliament as soon as possible;

6. Calls on the Member States to make appropriate investment funds available and to contribute to the improvement of the situation of railway undertakings by carrying out infrastructure developments in keeping with the times;
7. Calls on the Community's railway undertakings to increase their cost awareness and make further improvements in the efficiency of their operations;
8. Instructs its President to forward this resolution, as Parliament's opinion, to the Council and the Commission of the European Communities and to the Group of Ten Railway Undertakings of the European Community.

EXPLANATORY STATEMENTI. The significance of the Commission proposals in the context of Community railway policy to date

1. The problem of improving the financial situation of railway undertakings has figured in the European Community's transport policy from the outset. The railways' low capital (in relation to the scope of their business), numerous operating obligations based on political considerations, other public service obligations and also the excessive burden of non-operating charges that other transport undertakings do not have to bear have led to an increasing deterioration in their financial performance over the last 50 years and built up a level of indebtedness, affecting undertakings in all the Member States, that places their economic capacity to survive in jeopardy.
2. There has always been agreement hitherto - otherwise a rare event - between the European Parliament¹, the Commission² and the Council of the European Communities³ that rail transport must be accorded a major role in common transport policy because of its lack of impact on the environment, its safety and its rational use of energy. Although the Community has not yet succeeded, in the context of its transport policy, in adopting clear political guidelines for the future role of rail transport, it is nonetheless quite obvious that further progress with the common transport policy depends on finding solutions to the present financial problems of railway undertakings.
3. In view of the present stage reached in discussions, further justification of the need for appropriate measures at Community level is really unnecessary. In its Decision of 13 May 1965⁴ the Council provided in Article 8 that:

'From 1 January 1968, provisions governing the financial relations between railway undertakings and States shall be progressively harmonized'. It was also provided that 'Such harmonization shall be directed at making such undertakings financially autonomous and shall be completed by 31 December 1972 at the latest'.

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- 1 European Parliament Resolution of 9 March 1982 on the future of the Community railway network on the basis of the report by Mr GABERT (Doc. 1-982/82) OJ No. C 87 of 5.4.1982, p. 43;
 - 2 Communication from the Commission to the Council on Community railway policy: review and outlook for the 1980s COM(80) 752 final;
 - 3 See Council Resolution of 15 December 1981 on Community railway policy OJ No. C 157 of 22.6. 1982, p. 1
 - 4 Council Decision 65/271/EEC of 13 May 1965 on the harmonization of certain provisions affecting competition in transport by rail, road and inland waterway OJ No. 88 of 24.5. 1965, p. 1500

4. The Council of Ministers then adopted several items of legislation on the basis of this Decision. Regulations 1191¹ and 1192² of 1969 were intended to phase out, or else neutralize by means of compensation payments, the public service obligations and other burdens affecting the railways' competitiveness imposed on them by the State. These were followed by Regulation 1107³ of 1970, which regulated the conditions under which - in addition to compensation payments - state aid could be paid to railway undertakings. In the same year Regulation 1108⁴ introduced an accounting system for expenditure on infrastructure.
5. In practice this legislation did not lead either to the greater transparency which was its aim or to the hoped-for reduction in State-imposed obligations on the railways. The reason for this is probably that the Community provisions allowed Member States such wide powers when it came to interpreting the rules⁵ that by and large they were able to continue their previous practice without the Commission being able to take action on the grounds that Community rules had been infringed. The Commission's comments on the application of these rules are highly laconic⁶. The Council also openly admitted this setback

1 Council Regulation (EEC) No. 1191/69 of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway, OJ No. L 156 of 28.6.1969, p. 1

2 Council Regulation (EEC) No. 1192/69 of 26 June 1969 on common rules for the normalization of the accounts of railway undertakings, OJ No. L 156 of 28.6.1969, p. 8

3 Council Regulation (EEC) No. 1107/70 of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway
OJ No. L 130 of 15.6.1970, p. 1

4 Council Regulation (EEC) No. 1108/70 of 4 June 1970 introducing an accounting system for expenditure on infrastructure in respect of transport by rail, road and inland waterway
OJ No. L 130 of 15.6.1970, p. 4

5 It is known, for example, that in connection with the application of Regulation 1191/69 certain Member States classified the whole of railway passenger traffic as a 'public service', the maintenance of which was essential for an adequate transport service. The objective of separating profitable from unprofitable routes was thus made impossible from the outset, without any infringement of the Regulation.

6 See for instance the Commission's fourth biennial report on the economic and financial situation of railway undertakings
COM(84) 1 final, p. 4

when it acknowledged in its Resolution of 27 June 1974¹ that 'in recent years' the railways had required 'ever increasing amounts of financial assistance from the State' and that with reference to Article 8 of the Decision of 1965 it regarded transparency as an objective which had still to be achieved, when according to the Decision of 13 May 1965 it should already have been achieved in 1972.

6. Following this setback the Council of Ministers made a second attempt to solve the problems with its Decision of 20 May 1975². In view of the more difficult situation 'the gradual improvement of the financial situation of railway undertakings' was stated as an explicit objective, which meant, in particular, that 'this improvement should result in an improvement of the financial results of these undertakings with a view to achieving financial balance'.

The Decision sets out the following means of achieving this end:

- greater financial independence and commercial responsibility for railway undertakings;
- the prevention of political intervention not justified by socio-economic considerations;
- a clear division of responsibilities between railway undertakings and the State;
- the establishment of financial and accounting rules;
- improved cooperation between railway undertakings;
- transitional measures for the achievement of financial balance.

¹ Council Resolution of 27 June 1974 on the proposal for a Council Decision on Article 8 of the Council Decision of 13 May 1965, OJ No. C 111

² Council Decision 75/327/EEC of 20 May 1975 on the improvement of the situation of railway undertakings and the harmonization of rules governing financial regulations between such undertakings and States, OJ No. L 152 of 12.6.1975, p. 3

7. In order to implement these plans, in 1977 and 1978 the Council provided for uniform principles for the railways' accounting¹ and especially costing systems². In 1982 and 1983 rules were adopted on the independent management by the railways of their international luggage³ and passenger traffic⁴. Finally, on 10 May 1984 the Council made a recommendation to the railway undertakings⁵ on strengthening their cooperation.
8. The Commission's proposal on improving the situation of railway undertakings⁶, which is now before the European Parliament, fits into this context. It is intended to form the keystone in the system of measures scheduled in Decision 75/327/EEC, because it is not only the final link in the chain of measures, but also the pivotal one on which the success or failure of the whole chain depends. The comments below, however, show that it does not live up to this claim in full and that something more is required if its objectives are to be achieved.

II. The measures proposed by the Commission

9. The Commission proposal seeks the adoption of Community rules for the following:
 - (a) the relationship between the State and railway undertakings in respect of the provision of infrastructures;
 - (b) the finances of railway undertakings with the aim of moving closer towards financial balance;
 - (c) a change in the relationship between the State and railway undertakings with regard to the provision of public services.

1 Council Regulation (EEC) No. 2830/77 of 12 December 1977 on the measures necessary to achieve comparability between the accounting systems and annual accounts of railway undertakings
OJ No. L 334 of 24.12.1977, p. 13

2 Council Regulation (EEC) No. 2183/78 of 19 September 1978 laying down uniform costing principles for railway undertakings
OJ No. L 258 of 21.9.1978, p. 1

3 Council Decision 82/529/EEC of 19 July 1982 on the fixing of rates for the international carriage of goods by rail
OJ No. L 234 of 9.8.1982, p. 5

4 Council Decision 83/418/EEC of 25 July 1982 on the commercial independence of the railways in the management of their international passenger and luggage traffic
OJ No. L 237 of 26.8.1983, p. 32

5 See Council press release 6993/84 on the meeting of 10 May 1984 (Annex)

6 COM(83) 764 final

(a) Provision of infrastructures

10. The Commission proposes that 'expenditure on rail infrastructure' should be covered by finance from the Member State made available at the beginning of each financial year, while the rail undertakings should be charged 'the costs of using the infrastructure'. At the same time the State is either to decide on the construction of new railway lines, line closures and major developments or leave the decisions to the railway undertakings.
11. The costs to be charged to the railway undertaking should consist of the costs of using the infrastructure plus an extra charge. The cost of use should be determined on the basis of a marginal cost calculation, for which the State should have a choice between three methods. The amount of the extra charge is to be at the discretion of each Member State, but it may not put the railway undertaking in a worse position than the mode of transport 'regarded by the State as the main competitor'.

(b) Moves towards financial balance

12. According to Article 15 of Decision 75/327/EEC¹ the Commission was to submit proposals to the Council 'to fix the time limit and conditions for achieving the financial balance of the railway undertakings'. The Commission initially fulfilled this obligation with two proposals² which mainly set out the definition of financial balance and a time limit in which it should be achieved, after which State deficit subsidies would be strictly limited. The European Parliament approved these proposals on 16 October 1981³, but the Council of Ministers has reached no decision on them.
13. The new batch of Commission proposals presents these old proposals in revised form. Financial balance is to be regarded as having been achieved when the expenses of a railway undertaking are covered by its revenue, over a period, which in the Commission's view should now not

¹ Council Decision of 20 May 1975 on the improvement of the situation of railway undertakings and the harmonization of rules governing financial relations between such undertakings and States
OJ No. L 152 of 12.6.1975, p. 3

² Proposal for a Council Regulation setting a time limit and conditions for the achievement of financial balance by railway undertakings, and proposal for a Council Decision amending the Decision (75/327/EEC) on the improvement of the situation of railway undertakings and the harmonization of rules governing financial relations between such undertakings and States
OJ No. C 37 of 20.2.1981, p 7 and 10

³ OJ No. C 287 of 9.11.1981, p. 140

exceed 3 years, to be set by the Member States. A new idea is that the Member States are to be required to set an upper limit for the indebtedness of their railway undertakings 'in the light of principles governing sound commercial management'. At the same time the States are to take the necessary financial measures to ensure that actual indebtedness is reduced at least to the upper limit within 4 years. After this period State deficit subsidies to the railways will be examined by the Commission in the light of the aid rules and only permitted if they are part of a plan to improve the railways' situation and are degressive in nature.

(c) Changes in the performance of public service tasks

14. The Member States have always imposed public service obligations on railway undertakings. The principle set out in Regulation 1191/69¹, namely that the Member States should abolish these obligations, has remained a dead letter. All the Member States maintain extensive public service obligations with the argument that these are essential for an adequate transport service.
15. In these circumstances the Commission is now proposing that these obligations should be replaced, where possible, by contracts between the undertakings and the authorities which will determine services and how they are to be covered. A further provision will be that the Member States may require the railway undertakings to take rationalization measures.

III. The effects of the measures proposed by the Commission

(a) Provision of infrastructures

16. Decisions about infrastructure measures and their financing have previously been the responsibility of railway undertakings, with substantial political influence from the Member States. There were many complaints, however, that the railways were at a disadvantage in competing with other modes of transport because they had to finance their infrastructure costs themselves. If the Commission's plan were implemented it would bring the situation of the railways closer to that of other modes of transport, whose infrastructures are provided by the State, which covers its costs, either wholly or in part, through taxes and other levies.

¹ Council Regulation (EEC) No. 1191/69 of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway
OJ NO. L 156 of 28.6.1969, p. 1

17. In addition to adjustments in the conditions of competition the Commission's plan could lead to infrastructure improvements through increased investment, and thereby improve the competitiveness of the railways. At present the railways' willingness to invest is restricted by their level of indebtedness. Financing infrastructure directly from State budgets calls for investment decisions which must be based on a comparative assessment carried out as part of a cost/benefit analysis.
18. The main objection made hitherto to the State assuming responsibility for railway infrastructures¹ concerns the risk that the railways might lose an important competitive advantage over other modes of transport if, as the sole users, they lost exclusive control of their infrastructures. Consequently, it must be ensured that the ownership and management of infrastructures remain the responsibility of the railways.
19. In their present form the Commission's proposals also leave the Member States considerable room for manoeuvre, e.g. a choice between three different methods for calculating the costs of using infrastructures, the discretionary decision on the 'extra charge' and the differentiation between infrastructure expenditure and other expenditure by railway undertakings. The actual effects would therefore vary widely, according to the prevailing political ideas in each Member State. In the worst case it is conceivable that the financial resources actually available to the railways for infrastructure investment will remain the same or even shrink, while at the same time a complicated accounting system will lead to even more bureaucracy.
20. The Commission's proposals should therefore be amended so that financial responsibility for railway infrastructure is assigned to the Member States, while the railway undertakings continue to be fully responsible, as the owners, for the development and maintenance of their infrastructures. Future infrastructure investments could be agreed annually between States and railway undertakings during budget consultations, as happens in the Netherlands and the Federal Republic of Germany, on the basis of investment plans drawn up by the railways. Community rules on this are not absolutely essential, however, because no distortions of competition will occur if the Member States adopt different domestic rules on this point.

¹ See, most recently, the CAROSSINO report on progress towards a common transport policy
Doc. 1-1138/83, point 48 of the Explanatory Statement

21. In order to equalize conditions of competition the railway undertakings must be charged for using the infrastructures to offset the advantage of financial responsibility for the infrastructures being borne in future by the Member States. The system proposed by the Commission for calculating these charges, however, has the following disadvantages:
- it is too complicated, and since it is possible to choose between three different methods, it does not bring about genuine harmonization;
 - it does not provide a genuine easing of the burden of infrastructure costs on railways because the States will virtually be able to maintain the status quo by means of the extra charge proposed by the Commission.
22. A uniform method should therefore be prescribed for calculating the marginal costs. The rapporteur agrees with the Group of Ten Railway Undertakings of the European Community in regarding the method described under (b) in Annex I of the Commission's proposals as the most suitable.
23. The railway undertakings are also calling for the external costs to be charged to all modes of transport, because in their view this would show up the environmental benefits of rail transport in economic terms. Your rapporteur believes, however, that it would be unfair to charge these costs if the railways, in accordance with the Commission's proposal, are only charged the marginal costs for the use of the infrastructures. Moreover, as the Commission states, at present there is no prospect of a practical method of calculating the external costs.
24. At the same time the aim of using long-term traffic policy measures to create the conditions under which the railways can genuinely improve their economic situation must not be forgotten. Accordingly, there must be long-term guidelines under the common transport policy which provide a reliable and clear definition for the whole transport sector of the railways' role in the Community's future transport system. Even the Council of Ministers has already acknowledged that the railways must play a major role in the Community's transport system on account of their safe and environmentally acceptable operation and their rational use of energy. In addition, they possess a valuable infrastructure, the optimum use of which is in the public interest.
25. On the basis of this role definition it would be possible to introduce rational infrastructure planning tailored to actual needs¹. In addition, such guidelines could convert the sharp conflict of interests between the competing modes of transport into complementary services geared to actual requirements, so that the problem of harmonizing conditions of competition would also become less acute.

¹In this connection, see the European Parliament's resolution of 12 March 1984 on transport infrastructure planning (OJ No. C 104 of 16 April 1984, p. 24), KLINKENBORG report, Doc. 1-1347/83

26. This role definition, of course, makes it necessary for the Commission to rethink the underlying principles of the future common transport policy to some extent.

The relationship between the various modes of transport cannot be modelled on is free competition under fair conditions. The service function of transport in respect of other areas of economic and social life must also be taken into account. Some regulatory measures are ultimately necessary to meet the requirements of traffic safety and environmental protection and also to prevent the increasingly frequent jams which arise from the massing of individual traffic movements and which cause huge economic losses in Europe.

27. This plan for the future must therefore be geared to the qualitative and quantitative developments and changes in traffic flows and to developments within the individual modes of transport. The factors involved include the changing relationships between countries producing raw materials and those processing them (e.g. relations with developing countries, more finished goods), new transport techniques (e.g. increased container traffic) and an increase in combined forms of transport. The aim must be to obtain a better medium- and long-term view of developments in the transport sectors, both individually and together, and to align transport and investment policy accordingly. At the Committee on Transport's meeting in Genoa the Italian Minister of Transport stated that in the first half of 1985 he would be giving detailed consideration to a basis for greater integration. The Commission should therefore submit such a multiannual forecast (which can also be described as 'planning guidelines') to Parliament at the earliest possible date. In working out future plans for traffic flows and transport capacity in which greater emphasis is placed on integration, the following assumptions should be adopted for rail transport:

- maintenance of current transport capacity (including essential public service obligations), i.e. no major rundown of services, but improvements vis-à-vis the present situation in the individual countries;
- maintenance of the structure of the railways as public undertakings;
- expansion of the railways' role in goods traffic developments (combined and container transport);
- in the Member States investment and operation costs are also subsidized in different ways, in many cases invisibly and indirectly. Such aid should be made more transparent, but without hindering the achievement of the objectives set out above.

(b) Moves towards financial balance

28. If the Commission wishes to prescribe an upper limit for indebtedness and the reduction of State payments of deficit subsidies, this indicates that in order for the railways to achieve financial balance it is not enough for the Community to limit itself to defining the objective and setting a time-limit for its achievement, while leaving the Member States completely free to choose the measures to be taken. Establishing an upper limit for indebtedness can be an intermediate step towards improving the situation of railway undertakings, in that it will force the Member States either to increase the undertakings' own capital or to discharge debts incurred in the past.
29. The effectiveness of this measure would, of course, be placed in jeopardy by the wide discretion that the Member States are to have in establishing the upper limit for indebtedness. It is true that the Commission would be able to monitor whether the Member States follow the 'principles governing sound commercial management' in setting the upper limit, but it has to be asked whether these rules would not enable the Member States to continue their present practices with different accounting procedures.
30. By means of its monitoring of deficit subsidies under the aid rules, which is due to start on 1 January 1990, the Commission could induce those Member States whose railways have not achieved financial balance by that date to adopt an effective plan for improving their situation. The effectiveness of this instrument would depend solely on the Commission's strength of purpose.
31. Contrary to the Commission's proposals, however, it is essential to distinguish between passenger and goods traffic. Although they both use the same infrastructure they perform different functions. It is completely unrealistic to use the same yardstick for sectors which differ so widely. Given its public service obligations in particular, the wholesale reduction of aid for passenger traffic appears to be impossible.
32. This becomes particularly clear if the shares of these types of traffic in the cost structure of the railway undertakings and the obligation to provide services in the public interest are looked at closely:
- in Germany, for example, goods traffic bears the majority (60%) of the costs, while passenger traffic accounts for only 40%. In the Netherlands the ratio is reversed with 60% for passenger traffic and 40% for goods traffic, while in the UK and France the costs are allocated more or less equal, i.e. about 50% in each sector;
 - in most Member States obligations to provide services in the public interest are laid on the railways in respect of parts of the passenger traffic network or the network in its entirety, but in Denmark a proportion of goods traffic is also included in these obligations;
 - the ways in which the Member States currently subsidize the railways' investment and operating costs vary widely and in many cases are invisible and indirect; initially, the various forms of aid would therefore have to be made more transparent, but without affecting the railways' efficiency and the fulfilment of their public service tasks.

(c) Changes in the performance of public service tasks

33. The Commission believes that contractual arrangements for specific public services, which under its proposals should become the norm, will lead to a clearer distinction between commercial services and public services and make it possible to bring the latter more into line with requirements¹.
34. The Commission proposal does of course leave some questions unanswered: Will the railway undertakings be able to refuse to sign contracts on the provision of public services and what will happen if no contract is signed? Does the phrase 'where possible' refer to this? What is the meaning of the provision that the Member States may require the railway undertakings to take rationalization measures? Can the Member States not do this anyway? Would it not be obvious to include the obligation to carry out rationalization, if necessary, in the contract on the provision of public services? Finally, the formulae chosen by the Commission not make it possible for the Member States to leave things as they are?
35. These questions can remain unanswered, however, because in this respect the Commission's proposal is unacceptable for different reasons. In seeking to make the railways' public services dependent on the prior signing of contracts with national, regional and local authorities, the Commission overlooks the fact that underdeveloped regions or those affected by economic crisis would be even more disadvantaged than at present, because they themselves would be apportioned the costs for appropriate transport services, whereas hitherto they have been covered by a type of 'mixed calculation' as a result of the uniformity of national rates.
36. This point shows again that the Commission places too much emphasis in its railway policy on the admittedly important commercial aspect, while giving insufficient weight in practice to the railways' public service tasks to which it pays lip service.

IV. Overall assessment

37. There is basic agreement about the objectives that are to be achieved by means of the Commission's proposal:
- (a) harmonization of conditions of competition between the various modes of transport,
 - (b) harmonization of the position of railway undertakings in the individual Member States,
 - (c) transparency of the relations between States and railway undertakings,

¹See the explanatory memorandum accompanying the Commission's proposals in COM(83) 764 final, p. 5, point 13.

- (d) transparency of the financial position of railway undertakings,
- (e) reduction of indebtedness,
- (f) achievement of financial balance.

38. There are nonetheless a number of serious objections to the measures proposed by the Commission:

- the calculation of marginal costs is too complicated and offers too much scope for different interpretations;
- the possibility of choosing between three alternatives, together with the inclusion or exclusion of a subsidy, may lead to excessive differences;
- the allocation of costs is arbitrary and the definition of individual concepts such as 'infrastructure' is also unclear;
- there is no mention of time limits for carrying out the measures;
- the demarcation line between States and railway undertakings with regard to responsibility for infrastructure is unclear (difference between ownership and management; either the State or the railway undertaking is responsible);
- if sufficient consideration is given to the specific conditions in the individual countries, which vary widely; not enough attention is paid to these differences;
- the rationalization measures adversely affect the quality of transport services and the State's obligation to provide services;
- rationalization measures generally place the greatest burden on weaker regions;
- the Commission's proposal does not differentiate between passenger traffic and goods traffic, but treats both sectors equally;
- in its present form the Commission's proposal is certainly not the final step as regards the harmonization of transport policy; major harmonization proposals have not yet been implemented;
- it is doubtful whether the debt burden can be reduced as quickly as the Commission proposes;
- the application of the competition provisions of the Treaty is unrealistic as regards passenger traffic.

39. A way out of the present impasse can be found by means of the following proposals, which could lead to a substantial improvement in the financial position of the railways without the Member States ultimately having to bear a greater financial burden than at present:

- financial responsibility for rail infrastructures should be transferred to the Member States;
- the ownership and management of the infrastructures should remain the responsibility of the railway undertakings;

