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EUROPEAN COMMISSION

Brussels, 18.12.2009
COM(2009)676 final

**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN
PARLIAMENT**

Second report on monitoring development of the rail market

{SEC(2009)1687}

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Second report on monitoring development of the rail market

(Text with EEA relevance)

I. INTRODUCTION

1. For several years, the railway sector in Europe has experienced a period of significant change; this change is linked both to developments in the regulatory framework – particularly at EU level – and also to economic, social and demographic factors.
2. Since the 1990s, a series of legislative measures have been adopted at Community level; these notably include three legislative packages aimed at setting up a European railway area based on free competition between rail undertakings (please refer to Annex 1¹).
3. This trend is now reaching a decisive stage. While the opening-up of the market initially only involved rail freight, from 1 January 2010, international passenger traffic will now also be opened up to competition. The regulatory framework governing interoperability and safety was also recently amended due to the adoption of Directives 2008/57/EC and 2008/110/EC².
4. These constant changes to the regulatory framework have prompted the legislator to decide to ask the Commission to monitor developments in the European rail market on a regular basis, so as to assess the impact of Community policy on the rail market, and also to make it easier to define the measures which need to be adopted and implemented in the future with regard to the rail sector.
5. This report therefore meets the obligation to monitor the European rail market, as required under Directive 2001/12/EC³.
6. This monitoring was provided for in an initial Communication on monitoring the development of the rail market, adopted on 18 October 2007⁴. This report does not

¹ This report on monitoring development of the rail market is accompanied by a Commission Staff Working Paper containing 26 annexes.

² Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (OJ L 191, 18.7.2008) and Directive 2008/110/EC of the European Parliament and of the Council of 16 December 2008 amending Directive 2004/49/EC on safety on the Community's railways (OJ L 345, 23.12.2008).

³ Section Va of Directive 2001/12/EC of the European Parliament and of the Council of 26 February 2001 (OJ L 75, 15.3.2001) amending Council Directive 91/440/EEC on the development of the Community's railways.

⁴ Communication to the Council and the European Parliament on monitoring development of the rail market, 18 October 2007 (COM(2007)609).

just update the first document, but also contains specific new information on subjects not discussed in the previous one.

II. RAIL MARKET MONITORING SCHEME (RMMS)

7. The Commission has set up a Rail Market Monitoring Scheme (RMMS) in order to meet the requirements as regards the monitoring of the market.
8. The Commission is assisted in its monitoring tasks by a working group formed of experts from national ministries and the railway industry, including social partners. Between 2001 and mid-2009, the RMMS working group met on 22 occasions, with four of its meetings taking place since the adoption of the previous report.
9. The efficiency of its work has improved thanks to the preparation of a standard questionnaire containing a series of indicators concerning various aspects of the rail market (see Annex 26). The Commission regrets that a number of Member States did not reply to the questionnaire or did not complete it in full. The information contained in some of the annexes is therefore incomplete. The possibility of including a legal obligation to provide certain information within the framework of the recasting of the first railway package is currently being considered.
10. The analysis contained in this report is based on the RMMS group's work, and in particular on the results of the questionnaire, but also on recent studies and from statistics from the European Commission, specifically Eurostat. As regards these statistics, unfortunately annual data for transport in 2008 was not available due to a computer problem.

III. IMPLEMENTATION OF THE LEGAL AND INSTITUTIONAL FRAMEWORK

11. All Member States with rail networks have transposed the Directives contained in the first railway package. However, incorrect transposition, to varying degrees and affecting at times various aspects, prompted the Commission to send letters of formal notice to 24 Member States in June 2008, and subsequently reasoned opinions to 21 Member States in October 2009 (Annex 3).
12. Particularly since 2008, the Commission has received several complaints on the operation of the market, particularly in relation to the conduct of market players, for example as regards the management of terminals and access to services. It is in the light of these comments that the Commission is considering clarifying or amending certain provisions contained in the first rail package by means of a recasting exercise.
13. The role of the group of monitoring bodies (Annex 4), set up by the Commission, also needs to be emphasised, this group having made fruitful dialogue possible and also enabled the comparison of the various national practices to take place.
14. On the subject of the second rail package, the necessary national institutions have been set up (Annexes 4, 5 and 6). The Commission services are currently launching a legislation implementation monitoring exercise, focusing primarily on safety aspects.

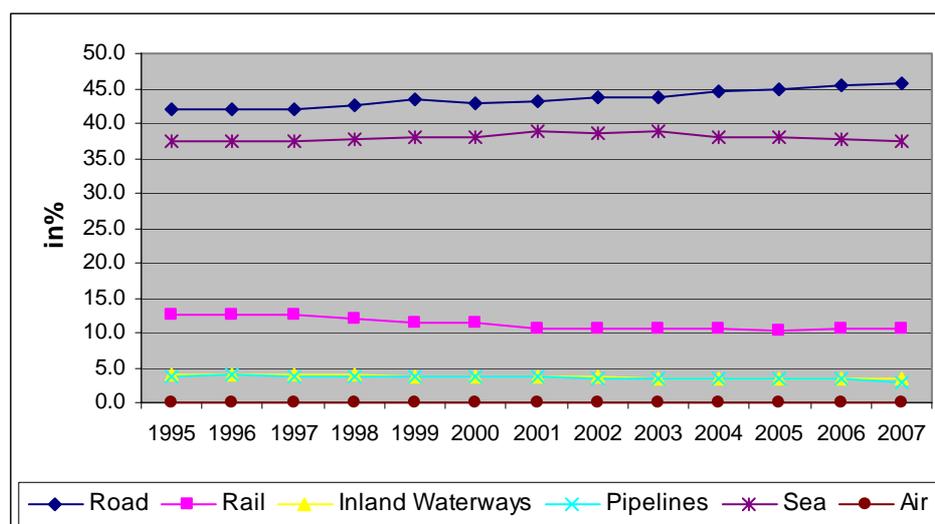
15. On the subject of the third rail package, the deadline for transposing Directive 2007/58/EC⁵ on the opening up of the market for international rail transport passenger services within the Community was 4 June 2009 (see Annex 2). However, the deadline for transposing Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers was 4 December 2009.
16. Finally, the European Railway Agency (ERA), established in 2006, is now fully operational. The ERA supports the introduction of a European rail area integrated on a technical level.

IV. OPERATION OF THE EU RAIL TRANSPORT MARKET⁶

IV.1 The position of rail transport compared to other modes

17. Although the rail share in the freight transport market fell constantly in previous decades, the situation has stabilised since the early 2000s: in EU-27 countries, the rail share, in tonne-kilometres, in the freight sector fell from 12.6 % in 1995 to 10.5 % in 2002, before increasing to 10.7 % in 2007.

Figure 1: Rail share in freight transport (EU-27, 1995-2007)



Source: EU energy and transport in figures statistical pocketbook, 2009.

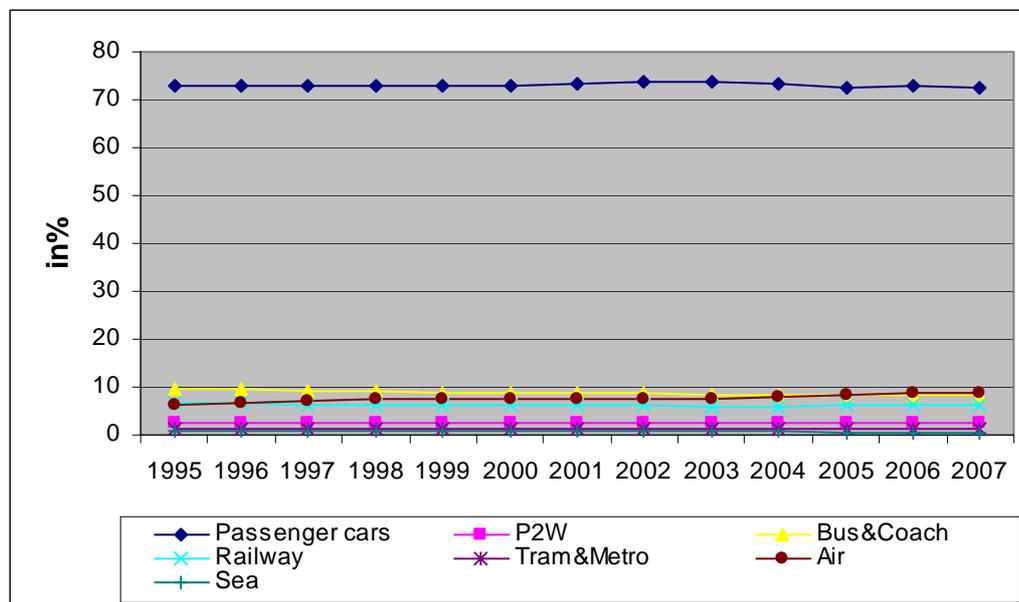
18. The rail sector's share in land freight transport has also stabilised since 2002, with a 17.1 % share, whereas in 1995 it had a 20.2 % share.

⁵ Directive 2007/58/EC of the European Parliament and of the Council of 23 October 2007 (OJ L 315, 3.12.2007, p. 44) amending Council Directive 91/440/EEC on the development of the Community's railways and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure.

⁶ As Cyprus and Malta do not have railway networks, all references to EU-12 or EU-27 countries should be understood as not including these two countries.

19. With regard to passenger transport, the fall seen over the last three decades has recently stopped suddenly. In EU-27 countries, the rail sector's share in the passenger transport market fell from 6.6 % in 1995 to 5.9 % in 2003, before rising again to 6.1 % in 2007 (see Annex 7).

Figure 2: Rail share in passenger transport (EU-27, 1995-2007)



Source: EU energy and transport in figures statistical pocketbook 2009.

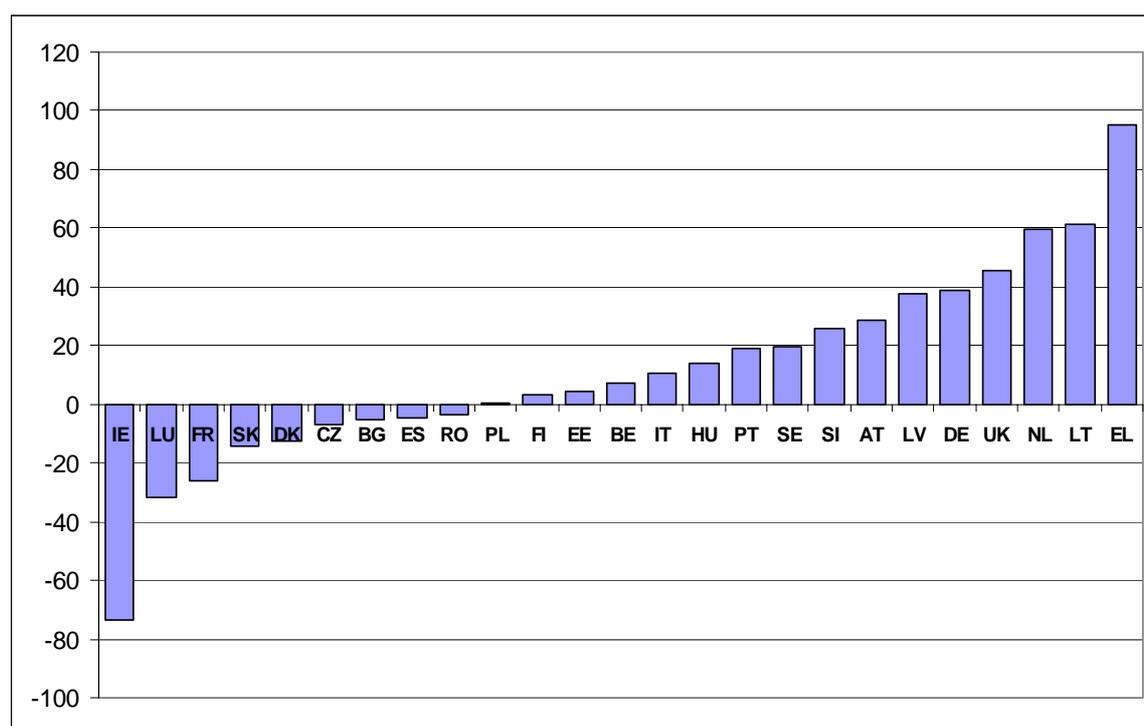
20. However, the passenger rail transport sector's share in land transport was 6.9 % in 2007, as opposed to 6.5 % in 2003.

IV.2 Trends in rail transport volumes and performance⁷

a) Freight transport

21. After several years of a constant decrease which was particularly marked in new Member States, rail freight transport has grown at a not insignificant rate between 2000 and 2007 (see figure 3). This is particularly the case in certain countries where non-incumbent rail undertakings have acquired significant market shares.

Figure 3: Trends in rail freight transport 2000-2007



Source: EU Energy and Transport in Figures Statistical Pocketbook 2009, Table 3.2.5.

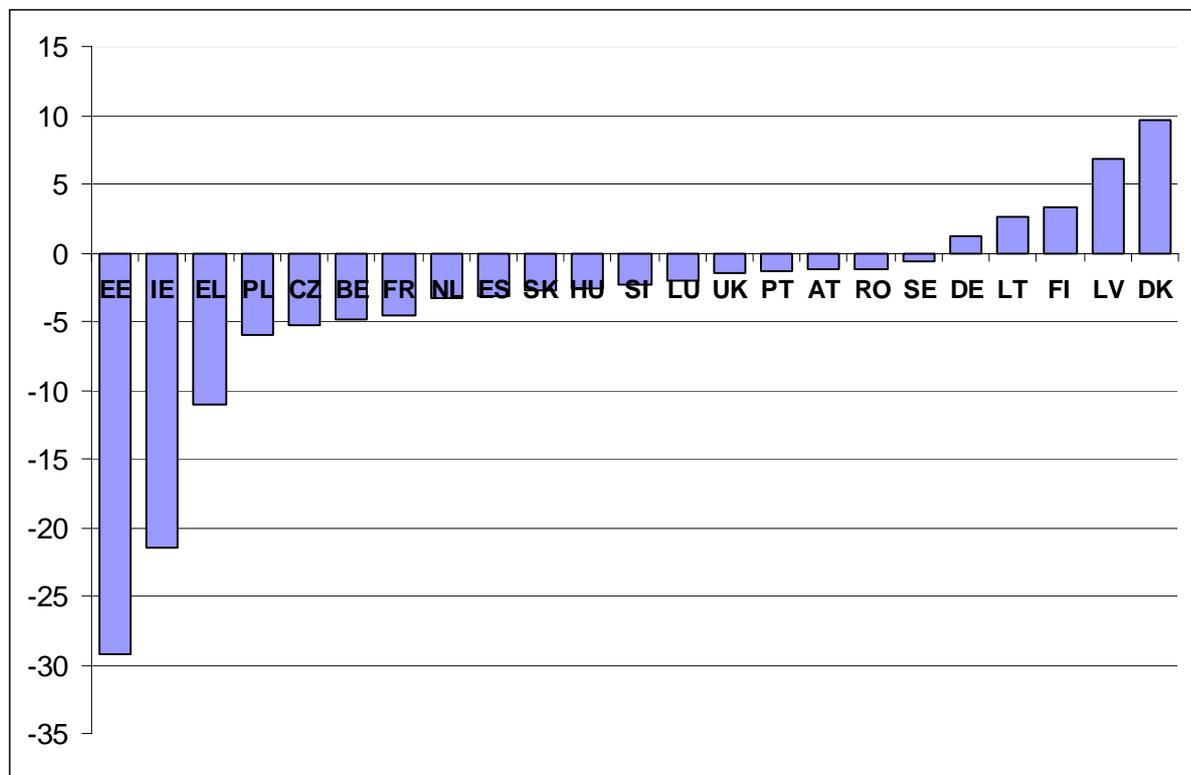
22. In 2007, EU-27 countries saw a rise in rail freight transport of 2.8 % , as opposed to 1.1 % in EU-12 countries and 3.7 % in EU-15 countries (Annex 8 and subsequent annexes).

⁷

Rail transport performance means rail transport expressed in tonne-kilometres or passenger-kilometres.

23. In 2008, trends in rail freight transport (expressed in tonne-kilometres) varied enormously across the EU-27 group of countries. Transport in this sector fell by 29.2 % in Estonia and 21.5 % in Ireland, whilst in Denmark and Latvia it increased by 9.7 % and 6.9 % respectively (see figure 4).

Figure 4: Trends in rail freight transport 2007-2008



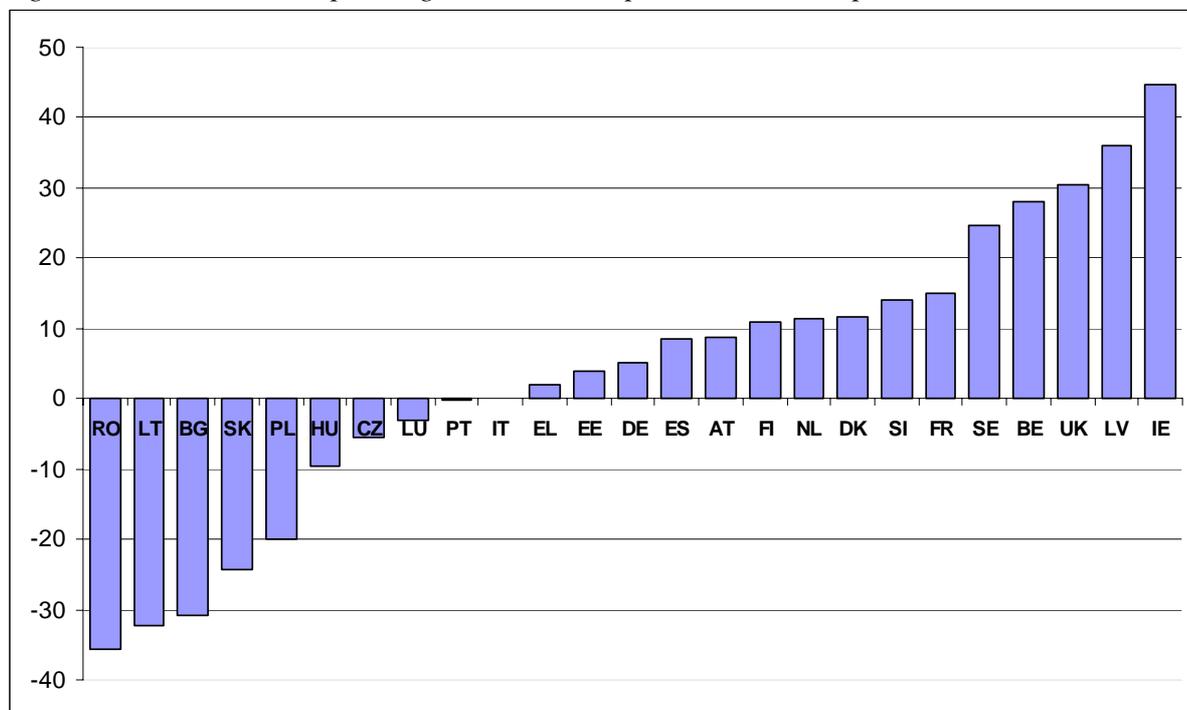
Source: RMMS questionnaires completed by Member States in May-June 2009

24. Since mid-2008, the economic crisis has had a major impact on the transport of goods by rail, affecting, *inter alia*, the economic sectors that traditionally used rail freight services, such as the mining and steel, chemical and automobile industries. Provisional data from the Community of European Railways (CER) would put this reduction at approximately 28 % across the EU as a whole between the second quarter of 2008 and the second quarter of 2009.

b) Passenger transport

25. Between 2000 and 2007, the majority of Member States, and in particular almost all EU-15 countries, saw the transport of passengers by rail increase, reaching 44.6 % in Ireland, 36.1 % in Latvia and 30.5 % in the United Kingdom. Significant drops were seen in several EU-12 Member States, particularly in Romania, Lithuania and Bulgaria, of 35.7 %, 32.3 % and 30.8 % respectively (see figure 5).

Figure 5: Trends in passenger rail transport over the period 2000-2007

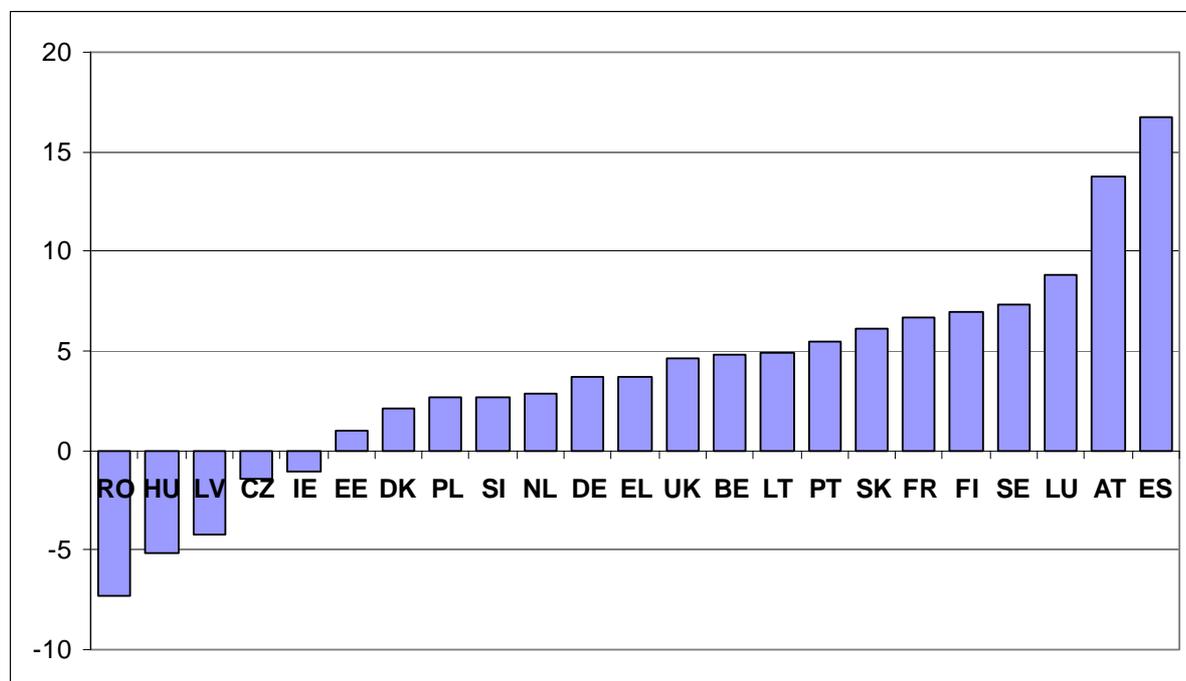


Source : EU energy and transport in figures statistical pocketbook 2009, Table 3.3.7.

26. The increase in traffic has been particularly significant in the high-speed sector. The number of passenger-kilometres increased from 59 million people in 2000 to 92 million in 2007, including 48 million in France, 22 million in Germany and 8 million in Italy. The 'high-speed' share in the total passenger transport market was 23 % in EU-27 countries in 2007; in France this figure is closer to 60 %.

27. In 2008, passenger transport continued to increase, particularly in Spain, Austria and Luxembourg, with increases of 16.7 %, 13.8 %, and 8.8 % respectively. The most significant reductions in transport were seen in Romania, Hungary and Latvia of 7.3 %, 5.2 % and 4.2 % respectively, as can be seen in figure 6.

Figure 6: Trends in rail passenger transport in 2007/2008



Source: RMMS questionnaires completed by Member States in May-June 2009

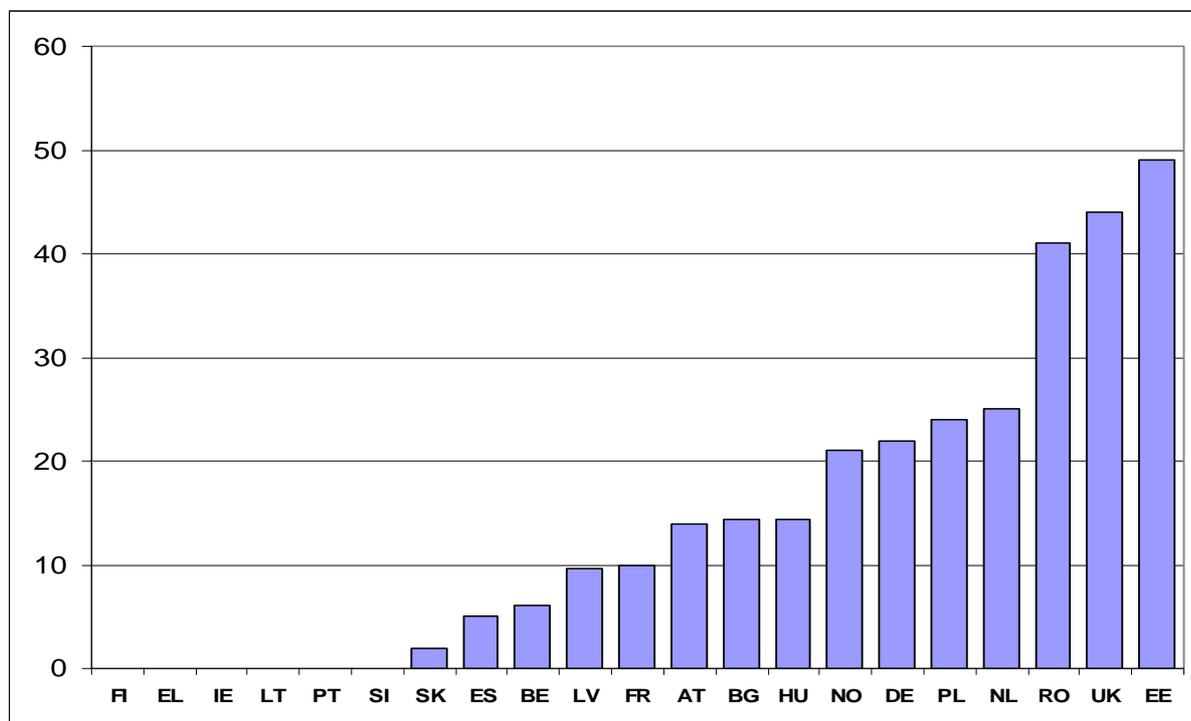
28. Provisional CER figures indicate that between the second quarter of 2008 and the second quarter of 2009, passenger transport fell by 5 % in EU-15 countries, and by 0.7 % in EU-12 countries. This would appear to be more pronounced for business travel, where it potentially exceeded 10 %; the sale of second-class tickets would appear to have remained relatively stable, benefiting from both the fact that some former first-class travellers changed to second-class and also from an advantageous fare policy on the part of rail undertakings.

V. OPENING-UP OF THE RAIL MARKET

29. There are over 600 rail operating licences in the freight sector, including 315 in Germany and 67 in Poland. The number of licences in the passenger sector now exceeds 450, including 302 in Germany and 45 in the United Kingdom.
30. Figure 7 shows the market shares of non-incumbent railway undertakings providing freight services. In terms of tonne-kilometres, non-incumbents' market shares are greatest in Estonia (49 %), the United Kingdom (44 %), Romania (41 %), the Netherlands (25 %) and Poland (24 %). With regard to passenger transport, non-incumbent undertakings have particularly large market shares in Estonia (58 %), in Sweden, and also in the United Kingdom, where several undertakings created in the wake of the previous monopoly have been integrated into a variety of holdings.

Annex 12 shows the distribution of market shares between the various undertakings in EU-27 countries.

Figure 7: Total market shares (%) of non-incumbent rail freight operators at the end of 2008



Source: RMMS questionnaire completed by Member States in May-June 2009

31. As far as freight is concerned, the Estonian, UK and Romanian markets are the most open (Annex 13). *De facto* monopolies still exist in several Member States. With regard to passenger transport, local monopolies often exist alongside each other, with no competition between the various rail undertakings.

VI. PERFORMANCE OF RAILWAY UNDERTAKINGS

a) Employment

32. At the end of 2008, the number of staff employed by undertakings responsible for the commercial operation of rail transport services was 118 000 in Poland, 112 000 in France and 86 000 in Germany (Annex 14). However, the respective responsibilities of managers of rail infrastructures and rail undertakings vary from country to country and it is therefore hard to make comparisons.

b) Financial health

33. There is also another significant disparity between rail undertakings' performance in EU-15 and those in EU-12 countries (see Annex 15). The poor financial health of EU-12 railway undertakings is mostly due to insufficient payment in respect of the provision of public services, undertakings' continued debts to the State and the (not

financially viable) investments made by certain operators in recent years. The current crisis is affecting all EU-27 countries, hence a general worsening in undertakings' health.

c) Rolling stock

34. The level of annual growth in the market over the period 2007-2013 was estimated in 2008 at 2.2 % worldwide by UNIFE (Association of the European Rail Industry)⁸. However, the reality will probably be less than this forecasted figure, due to the consequences of the crisis, which is having a major impact on, *inter alia*, the purchase of rolling stock for freight transport.
35. By 2013, the high-speed trains sector is expected to be the most dynamic sector in western Europe, whilst conventional passenger trains and the freight sector will continue to dominate in eastern Europe.

d) Quality of service and comparison with regard to ticket prices

36. Measuring the quality of rail freight services in the European Union, the subject of a 2008 communication⁹, continues to be difficult given a general lack of quality indicators. Where they do exist, such as in the case of intermodal transport (Annex 16), the quality of services would still appear to be insufficient.
37. With regard to passenger transport, the degree of consumer satisfaction with extra-urban transport services is low: a Commission survey (see Annex 23) indicated satisfaction among less than half of passengers¹⁰.
38. Another study¹¹ also identified the considerable variation in train fares between Member States, with a second-class train ticket for a 200 km journey costing up to the equivalent of EUR 60 in the United Kingdom and EUR 48 in Germany, but no more than EUR 5.50 or EUR 6 in Bulgaria and Latvia respectively. In EU-15 countries, fares are cheapest in Greece (EUR 8), Portugal (EUR 14) and Belgium (EUR 17).

e) Safety

39. According to the European Rail Agency's report, a total of 1 517 people were involved in rail transport accidents in 2007, as opposed to 1 319 in 2006. This was, in particular, due to a significant rise in the number of level-crossing accident victims. With regard to train passengers alone, 70 people died in 2007 in the European Union; by contrast, nearly 40 000 people died in road accidents; furthermore, the number of passengers involved in rail accidents decreased from 400 in 1970 to only 77 in 2006 (Annex 24).

⁸ 'UNIFE Worldwide Rail Market Study – status quo and outlook 2016', 2008

⁹ Communication from the Commission to the Council and the European Parliament of 8 September 2008 'The quality of rail freight services' [COM(2008)536 - Not published in the Official Journal].

¹⁰ Source: IPSOS consumer satisfaction surveys 2006 and 2008

¹¹ Source: UBS '2009 prices and salaries' study.

VII. RAIL TRANSPORT INFRASTRUCTURE

a) Length of network

40. The EU has a total of approximately 212 000 km of railway lines. The Member States with the longest networks are Germany (33 890 km), France (29 918 km) and Poland (19 419 km) (Annex 17). Malta and Cyprus have no railway networks. The density of railway lines is highest in the Czech Republic, Belgium and Luxembourg (122, 111 and 106 km/1 000 km² respectively).
41. In 2008, the European rail network included 5 764 km of high-speed lines located in France, Spain, Germany, Italy, Belgium and the United Kingdom. The high-speed network is being greatly extended, particularly in Spain where over 1 600 km of lines are currently being constructed (Annex 18).

b) Trends in infrastructure investment

42. The EU-12 group of countries can be characterised by the poor level of investment provided for rail transport; 2006 figures provided by the CER indicate that average investment per kilometre for the maintenance of railway lines was five times higher in EU-15 countries than in EU-12 countries (Annex 20).
43. It should also be noted that there has been stagnation in rail investment co-financed under the cohesion policy, compared to figures for the period 2000-2006. This finding is striking, despite a very favourable situation marked by a 69 % increase in the budget allocated to transport under regional policy. Within EU-12 countries, the 'rail' proportion of total national investment in the transport sector is largest in Slovenia (45.6 %), Lithuania (36.5 %), the Czech Republic and Slovakia (34 %) and lowest in Poland (20.8 %). Investment in road infrastructure is therefore far higher than investment in rail, in both western Europe and especially in EU-12 countries, as emphasised by an International Transport Forum (ITF) study¹² (Annex 19).

c) Multi-annual fees and contracts

44. Also according to the ITF, the cost of accessing networks varies very significantly from one infrastructure manager to another (Annex 21). Generally speaking, fees for access are very expensive for freight transport in new Member States, particularly in Slovakia and in the Baltic countries, and lowest in Denmark, Spain and Sweden. The cost of access to trains for Intercity passengers is highest in Belgium, Lithuania and Germany and lowest in the Nordic countries.
45. Nevertheless, according to the International Rail-Road Combined Transport Union, it can be noted that the reduction in traffic caused by the crisis has led some infrastructure managers to lower goods trains' access fees, especially in Poland and Slovakia.

¹² Study entitled 'Charges for the use of rail infrastructure 2008'

46. On the subject of multi-annual contracts, the Commission's Communication to the Council and the European Parliament¹³ recommended that Member States and infrastructure managers take a number of measures in order to ensure a good level of service and to achieve the necessary financial equilibrium. Multi-annual contracts have been signed between infrastructure managers and rail undertakings in half a dozen Member States (Annex 22).

d) Deployment of the ERTMS

47. The introduction of the ERTMS (European Railway Traffic Management System) is a significant step towards ensuring greater interoperability. At the end of 2009, approximately 3 000 km of lines in service across the European Union have been fitted with this system. National deployment plans indicate that the ERTMS network is expected to reach 20 000 km by the end of 2012 and 30 000 km by the end of 2020.
48. A European deployment plan was adopted on 22 July 2009. This plan is based on national plans, but focuses on those lines which are the most important at European level. It therefore does not reproduce national plans in their entirety, but makes it compulsory to equip key axes by specific deadlines. Consequently, in the run-up to 2020, the main freight hubs in Europe will be linked by lines which have been fitted with ERTMS, thus opening the way to new opportunities for rail freight operators.

VIII. CONCLUSIONS

49. This report sets out the main trends observed during recent years across the EU rail market, particularly during 2008. In addition to the consequences of the current economic crisis – which are as yet unclear – it has nevertheless been confirmed that the development of a European rail area and the gradual opening up of the market to competition have allowed the share of the railways in the transport sector to stabilise.
50. This document also provides an overview of the initial tangible effects of the crisis which has affected the sector since mid-2008. Its impact has been more evident in the rail freight sector than in the passenger transport sector. The crisis is also affecting the rolling stock segment to a greater extent than infrastructure, which is expected to benefit most from the economic recovery measures planned by Member States.
51. The recovery plans announced are expected to benefit the rail network to the tune of up to EUR 20 billion, primarily in EU-15 countries. However, doubts have been raised regarding whether certain countries are financially capable of providing all of the investments that were provided for in spite of budgetary difficulties and the increase in debt which are expected. For its part, the EU has mobilised available funds in order to participate in these recovery efforts and in order to speed up the development of trans-European networks, *inter alia* by bringing forward the allocation of EUR 500 million under the TEN-T budget.

¹³ Communication on 'Multi-annual contracts for rail infrastructure quality' (COM(2008)54 of 6 February 2008).

52. On the other hand, in the context of the current crisis, an acceleration of consolidation in the rail freight sector can be seen, marked by the expansion abroad of groups like DB Schenker, as shown in figure 8.

Figure 8: Main mergers and acquisitions in the rail sector since 2005

Year	Company	Takes over	Company
2005	DB Schenker (DE)	98%	RBH (DE)
2005	Trenitalia (IT)	51%	TX Logistik (DE)
2006	Babcock & Brown (AU)	100%	Crossrail (CH)
2007	DB Schenker (DE)	100%	WS (UK)
2007	DB Schenker (DE)	55.1%	Tansfesa (ES)
2008	DB Schenker (DE)	49%	Nord Cargo (FR)
2008	SNCF (FR)	75%	ITL (DE)
2008	OKD Doprava (CZ)	100%	Viamont Cargo (CZ)
2008	Rail Cargo Austria (AT)	55%	Linea (FR)
2008	Veolia (IT)	100%	Rail4Chem (DE)
2009	DB Schenker (DE)	100%	PCC (PL)
2009	Europorte 2 (FR)	100%	Veolia Cargo (FR)
2009	SNCF (FR)	100%	Veolia Cargo (DE)
2009	Veolia Transport (IT)	50%	Transdev (FR)
2009	DB Schenker (DE)	95%	PTK Holding (PL)

Source: Mofair ('Wettbewerber-Report Eisenbahn 2008-2009'); European Commission

53. There is also continued disparity between EU-15 and EU-12 countries, with rail transport undertakings in the latter group of countries very often continuing to suffer from poor financial health. A number of operators have had to resolve this issue by either using part-time staff to a very large extent (such as in Slovakia), or by reducing staff, particularly in Bulgaria.
54. Recovery of the freight sector will be dependent on the anticipated creation of freight corridors¹⁴, but also by developing transport with third countries bordering the EU. The ongoing negotiation of a treaty with the Balkan states, the Community's application for membership of OTIF and technical cooperation with the Organisation for Railways Co-operation (OSJD) forms part of this recovery.
55. The process for monitoring the rail market will be assisted in the short-term by the publication of two studies, which the Commission is currently in the process of producing, entitled 'Situation and perspectives of the international rail market' and 'Study on regulatory options on further market opening in rail passenger transport'.

¹⁴ Proposal for a regulation concerning a European rail network for competitive freight, 11 December 2008.