

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 846 final

Brussels, 20 December 1982

Proposal for a  
COUNCIL DECISION  
on the commercial independence of the railways in the management of their  
international passenger and luggage traffic

---

(submitted to the Council by the Commission)

COM(82) 846 final

EXPLANATORY MEMORANDUMI. GENERAL

1. Europe's railways are more than ever essential to economic and social activity in the Community as a whole, both for freight transport and for passenger transport.

Where passenger transport is concerned, in order to make better use of the advantages which the railways offer society in general, it is necessary for the railway enterprises to develop a dynamic and effective commercial policy designed to enable them to improve the level of service, to attract new customers and to defend the position of the railways against competition on the markets in question.

To enable such a commercial policy to attain these objectives, it is important that measures should be promoted which seek, on the one hand, to remove obstacles to the commercial independence of the railways and, on the other hand, to encourage the railways to continue with their efforts with a view to strengthening international railway cooperation.

2. Following its resolution of 15 December 1981 on railway policy, the Council took note, at its meeting of 10 June 1982, of the Action Programme which the Commission submitted to it on 11 May 1982<sup>(1)</sup>, and asked the Commission to submit practical proposals.
3. Where international passenger transport is concerned, in Chapter II of this Programme the Commission envisaged certain measures (some to be taken by the governments and others to be taken by the railways) in respect of commercial management.

The Commission proposal attached concerns the measures to be taken by the governments with a view to removing obstacles to the pursuit of a dynamic and effective commercial policy by the railways.

---

(1) COM (82) 237 final.

4. The purpose of the attached proposal from the Commission is therefore to grant the railways commercial independence in the management of their international passenger and luggage traffic.

Such independence - a corollary of which is that the governments, in their capacity as Supervisory Authorities, should refrain from intervention in the management of the railways, and that there should be commercial freedom for the railways, in particular in matters concerning marketing and pricing policy - is a pre-requisite for the strengthening of commercial cooperation between the railway enterprises in the Community and, in consequence, an improvement in their position on the passenger transport market.

In return for this independence, the railway enterprises would have to manage their international passenger traffic in such a way as to obtain an optimum remuneration for services and to ensure that the overall financial results make it possible to cover the specific assignable costs and to contribute towards the coverage of joint costs.

5. This proposal will make it possible to extend to international passenger traffic the commercial independence which the railway enterprises already enjoy in their international goods traffic.<sup>(1)</sup> In this way, the railways would enjoy managerial independence in all their international activities, for the purpose of strengthening cooperation so as to optimize their financial results.

## II. PARTICULAR CONSIDERATIONS

### Article 1

The Decision is to be applied to the railway enterprises of the ten Member States. This Article is identical to Article 1 of the Council Decision of 19 July 1982.

### Article 2

This Article specifies the scope of the commercial independence granted to the railway enterprises with regard to pricing, the creation of revenue pools within the framework of communities of interests, and all-in package services.

./...

---

(1) Council Decision of 19 July 1982 (OJ N° L 234 of 9 August 1982, p. 5).

Article 3

In return for managerial independence, the railways will be required to optimize the overall financial results relating to international passenger traffic.

Article 4

With a view to implementing this Decision, the Member State shall eliminate any legal, statutory or administrative obstacles in their national laws.

Article 5

Paragraph 1

By 31 December 1984 at the latest, the railways will state their position on the advisability of setting up a joint office for commercial activities at international level.

Articles 6 and 7

No particular observations.

Proposal for a  
Council Decision on the commercial independence of the  
railways in the management of their international  
passenger and luggage traffic

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,  
and in particular Article 75 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas in its resolution of 15 December 1981 the Council set out the  
broad lines of railway policy within the framework of the common transport  
policy and in particular expressed its interest in greater cooperation  
between railways undertakings where international traffic is concerned;

Whereas the railways have an important role to play where international  
passenger traffic is concerned, and in particular should make better use  
of their capacity;

Whereas the attainment of this objective presupposes that the Member  
States remove all obstacles to sufficient managerial independence of  
railway undertakings, so as to enable them to focus their joint efforts  
on improving international passenger services with a view to optimizing  
their financial results;

./...

Whereas such cooperation in the commercial management of such traffic, taking into account joint interests, entails in particular a flexible, dynamic and attractive pricing policy reflecting the specific structure of the international markets in question,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall take the necessary steps to ensure that this Decision is applied to the following railway undertakings:
  - Société nationale des chemins de fer belges (SNCB)/Nationale Maatschappij der Belgische Spoorwegen (NMBS),
  - Danske Statsbaner (DSB),
  - Deutsche Bundesbahn (DB),
  - Ὀργανισμός Σιδηροδρόμων Ἑλλάδος Α.Ε. (ΟΣΕ),
  - Société nationale des chemins de fer français (SNCF),
  - Coras Iompair Eireann (CIE),
  - Azienda autonoma delle ferrovie dello Stato (FS),
  - Société nationale des chemins de fer luxembourgeois (CFL),
  - Naamloze Vennootschap Nederlandse Spoorwegen (NS),
  - British Railways Board (BRB),
  - Northern Ireland Railways Company Ltd (NIR).
  
2. As regards the Société nationale des chemins de fer luxembourgeois (CFL), Belgium and France shall, in conjunction with Luxembourg, make any amendments to the basic texts which may prove necessary to permit the application of this Decision. This Decision shall be applied without prejudice to Article 5 of the Belgo-Franco-Luxemburg Convention of 17 April 1946.

./...

Article 2

1. The railway undertakings shall enjoy commercial independence in the management of their international passenger and luggage traffic.
2. Independence within the meaning of paragraph 1 shall include in particular the freedom for the railway undertakings to determine transport rates and conditions in accordance with the market situation and their own interests, including the choice of instruments, the establishment of international transport rates independent of domestic transport rates and the creation of revenue pools within the framework of communities of interest.
3. The railway undertakings shall be allowed to offer, on their own or in cooperation with other transport undertakings or the tourist industry, all-in package services.

Article 3

The railways shall manage the commercial international passenger and luggage traffic in such a way as to obtain an optimum remuneration for services and to ensure that the overall financial results ensure the coverage of specific assignable costs and a contribution to the coverage of joint costs.

Article 4

Member States shall remove, within the framework of their railway legislation, any legal, regulatory or administrative obstacles to the strengthening of commercial cooperation between the railway undertakings as regards international passenger and luggage traffic.

./...

Article 5

1. By 31 December 1984 at the latest, the railway undertakings shall submit to the Commission and to the Council a report on the advisability of establishing, for international passenger traffic, a joint office with sufficient staff and equipment to implement commercial measures.
  
2. Five years after the entry into force of this Decision, the Commission shall report to the Council on the results of its implementation. The Council shall review the situation in the light of this report and, on a proposal from the Commission, shall take the appropriate decision acting by a qualified majority.

Article 6

Before 1 January 1984, and after consultation with the Commission, Member States shall adopt the provisions necessary for the implementation of this Decision. At the request of a Member State or if the Commission considers it advisable, the latter shall consult the Member States on the draft provisions in question.

Article 7

This Decision is addressed to the Member States and the railway undertakings referred to in Article 1.