



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.07.1995  
COM(95)377 final

95/0204 (SYN)

Proposal for a

**COUNCIL REGULATION (EC)**

**amending Regulation (EEC) 1107/70 of the Council on the granting of aids for transport by rail, road and inland waterway**

(presented by the Commission)



## **PREAMBLE**

### **GENERAL AIM OF THE PROPOSAL**

1. The general aim of the proposal is to renew the mechanism for aid for combined transport as laid down by Regulation (EEC) n° 1107/70, as last amended by Regulation (EEC) n° 3578/92 and to improve certain procedural aspects of it. The inequality of distribution, by mode and by type of use, of infrastructure charges as well as the insufficient allocation of social costs in the transport prices operates against non-road modes of transport and therefore against combined transport. Due to the long lead-times that are required, it is necessary and urgent to extend the existing mechanism of support for intermodal services. It also is advisable to take into account the diversity of the national situations and therefore to continue to permit Member States, pursuant to the principle of subsidiarity, to select the form of aid most suitable and in conformity with their national priorities, for example a choice between specialized infrastructure or equipment (modification of gauge or use of low wagons, upgrading the standards or techniques for the axle changing, are the most frequent examples).

Thus, the proposals include the possibility of national aid for combined transport infrastructure (including intermodal terminals), for transfer facilities between modes and for specialised equipment for intermodal transport.

Regarding aid for running costs, the possibility remains open for transit lines but applies only to services through Switzerland and the States of former Yugoslavia.

2. The proposal also intends to simplify the procedure by explicitly limiting it, in all the cases referred to in Article 3 paragraph 1 letter e) of Regulation 1107/70, to a posteriori control by the establishment of a report. It deletes Article 4 which is of no further use following the abrogation of the Council Decision on the basis of Directive n° 91/440 which took effect on 1 January 1993 and is referred to in this article.

In order that operators can make decisions with a sufficient guarantee of stability and transparency, the proposal envisages a validity period until 31 December 1997.

While most business organisations directly involved in railway transportation are in general agreement with this proposal, UNICE have indicated that they would prefer each transport mode to support itself in an open market rather than to provide subventions. Road transport operators too would lose out to those profiting from intermodal transport operations which are receiving State aids.

3. The actions of the Community under consideration in this proposal can be analysed in terms of subsidiarity by means of answering four fundamental questions.

(a) what are the objectives of the action under consideration in relation to Community obligations ?

The Union has to set up and to guarantee an effective and suitable transport system to meet the mobility needs of its users. Intermodal transport is one of the main parts of this mechanism in that it allows the best use of our transport resources. However, the inequality of the allocation of costs between modes and between categories of users constitutes a heavy handicap for its development, which can only be resolved in the short term by means of aid at national and Community level.

The action envisaged here aims, therefore, to permit Member States to grant aids for combined transport, whilst respecting the procedures set up by the Treaty on competition policy, and to cover the various categories of aid necessary according to the situation of each Member State ( allowing some to choose infrastructure measures and others equipment to overcome the same type of difficulties).

(b) does this proposal fall within the exclusive competence of the Community or is in the presence of a competence shared with the Member States?

This proposal is submitted on the basis of Article 75 of the Treaty and therefore falls within the exclusive competence of the Community.

(c) What measures does the Community have available ?

The Community can accept, on an ad hoc basis, national aids for combined transport. However, having regard to the extent of the needs and to the desire for the Community to promote intermodal transport, in particular with financial support, it is preferable to propose a regulation establishing the categories of aid which are legitimate. This has the double advantage of communicating this political support of the Community and of simplifying the procedures, both for the Member States and for the Commission.

(d) is a uniform regulation necessary or would a directive be sufficient?

The definition of the categories of aid exempted from the procedure of Article 93 can only be undertaken by means of legislation.

## PRESENTATION BY ARTICLE

Article one, first indent, renews until 31 December 1997, the mechanism for aid for combined transport, as created by Regulation (EEC) n° 1107/70, last amended by Regulation 3578/92, i.e. the possibility of State aid for infrastructure, for modal transfer facilities, for combined transport equipment and for the running costs in certain cases.

The second indent modifies the scope of aid for running costs to restrict it only to services transiting Switzerland or the States of former Yugoslavia, as Austria is now a Member State.

The third indent deletes Article 4 of Regulation 1107/70; this article covered provisions involving Council decision n° 75/327 of 20 May 1975, relating to the improvement of railway undertakings and to the harmonization of the rules governing the financial relations between these companies and the State; this decision and these measures were repealed by Council Directive n° 91/440 of 29 July 1991 concerning the development of railways in the Community.

The fifth indent removes the obligation in subparagraph e) to respect the procedure referred to in Article 93, paragraph 3 of the Treaty, because subparagraph e) covers aid already permitted and for which, no problem having been observed, a simplified procedure would be possible and useful.

The other indents harmonize the numbering following the deletion of Article 4.

**COUNCIL REGULATION (EEC) N° ..... OF .....**  
**amending Regulation (EEC) N° 1107/70 on the granting of aids for transport by rail,  
road and inland waterway**

**THE COUNCIL OF THE EUROPEAN UNION,**

Having regard to the Treaty establishing the European Union, and in particular Articles 75 and 94 thereof,

Having regard to the proposal from the Commission<sup>(1)</sup>,

In cooperation with the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

whereas Council Regulation (EEC) N° 1107/70<sup>(4)</sup> of 4 June 1970, on the granting of aids for transport by rail, road and inland waterway, as last amended by Council Regulation (EEC) n° 3578/92 of 7 December 1992<sup>(5)</sup>, provides the Member States with the possibility to develop combined transport by the granting of aid relating to investments in infrastructure and in fixed and mobile equipment necessary for transshipment or concerning the running costs of an intra-Community combined transport service transiting the territory of third countries;

whereas the development of combined transport reveals that the launching phase of this technique has not yet been completed in all regions of the Community and that the aid arrangements have accordingly to be extended;

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(1)

(2)

(3)

(4) OJ N° L 130 of 15.6.1970, p. 1.

(5) OJ N° L 364 of 12.12.1992, p. 11

whereas, consequently, it is appropriate to maintain in force until 31 December 1997 the current aid arrangements and that the Council takes a decision, under the conditions provided for in the Treaty, on the arrangements to be applied thereafter or, if necessary, on the conditions under which it will cease providing this aid;

whereas the possibility of granting aid for the running costs of combined transport services has to be maintained for Switzerland and the States of former Yugoslavia, Austria having since adhered to the European Union;

whereas Council Decision n°75/327 to which Article 4 of Regulation 1107/70 refers was repealed by Council Directive n°91/440<sup>(6)</sup> of 29 July 1991 on the development of the Community's railways and that it is therefore advisable, accordingly, to delete Article 4;

whereas the categories of aid authorised concerning inland transport have already been shown to operate satisfactorily and that it is possible, consequently, to simplify a check of these by exempting them from the procedure referred to in Article 93, paragraph 3 of the Treaty;

whereas the laying down of rules relating to aids allocated by Member States for transport is a matter of exclusive Community competence and must take the form of a Regulation ;

whereas it is appropriate to amend Regulation (EEC) N° 1107/70, accordingly

**HAS ADOPTED THIS REGULATION**

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<sup>(6)</sup> OJ N° L 237 of 24.8.1991, p. 25

## Article 1

Regulation 1107/70 is amended as follows:

- In Article 3, item 1, letter e), the date of 31 December 1995 is replaced by that of 31 December 1997.
- In Article 3, last indent: the words "by Austria," are deleted.
- Article 4 is deleted.
- Article 5, paragraph 1 becomes Article 4, paragraph 1.
- Article 5, paragraph 2, becomes Article 4, paragraph 2 and is replaced by the following text:

"2. Aid referred to in Article 3, paragraph 1, letter e) shall be exempt from the procedure provided for in Article 93 (3) of the Treaty; it shall be communicated to the Commission on an estimated basis at the beginning of each year, and, subsequently, in the form of a report, at the end of the financial year."
- Article 6 becomes Article 5.
- Article 7 becomes Article 6.
- Article 8 becomes Article 7.

## Article 2

This Regulation shall enter into force the first day following that of its publication in the Official Journal of the European Communities.

It shall be applicable as from 1 January 1996.

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

Done at .....

For the Council,  
The President,



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