



Department  
for Transport

*Review of the  
Balance of Competences*

# Call for Evidence on the Government's Review of the Balance of Competences between the United Kingdom and the European Union Transport

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May 2013

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# Introduction

1. The Foreign Secretary launched the Balance of Competences Review in Parliament on 12 July 2012, taking forward the Coalition commitment to examine the balance of competences between the UK and the European Union (EU). The review will provide an analysis of what the UK's membership of the EU means for the UK national interest. It aims to deepen public and Parliamentary understanding of the nature of our EU membership and provide a constructive and serious contribution to the national and wider European debate about modernising, reforming and improving the EU in the face of collective challenges. It will not be tasked with producing specific recommendations or looking at alternative models for Britain's overall relationship with the EU.
2. The review is broken down into a series of reports on specific areas of EU competence, spread over four semesters between autumn 2012 and autumn 2014.<sup>1</sup> The review is led by Government but will also involve non-governmental experts, organisations and other individuals who wish to feed in their views. Foreign governments, including our EU partners and the EU institutions, are also being invited to contribute. The process will be comprehensive, evidence-based and analytical. The progress of the review will be transparent, including in respect of the contributions submitted to it.
3. The Department for Transport (DfT) is leading the review on transport. Transport policy has an impact on economic growth, social development and the environment. It covers air, maritime and land transportation. The DfT plays a crucial role in making transport in the UK efficient, safe and accessible as well as environmentally sustainable. The current key priority areas for DfT can be accessed at:  
<https://www.gov.uk/government/organisations/department-for-transport/about>.

## What is competence?

For the purposes of this review, we are using a broad definition of competence. Put simply, competence in this context is about everything deriving from EU law that affects what happens in the UK. That means examining all the areas where the Treaties give the EU competence to act, including the provisions in the Treaties giving the EU institutions the power to legislate, to adopt non-legislative acts, or to take any other sort of action. But it also means examining areas where the Treaties apply directly to the Member States without needing any further action by the EU institutions.

<sup>1</sup> Semester 1: autumn 2012 – summer 2013; Semester 2: spring – winter 2013; Semester 3: autumn 2013 – summer 2014; Semester 4: spring – autumn 2014.

The EU's competences are set out in the EU Treaties, which provide the basis for any actions the EU institutions take. The EU can only act within the limits of the competences conferred on it by the Treaties, and where the Treaties do not confer competences on the EU they remain with the Member States.

There are different types of competence: exclusive, shared and supporting. Only the EU can act in areas where it has exclusive competence, such as the customs union and common commercial policy. In areas of shared competence, such as the single market, environment and transport, either the EU or the Member States may act, but the Member States may be prevented from acting once the EU has done so. In areas of supporting competence, such as culture, tourism and education, both the EU and the Member States may act, but action by the EU does not prevent the Member States from taking action of their own.

The EU must act in accordance with fundamental rights as set out in the Charter of Fundamental Rights (such as freedom of expression and non-discrimination) and with the principles of subsidiarity and proportionality. Under the principle of subsidiarity, where the EU does not have exclusive competence, it can only act if it is better placed than the Member States to do so because of the scale or effects of the proposed action. Under the principle of proportionality, the content and form of EU action must not exceed what is necessary to achieve the objectives of the EU Treaties.

## Call for evidence

4. This public call for evidence sets out the scope of the review of the balance of competences in the area of transport. We request a response based on the questions listed on page 20. We expect that many individual responses will apply to a particular mode of transport (e.g. aviation, maritime, rail or roads), although we are also interested in comparisons between transport modes and views as to how the exercise of competence across the modes affects how they operate together in an integrated system. Where applicable, please clearly indicate which mode(s) are relevant to your answer. Please also draw our attention to any published sources of information that are relevant for the purposes of this review. We encourage input from anyone with relevant knowledge, expertise or experience. This is your opportunity to express your views.

### How to respond

Please submit your evidence by **6 August 2013** via:

- The online response form: <https://www.gov.uk/government/consultations/eu-balance-of-competences-review-transport-call-for-evidence>;
- Emailing us at: [balanceofcompetences@dft.gsi.gov.uk](mailto:balanceofcompetences@dft.gsi.gov.uk); or

- Writing to us at: Balance of Competences team, Zone 2/29, Great Minster House, 33 Horseferry Road, London, SW1P 4DR

The same email address should be used for any related enquiries.

5. Your evidence should be objective, factual information about the impact or effect of the exercise of competence in your area of expertise. We expect to publish your response and the name of your organisation alongside the final report in winter unless you ask us not to (but please note that, even if you ask us to keep your contribution confidential, we might have to release it in response to a request under the Freedom of Information Act). We will not publish your own name unless you wish it included.

## Devolution

6. This is a UK wide review and we therefore encourage contributions from stakeholders from across the UK, including Scotland, Wales and Northern Ireland.

## Scope of the Transport Review

7. This Transport Review is subject based rather than focused on any specific Treaty of the Functioning of the European Union (TFEU) articles. We are therefore looking at EU competence, and the exercise of it, in the field of transport. At page 12, we identify a number of relevant TFEU articles that provide the legal basis for the EU to exercise its competence in the transport field.
8. There are a number of areas where the EU exercises competence that affect both transport and other areas under review by the Government as part of this balance of competences exercise. Findings and evidence from our review will be shared with other Government departments leading related reviews as appropriate.

### Interdependencies with other reviews

While we value responses on any area that affects transport (e.g. the environment) you may be interested in other reviews that relate directly to the transport review:

- **Internal Market: Free Movement of Goods** (Semester 2): will consider intra-EU trade in goods within the Internal Market, as well the way in which this trade is regulated; including through standardisation. Customs security and the impact this has on the transport industry will also be covered in the Free Movement of Goods Report.

- **Environment and Climate Change** (Semester 2): will cover the principal policy areas and legislation relating to environment and climate change, including the EU Emissions Trading System.
- **Cohesion** (Semester 3): will look at the Trans-European Networks, including the Trans-European Network for Transport (TEN-T).
- **Social and Employment** (Semester 3): working time and other related employment issues will be covered in detail in the Social and Employment Report.
- **Cross-cutting areas of EU competence** (Semester 4): the collection and publication of statistics will be covered under the Cross-cutting Report.

A full list of overlapping areas and how we propose dealing with them is described in full here: <https://www.gov.uk/government/consultations/eu-balance-of-competences-review-transport-call-for-evidence>

Further details and how you can contribute evidence to these reviews can be found on the balance of competences review web page at: <https://www.gov.uk/review-of-the-balance-of-competences>.

## Policy context

### EU policy objectives

9. EU transport policy aims to reconcile the growing mobility needs of citizens with the requirements of sustainable development. It is largely governed by Title VI TFEU (Articles 90 to 100) which establishes a Common Transport Policy (CTP).
10. A CTP was first proposed in the Treaty of Rome (see box below). The creation of a single market for transport was considered a necessary condition for achieving the four freedoms of goods, services, people and capital. The Treaty focuses on removing barriers between Member States and thus contributing to the free movement of individuals and goods. But its scope is broader than that, and the Treaty gives competence to the EU to lay down “any other appropriate provisions” relating to transport, and there is a specific reference to “measures to improve transport safety”. In other words, the EU has very wide-ranging competence to legislate in the field of transport, constrained only by the principles of subsidiarity and proportionality.
11. In taking forward the CTP, the European Commission has prioritised the creation of the internal market for transport services, ensuring sustainable development, extending transport networks throughout the EU, enhancing safety and promoting international cooperation. The

European Commission's Directorate-General for Mobility and Transport (DG MOVE) leads on developing policy in this area.

### **A brief history of the EU treaties**

The Treaty on the European Economic Community (EEC) was signed in Rome on 25 March 1957 – along with the Treaty establishing the European Atomic Energy Community (Euratom) – and entered into force on 1 January 1958. The EEC Treaty had a number of economic objectives, including establishing a European common market. Since 1957 there has been a series of treaties extending the objectives of what is now the European Union beyond the economic sphere. The amending treaties (with the dates on which they came into force) are: the Single European Act (1 July 1987), which provided for the completion of the single market by 1992; the Treaty on European Union – the Maastricht Treaty (1 November 1993), which covered matters such as justice and home affairs, foreign and security policy, and economic and monetary union; and the Treaty of Amsterdam (1 May 1999), the Treaty of Nice (1 February 2003) and the Treaty of Lisbon (1 December 2009), which made a number of changes to the institutional structure of the EU.

Following these changes, there are now two main treaties which together set out the competences of the European Union:

- The Treaty on European Union (TEU); and
- The Treaty on the Functioning of the European Union (TFEU).

### *Development of the Common Transport Policy (CTP)*

- 12.** In the early years after the Treaty of Rome, Member States were unwilling to relinquish national control of the transport sector and although the European Commission made a number of transport policy proposals very few were taken forward. This position began to change in the mid 1980s following a number of developments including the European Parliament successfully taking the Council of Ministers to the European Court of Justice (ECJ) for failing to implement its Treaty obligations on developing the CTP (the Treaty specifies that the Council and European Parliament “**shall**” lay down rules governing cross-border provision of transport services).
- 13.** Between 1985 and 1992 the CTP developed rapidly, covering a wide range of measures, actions and initiatives aimed at bringing about the single market for transport services. In December 1992, the European Commission adopted the White Paper *The future development of the common transport policy*.<sup>2</sup> This marked a turning point in the CTP as it shifted the approach of organising the different transport modes by sector to an integrated one based on sustainable mobility.

<sup>2</sup> COM(92) 0494 final; [http://aei.pitt.edu/1116/1/future\\_transport\\_policy\\_wp\\_COM\\_92\\_494.pdf](http://aei.pitt.edu/1116/1/future_transport_policy_wp_COM_92_494.pdf)



14. The Maastricht Treaty, while continuing to focus on developing the single market, also emphasised the importance of other goals including sustainable growth, respecting the environment and improvements in safety. It developed a new area of competence in the quality and effectiveness of transport (and other) infrastructure (trans-European networks (TENs)). It explicitly recognised the principle of subsidiarity (see box above).
15. The European Commission developed the CTP through an Action Programme covering the period 1995 to 2000.<sup>3</sup> This programme had three main objectives: improving the quality of transport services (in particular competitiveness, safety and environment impact); improving the functioning of the single market; and improving links with third countries.
16. In 2001, the European Commission published a White Paper on the future of the CTP: *European transport policy for 2010: time to decide*.<sup>4</sup> This emphasised the importance of modal shift (towards “greener” modes) within transport, removing bottlenecks, putting users at the heart of transport policy and managing the effects of globalisation. Following this White Paper, further market opening took place in aviation, road and partly in rail transport. Safety and security of transport across all modes was addressed and mitigating environmental impacts was also a focus.
17. In 2011, the European Commission published a further White Paper: *Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system*.<sup>5</sup> This sets out a roadmap to remove major barriers and bottlenecks in many key areas across the fields of transport infrastructure and investment, innovation and the internal market. A single European transport area is defined in terms of greater competition and a fully integrated transport network which links the different modes and allows for a shift in transport patterns for passengers and freight. The proposal also seeks to cut carbon emissions in transport by 60 per cent by 2050.

#### *Identifying policy themes*

18. The development of the CTP has resulted in the focusing of action in a number of policy areas. Five themes emerge covering the areas where the EU has exercised its competence in relation to transport. These are:
  - Economic – including the creation of an efficient single market in transport services that facilitates the free movement of goods, services and people, and the creation of an integrated transport system.

<sup>3</sup> *The Common Transport Policy Action Programme 1995 – 2000* (COM(95) 302 final, 12 July 1995: [http://aei.pitt.edu/1115/1/transport\\_action\\_plan\\_COM\\_95\\_302.pdf](http://aei.pitt.edu/1115/1/transport_action_plan_COM_95_302.pdf))

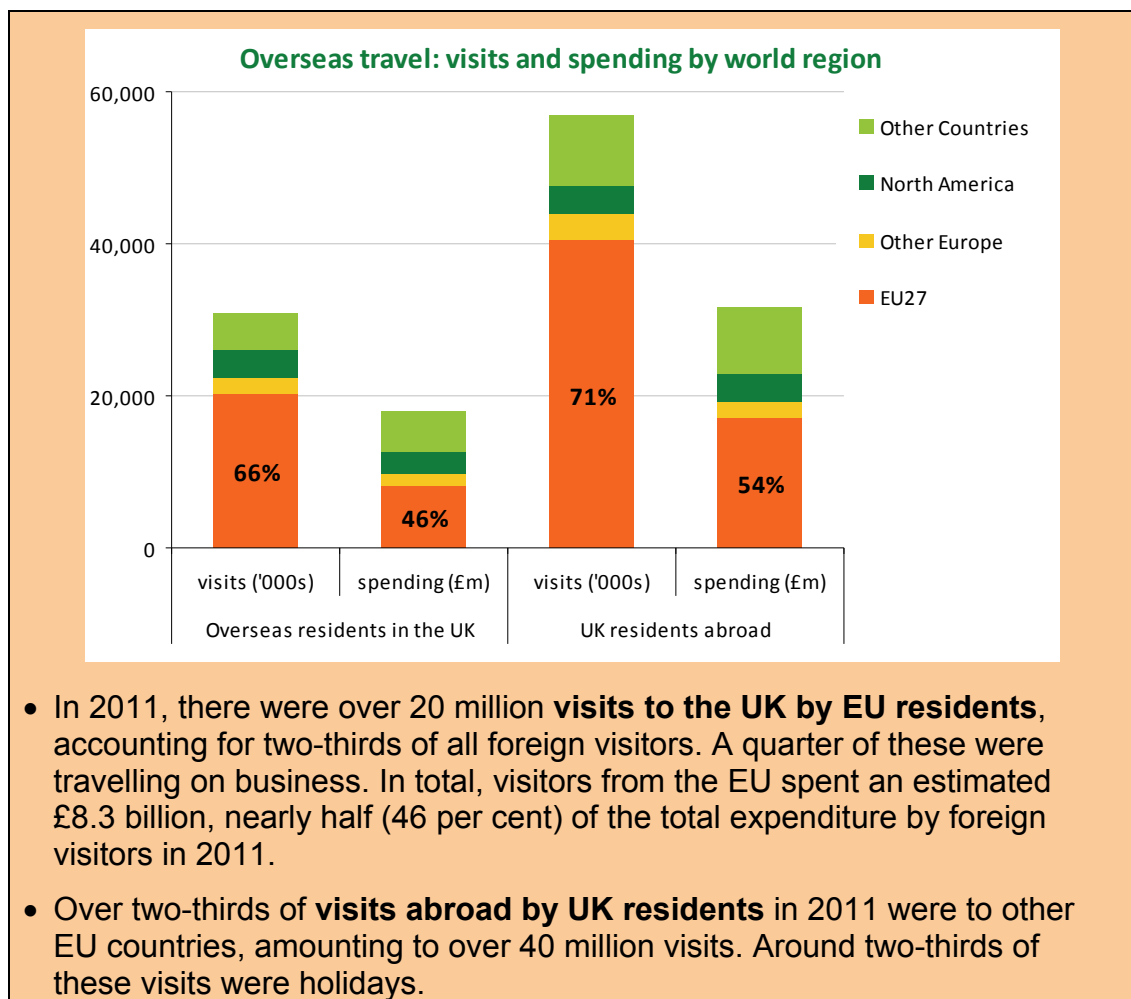
<sup>4</sup> COM(2001) 370 final: [http://ec.europa.eu/transport/themes/strategies/doc/2001\\_white\\_paper/lb\\_com\\_2001\\_0370\\_en.pdf](http://ec.europa.eu/transport/themes/strategies/doc/2001_white_paper/lb_com_2001_0370_en.pdf)

<sup>5</sup> COM(2011) 104 final: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0144:FIN:EN:PDF>

- Social – including the promotion of high safety standards, security and passengers’ and workers’ rights.
- Environmental – including ensuring that the transport system works in a way that does not impact negatively on the environment (including action aimed at managing and where possible reducing the impact of noise, pollution, harmful emissions and greenhouse gases (GHG)).
- Infrastructure – including the creation of a trans-European transport network (TEN-T) connecting national networks together, making them interoperable and linking outside regions of the EU.
- External relations – including developing relations with third countries and, in some cases, allowing the EU to act collectively at an international level.

19. In many cases legislative action by the EU has addressed more than one of these areas at once. The TFEU recognises a need for market opening to be accompanied by a “high level of protection” for health, safety, the environment and consumers (see Art 114 (3)) and this is reflected in many measures adopted under the transport chapter of the Treaty.

### What this has meant for the UK



- In 2011, there were over 20 million **visits to the UK by EU residents**, accounting for two-thirds of all foreign visitors. A quarter of these were travelling on business. In total, visitors from the EU spent an estimated £8.3 billion, nearly half (46 per cent) of the total expenditure by foreign visitors in 2011.
- Over two-thirds of **visits abroad by UK residents** in 2011 were to other EU countries, amounting to over 40 million visits. Around two-thirds of these visits were holidays.

20. The UK's overarching objective is for a seamless, sustainable and efficient transport network across the EU, as part of the single market, that will drive economic growth. Our approach to the development of EU transport policy is therefore to: encourage the maintenance and enforcement of internal market rules; to support further common action where this will help economic growth and otherwise add value; while opposing unjustified regulatory burdens on business and governments, and measures that should be taken at national or local level.
21. Legislation creating the single market for transport services can and does benefit the UK (and other Member States) where it facilitates cheaper and more efficient movement of goods and people across the EU. For example, liberalisation of air transport has led to air travel becoming more affordable to more people and the introduction of greater competition in the road haulage industry has supported greater and more efficient trade in goods.
22. There are also a number of benefits that can come from common levels of consumer protection, better safety and security, and improved interoperability of transport systems across the EU. For example, we have seen a series of EU measures that support UK carbon reduction objectives, particularly in aviation and for road vehicles.
23. Nevertheless, the broad range of common standards across the EU may also create some disadvantages where they are disproportionate, or prevent Member States from taking measures targeted to national or local circumstances which could be more effective. For example, in the area of driver vehicle and testing requirements there has been some debate about what needs to be standardised at EU level (to ensure the free movement of vehicles and persons) and whether greater levels of harmonisation are proportionate. Another example of debate is around a possible Port Services Regulation. A key issue for this review will be whether harmonised standards of protection are justified by the benefits to the UK of opening EU markets.

## EU competence in transport

### **The EU legislative process**

EU legal acts such as Regulations and Directives are generally adopted by what, after the Lisbon Treaty, is known as the 'ordinary legislative procedure' (formerly known as the 'co-decision procedure'). In most cases, only the European Commission can propose a new legal act. But it cannot become law unless it is jointly adopted by the Council (which is composed of ministers from each Member State) and the European Parliament. Under this procedure, the Council acts on the basis of qualified majority voting, where only a specified majority of votes is required and the share of votes of each Member State reflects its population size. The Treaties also set out a small number of cases where EU legal acts are adopted under different procedures (referred to as 'special legislative procedures'). For example, acts in some

areas, such as foreign and defence policy, can only be adopted if the Council acts unanimously, so the act will not be adopted if a minister from any one Member State vetoes it.

### **Relevant TFEU provisions: legal base of competence**

24. Title I of the TFEU sets out the categories and areas of EU competence. Article 4(2)(g) expressly states that the EU has shared competence with the Member States in transport.
25. The specific provisions of the CTP are contained in Title VI on Transport (Articles 90 to 100). Article 91 sets out the legal basis for the exercise of competence applying to all areas of land transportation. It is the task of the European Parliament and the Council acting in accordance with the ordinary legislative procedure and taking into account the distinctive factors of transport to provide for:
  - common rules applicable to international transport within the EU;
  - conditions under which non-resident carriers may operate transport services within a Member State;
  - measures to improve transport safety; and
  - any other appropriate provisions.
26. The provisions of Title VI only apply to transport by rail, road and inland waterways (Article 100(1)). However under Article 100(2), the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may decide to lay down appropriate provisions for sea and air transport.
27. The EU is also able to exercise competence to act in the transport field on other TFEU provisions including Article 114 (internal market measures); Article 170 (infrastructure (i.e. TENs)); Article 192 (environmental measures); and Article 218 (external competence).
28. A number of TFEU provisions have direct applicability and are particularly relevant in the field of transport. These include the specific competition rules (Articles 101 and 102) and state aid rules (Articles 107 to 109).

### **The exercise of competence**

29. As described above, the EU has progressively exercised its competence to take action in the field of transport. Although the TFEU, and in particular Title VI, provides the EU with a wide competence to act in the field of transport, the EU has limited its action to certain circumstances and areas. For example, the EU has so far not exercised its competence to act directly in local transport matters or in relation to cycling policy. The EU is also constrained in exercising its competence by general principles including those relating to proportionality and subsidiarity. The EU generally exercises its competence in relation to transport issues when there is a transnational element. The action the EU has so far

taken tends to be justified in terms of supporting open markets and fair conditions of competition along with sustainable mobility.

30. Although the EU aims to facilitate a fully integrated transport network across Europe, the effects and application of any EU action has typically been on a modal basis. For the purposes of describing the EU's exercise of competence in transport for this Call for Evidence we have therefore taken a modal approach. Below, we set out a brief description of how the EU has exercised competence in aviation, maritime, rail, and roads (including drivers and vehicles). Further detail is provided in the modal annex. The themes mentioned at paragraph 18 above are used as a basis for this description.
31. A table providing a brief description of the key EU transport measures, their stated Treaty base and the relevant UK implementing legislation can be found here: <https://www.gov.uk/government/consultations/eu-balance-of-competences-review-transport-call-for-evidence>

## Aviation

- The **air transport sector** directly contributed nearly **£10 billion** to the UK economy in 2011.
- UK airports handled **219 million passengers** in 2011, more than any other EU country, and over **2.4 million tonnes** of freight and mail, second only to Germany. The UK has the largest commercial **airline fleet** in Europe.
- A significant proportion of the population use the air transport system. In 2010, **44 per cent of GB residents** said they had flown abroad at least once in the last 12 months.
- The majority of these will have travelled to other EU countries. In 2011, **63 per cent of international air passenger movements** at UK airports were to/from other EU countries.
- EU enlargement has influenced the routes available at UK airports: e.g. the number of flights from UK airports to Poland has trebled since the latter joined the EU in 2004.

32. From the late 1980s the EU introduced a succession of measures paving the way for the liberalisation of air services, covering air carrier licensing, market access and fares, with the aim of creating a single market for air transport. Regulation 1008/2008 consolidated measures harmonising requirements for operating licences for EU airlines, open access to all EU routes for such airlines and full freedom for fares and rates. Member States may not subject the operation of intra-European air services by an EU air carrier to any permit or authorisation. Supporting legislation aimed to ensure fairness in the allocation of airport take-off and landing slots, as well as some opening up of ground-handling services to greater competition. This liberalisation is widely considered to have allowed effective competition into the market, especially through the growth of "low-cost" carriers, which has brought down the cost of air travel in Europe to make it much more accessible. As the aviation market in Europe has grown, the EU has also sought to

improve the efficiency and capacity of air traffic management through the Single European Sky initiative.

- 33.** Creation of the single aviation market took place alongside the restructuring of national flag carriers. The UK was at the forefront with the privatisation of British Airways in 1987. With the advent of the single market for aviation, the European Commission started applying conditions to state support for national airlines to address potential distortions of competition. Some consolidation might have been expected in the airline industry, but this has been limited, partly because international air traffic rights are still regulated at a global level on the basis that they are between nation states. The logic of a single aviation market pointed towards negotiating aviation agreements between the EU as a whole and third countries. Member States were reluctant to give up their rights to negotiate bilateral agreements so the European Commission went to the ECJ in the late 1990s to seek endorsement for this principle, with some success. Since then the European Commission has negotiated, on behalf of the EU, a number of aviation agreements with third countries, notably the US. Member States may continue to negotiate their own bilateral agreements with third countries where there are no aspirations for an EU-level deal, but those agreements must not discriminate against other EU carriers in offering access to routes to the third countries in question.
- 34.** The EU has also sought to raise standards of safety and for protection for consumers and the environment. A new European Commission agency, the European Aviation Safety Agency (EASA), took over the functions of the Joint Aviation Authorities<sup>6</sup> to provide a one-stop shop for the approval of aeronautical components across the EU Member States. And there have been measures to set out rights for passengers, starting with a requirement for compensation for passengers denied boarding on overbooked flights, and developing to cover measures to protect air passengers subject to delays or cancellations. This has led to some debate about where to strike the balance between the responsibilities of airlines to help passengers and of passengers to insure themselves. The European Commission's latest proposal to amend the rules aims to respond to these considerations.
- 35.** EU action on the environmental impacts of aviation has focused on noise, GHG and other emissions. This is an area where standards have been discussed and developed at a global level through the International Civil Aviation Organisation (ICAO)<sup>7</sup>, and much of the debate has been about whether the EU should move farther and faster than the rest of the world. This debate has been brought into particularly sharp focus by extension in 2012 of the EU Emissions Trading Scheme (EU ETS) to

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<sup>6</sup> The Joint Aviation Authorities (JAA) was an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who had agreed to cooperate in developing and implementing common safety regulatory standards and procedures

<sup>7</sup> The United Nations specialised agency – with 191 Member States – responsible for developing global policies and standards for civil aviation, including on safety, security and environmental protection.



cover aviation emissions. The application of the measure to non-EU airlines, in respect of emissions outside the airspace of EU Member States, has provoked opposition from other countries, and the EU has temporarily suspended – for one year – the implementation of the extra-European Economic Area aspects of the aviation ETS to allow ICAO time to make “clear and sufficient” progress towards reducing aviation emissions globally.

## Maritime

- The **maritime sector** directly generated at least **£8.7 billion** in 2011.
- UK sea ports handled over **half a billion tonnes** of goods in 2011, 8 tonnes for every person in the UK. This is more than any other EU country and accounted for 14 per cent of all seaborne goods handled at EU ports.
- In 2011, **42 per cent of all imports** and **71 per cent of all exports** through UK major ports were to/from other EU countries.
- Around **23 million international sea passengers** travelled to/from the UK in 2011. The overwhelming majority of this traffic - 93 per cent - was between the UK and other EU countries.
- **Dover is the largest passenger port** in Europe, with nearly 13 million seaborne passengers passing through it in 2011.

- 36.** Maritime transport has been a catalyst of economic development and prosperity throughout European history. We have been trading by sea long before anyone thought of international regulatory frameworks, so the maritime sector has traditionally been open and competitive. Maritime transport is particularly important for the EU – out of 28 Member States (including Croatia from July 2013) only five have no coast, and even they depend on goods shipped by sea then brought inland. Almost 90 per cent of EU external freight trade is seaborne. Short sea shipping represents 40 per cent of intra-EU trade in terms of tonne-kilometres.
- 37.** The EU has encouraged Member States to ratify and accede to existing international conventions on safety. In many cases the EU has adopted regulations making International Maritime Organization (IMO)<sup>8</sup> rules directly applicable through EU law. The justification for this has been to ensure early and uniform application, as IMO agreements can otherwise take many years to take effect. EU legislative activity in areas covered by the IMO has caused some Member States to question the extent to which the Commission’s competence applies.
- 38.** In 1986 a Common Maritime Transport Policy was established with a package of four legislative measures, bringing shipping services into the single market. The most significant part of this was to open up cabotage

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<sup>8</sup> The United Nations specialised agency – with 170 Member States – responsible for developing global policies and standards for the safety and security of shipping and the prevention of marine pollution by ships.

services<sup>9</sup> across the EU, applying the principle of freedom to provide services to maritime transport within Member States. This met with resistance from some Member States, where there were fears for jobs in companies operating dense internal passenger ferry networks. But lengthy transitional periods succeeded in securing agreement, and in practice market penetration for cabotage services has been limited. Around the EU many ferry services to outlying areas are operated under public service contracts and are tendered.

39. Since the 1986 package, the focus of EU legislative activity has been on safety and pollution prevention, prompted by a series of high-profile accidents in European waters. For example, two major oil tanker incidents in EU waters (the *Erika* in December 1999 and the *Prestige* in November 2002) resulted in measures to prevent pollution from ships in the First, Second and Third Maritime Safety Packages as well as the Directive on ship-source pollution. The IMO had separately been developing tougher standards at a global level, and the European Commission proposed a number of legislative instruments that would take the resulting IMO conventions and make them directly applicable in EU law. This ensured early and uniform application of the new standards in European waters but also established external competence, as future changes to those standards would affect EU rules.
40. As in other modes, the EU has developed rules covering the rights of maritime passengers, establishing the right of all passengers travelling by sea and inland waterway to assistance in cases of cancelled or delayed departures and, in certain circumstances, to compensation in case of delay. It has also established the responsibilities and accountabilities of ship owners and carriers (for example, through insurance and liability related measures)..
41. From the late 1990s, the EU has focused on reducing the environmental impact of shipping – starting with a Directive on the sulphur content of liquid fuels and most recently, in late 2012, with the adoption of a Directive on the sulphur content of marine fuels. The interaction with the IMO on environmental issues is akin to that for safety, and there is ongoing debate over a global agreement on the emission of GHG emissions from shipping. The European Commission has signalled that it is ready to propose a European agreement.
42. The EU has exercised external competence by concluding agreements with third party countries such as China, through the EU – China Maritime Transport Agreement of 2002. The EU has observer status at the IMO and, as described, has adopted some IMO conventions into EU law.

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<sup>9</sup> The national carriage of goods for hire or reward carried out by non resident operators on a temporary basis in a host Member State.



## Inland waterways

43. For completeness there should be mention of inland waterways. Our waterways are primarily a leisure facility but on the continent they play a bigger role, especially on the networks around the Rhine and Danube. The countries concerned have, for decades, had agreed rules to allow for cross-border provision of services. EU action has focused on technical standards, licensing of boatmasters, and scrappage schemes.

## Rail

- The UK has around **16,000 kilometres of railway line**, the fifth highest in the EU.
- Passengers using UK railways travelled nearly **57 billion kilometres** in 2011, the third highest in the EU after France and Germany. In addition, around **21 billion tonne-kilometres** of freight were moved by rail.
- Around **17 million people and 1.3 million tonnes of freight** were transported between the UK and Europe through the **Channel Tunnel** in 2011.
- In 2012, the number of passengers using the Channel Tunnel exceeded the number of ferry passengers travelling to Europe for the first time.

44. In order to remove national barriers to successful integration, and realise the benefits of the single European railway area, the EU has concentrated on three issues crucial to the development of a strong and competitive rail industry. These are: the opening of rail passenger and freight markets to competition; the harmonisation of standards and approvals; and the development of rail transport infrastructure. The ambition of some has been to bring to railways the success of the single aviation market. But it has proved far more difficult for rail.
45. The process of reform started in the early 1990s with legislation introducing a limited degree of market opening, management independence from the state and some separation between the management of infrastructure and the operation of services. By the late 1990s, the EU adopted further legislation setting out rules for licensing of operators and access to tracks.
46. International freight services on the Trans-European Rail Freight Network were the first services to be liberalised followed by other international freight services and domestic freight services (from January 2007). International passenger services were liberalised in the EU from 1 January 2010. But there have been few cases of companies exercising these rights, and accusations that incumbents make it difficult for new entrants to operate services. What has been more noticeable is national freight and passenger operations being bought up by companies from other countries.
47. On 30 January 2013, the European Commission published proposals for a Fourth Railway Package in order to complete the single European

railway area to foster European competitiveness and growth, including by opening up domestic passenger services. This would require mandatory tendering of domestic rail services operated under public service obligations, and mandatory separation of service providers from infrastructure operators (with an option for strict “Chinese walls” for those countries who do not wish to go so far).

48. Harmonising legislation on safety and interoperability standards and approvals was first introduced in the second railway package.<sup>10</sup> This legislation also established the European Railway Agency (ERA). Further action in these areas, including an enhanced role for the ERA, has been proposed as part of the fourth railway package.

## Roads

- In 2010, around **1.5 billion tonnes of goods** were transported by road in HGVs within the UK.
- In addition, **4.9 million tonnes of goods were transported abroad** and **5.6 million tonnes were transported from abroad in UK-registered vehicles**. A large majority (well over 95 per cent) of these goods were transported to/from other EU countries. **HGVs registered in other EU countries** unloaded a further 12.7 million tonnes of goods in the UK and unloaded 18.8 million tonnes.
- The UK was the fourth largest **producer of motor vehicles** in the EU in 2012 after Germany, Spain and France, producing 1.6 million vehicles or nearly 10 per cent of the EU total.
- The UK has among the lowest levels of **road fatalities per inhabitant** in the EU. In 2011, 1,901 people died on British roads, a fall of 49 per cent compared to 2001.

49. Roads continue to transport the majority of goods and passengers in the EU. International road freight and passenger services were liberalised in the 1990s. EU rules have opened up the provision of services across borders as well as enabling a limited liberalisation of cabotage. The road haulage sector has seen hugely increased competition and efficiencies over the last two decades, a proportion of which will have been as a result of EU liberalisation. But there are other factors, including the abolition of tariff barriers and customs controls and significant efficiencies delivered by the industry itself through innovative business models.

50. As for other modes, EU activity has extended beyond simply opening markets. All Member States must accept lorries up to certain weights and sizes, to allow a degree of free movement. There are limits on the hours drivers may spend at the wheel, to provide a level of safety and ensure a level playing field. And Member State charging regimes, whether motorway tolls as in France, Spain and Italy, distance based charges as in Germany, or time-based “vignette” schemes as in many

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<sup>10</sup> [http://ec.europa.eu/transport/modes/rail/packages/2004\\_en.htm](http://ec.europa.eu/transport/modes/rail/packages/2004_en.htm)

EU countries, must respect certain constraints to ensure they are proportionate and non-discriminatory. It is generally transit countries that have sought to impose lorry charges. Peripheral countries resist them on the grounds that they want to be able to get their goods to the main European markets as cheaply as possible.

- 51.** While regulation of commercial road transport is reasonably comprehensive, regulation of private motoring has been more patchy, and focused on road safety, though the Treaty principle of free movement has been an important factor. The most visible legislation, for most people, will be the EU driving licence. Once granted in one country it is recognised across the EU. This means common standards for the driving test and for other aspects such as health requirements (including those relating to eyesight and diabetes). This has not only supported the development of internal markets but has enabled the free movement of individuals taking up residence in other Member States. There are common standards for vehicle roadworthiness tests, though many Member States are resisting a full harmonisation.
- 52.** There is also a comprehensive set of rules governing the standards vehicles must comply with before being placed on the market. These are updated regularly to apply new standards, especially covering safety and emissions. This legislation is adopted under Article 114 of the TFEU.
- 53.** There has occasionally been some consideration of legislation to govern, say, speed limits on motorways or common permissible blood-alcohol levels, but these have been resisted on subsidiarity grounds, as have constraints on charging regimes for cars. Infrastructure is also a key element in promoting free movement. The EU has defined the trans-European network for transport (TEN-T) to promote cohesion, interconnection and interoperability of national networks across the EU. TEN-T will be covered under the “Cohesion” report led by the Department for Business, Innovation & Skills (BIS) in Semester 3 of the Review. Alongside TEN-T, the EU is promoting the development and deployment of integrated transport systems through the Intelligent Transport Systems (ITS) Directive, as a tool to improve the use of transport infrastructure by reducing congestion, improving safety and supporting greener mobility.
- 54.** The EU has also exercised competence relating to environmental protections particularly around air quality, carbon and noise. The EU has done this by setting limits for exhaust and carbon dioxide emissions from road vehicles, setting minimum requirements to promote the uptake of renewable transport fuels and establishing noise requirements for road vehicles. Recently, the EU has required the labelling of tyres according to their noise characteristics. Looking to the future, the EU has announced a new climate and energy framework for the period up to 2030 and recently published a proposal to reduce further the noise emitted from road vehicles.

## Questions

*These questions are designed to help frame your responses and are not exhaustive. Please respond to these questions by **6 August 2013** using the online response form: <https://www.gov.uk/government/consultations/eu-balance-of-competences-review-transport-call-for-evidence> or by emailing: [balanceofcompetences@dft.gsi.gov.uk](mailto:balanceofcompetences@dft.gsi.gov.uk). The same email address should be used for any published material that may supplement your response and for any related enquiries.*

1. What are the advantages and disadvantages to the UK of EU action in the field of transport? You may wish to focus on a particular mode.
2. To what extent has the EU succeeded in creating an internal transport market: how far has this contributed to economic growth in the UK? What have been the costs and benefits?
3. To what extent is the EU internal transport market necessary for the effective functioning of the EU internal market as a whole?
4. To what extent is EU action to harmonise social and environmental standards (e.g. to ensure safety and security or to limit vehicle emissions) necessary for the proper functioning of the internal transport market as opposed to desirable in its own right?
5. What impact has EU action had on different stakeholders; for example, has it provided the right balance between consumers and transport operators?
6. The EU's competence in the field of transport has primarily been exercised through legislation and clarified through case law. To what extent has the EU approach been proportionate: what alternative approaches would benefit the UK?
7. To what extent could the UK national interest be better served by action taken at a national or wider international level, rather than by the EU, and vice versa?
8. What advantages or disadvantages are there for the UK in the EU having a greater or lesser say in negotiating agreements internationally (e.g. ICAO or IMO) or with third countries (e.g. EU-US, EU-China)?
9. What challenges or opportunities are there for the UK in further EU action on transport?

# Modal annex

## Introduction

Below is a description of how competence has been exercised in the individual modes (aviation, maritime, rail and roads) in terms of the general policy themes identified at paragraph 18 above:

- Economic;
- Social;
- Environmental;
- Infrastructure; and
- External relations.

The sections below are designed to prompt your thinking about competence in your areas of expertise and ultimately help you to answer the questions on page 20.

Part A: Aviation

Part B: Maritime

Part C: Rail

Part D: Roads

# Part A: Aviation

## 1. Economic

### Liberalisation – establishing a single aviation market

- A.1** The air transport market was gradually liberalised through three successive legislative packages covering air carrier licensing, market access and fares. The ‘third package’ in 1993,<sup>11</sup> effectively created the single market for air transport.
- A.2** In 2006 three regulations making up the third package were recast and consolidated into Regulation 1008/2008.<sup>12</sup> This Regulation embraces harmonised requirements for operating licences for EU airlines, open access to all EU routes for such airlines and full freedom for fares and rates.
- A.3** An air undertaking that has been granted an operating licence by a Member State, in accordance with Regulation 1008/2008, is considered as a European air carrier and is entitled to provide air services throughout the EU. Member States cannot subject the operation of intra-European air services by an EU air carrier to any permit or authorisation.
- A.4** The transparent, efficient and non-discriminatory allocation of slots for civil aviation at EU airports is guaranteed by Regulation 95/93.<sup>13</sup> This is based on the "use it or lose it" principle and lays down the conditions of access for new entrants to the market, for free exchange of slots and for safeguard mechanisms where there is a clear imbalance between air carriers.
- A.5** A Directive on the groundhandling market<sup>14</sup> at EU airports is designed to enable EU airlines to benefit from a real choice of providers of groundhandling services and gives them the right to deliver these services themselves.
- A.6** In order to ensure the proper functioning of the single market, common rules have been adopted to ensure fair and open competition on a level

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<sup>11</sup> [http://ec.europa.eu/transport/modes/air/internal\\_market/integration\\_history\\_en.htm](http://ec.europa.eu/transport/modes/air/internal_market/integration_history_en.htm)

<sup>12</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast):

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:293:0003:01:EN:HTML>

<sup>13</sup> [http://ec.europa.eu/transport/air/airports/slots\\_en.htm](http://ec.europa.eu/transport/air/airports/slots_en.htm)

<sup>14</sup> Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports: [http://europa.eu/legislation\\_summaries/transport/air\\_transport/l24142\\_en.htm](http://europa.eu/legislation_summaries/transport/air_transport/l24142_en.htm)

playing field and to continuously improve standards, notably in safety, security and environmental protection.

- A.7** This liberalisation of the market for air transport contributed to the growth of the EU aviation industry during the 1990s, most notably reflected by the success of the “low-cost carrier” business model. In 2011, 72 per cent of all international flight arrivals at UK airports came direct from another EU airport. This equates to around 57 million passengers.
- A.8** The European single market for air transport has effectively been extended beyond the EU to include Norway, Iceland and the Western Balkans through the European Common Aviation Area (ECAA). The airlines registered in these countries enjoy the same rights of market access and are subject to many of the same regulations as EU-registered airlines.
- A.9** Driven by a desire to improve the efficiency of European airports, the European Commission introduced its ‘Better Airports Package’ in late 2011. This package of proposed regulations, on noise management, slot allocation and groundhandling, is designed to improve the use of existing airport capacity in Europe and reduce the negative impacts on citizens. Negotiation of the package is ongoing. With the Council and the European Parliament currently adopting differing positions on the European Commission’s proposals, particularly on groundhandling.

## Single European Sky

- A.10** Following the European Commission’s 1996 White Paper *Air Traffic Management – Freeing Europe’s airspace*,<sup>15</sup> a set of common rules on the use of airspace throughout the EU was developed. The Single European Sky (SES) package,<sup>16</sup> aims at improving and reinforcing safety, providing for more efficient use of airspace and air traffic management systems and at establishing a framework for the modernisation of systems.
- A.11** The SES package contains a framework regulation and three implementing regulations which aim to deliver an integrated, harmonised management of EU airspace, working with the technical expertise of the European Organisation for the Safety of Air Navigation (Eurocontrol),<sup>17</sup> the inter-governmental organisation responsible for coordinating air traffic management systems across Europe, in order to combat congestion and better manage crises in EU airspace. The accession by the EU to Eurocontrol aims to ensure enhanced cooperation between the two institutions and improve the regulatory framework for air traffic management. This is part of the overall strategy to create a single sky over the single market.

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<sup>15</sup> COM(96) 57 final: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:1996:0057:FIN:EN:PDF>

<sup>16</sup> [http://europa.eu/legislation\\_summaries/environment/tackling\\_climate\\_change/l24020\\_en.htm](http://europa.eu/legislation_summaries/environment/tackling_climate_change/l24020_en.htm)

<sup>17</sup> [http://www.eurocontrol.int/corporate/public/subsite\\_homepage/index.html](http://www.eurocontrol.int/corporate/public/subsite_homepage/index.html)



## Competition law / state aid

- A.12** Competition rules on mergers and alliances, price-fixing and other arrangements apply to the air transport sector. Furthermore, EU state aid rules aim to ensure that airlines operate on a level playing field.
- A.13** The European Commission, acting in close contact with the relevant authorities in the Member States, can take measures to ensure the application of relevant competition rules to transactions between airlines which have an impact on routes between the EU and third countries. It can approve certain agreements<sup>18</sup> and practices in the air transport sector, notably those concerning joint planning and coordination of schedules, joint operations, consultations on passenger and cargo tariffs on scheduled air services and slot allocation at airports. These exemptions aim to encourage airlines to cooperate so as to improve passenger services, while remaining competitive on fares and service quality. In addition there exists a block exemption for agreements subject to the code of conduct for computerised reservation systems (CRS).<sup>19</sup> This is to ensure that there is fair competition between air carriers and passengers are well informed.
- A.14** Common principles for levying airport charges are set out in Directive 12/2009.<sup>20</sup> Member States must ensure that airport charges do not discriminate among airport users or air passengers, as well as ensuring transparency and full consultation.

## 2. Social

- A.15** The air transport sector has an important social dynamic, which is reflected in the degree to which the EU has exercised its competence to ensure the smooth functioning of the single market. The areas of safety, security and passenger rights have been particularly relevant as the EU has tried to raise common standards and improve the customer experience.

### Safety

- A.16** The first common standards for aviation safety were introduced in 1990 with the aim of harmonising safety regulations across the EU and ensuring the safety of passengers. Subsequently, the EU has expanded the exercise of its competence in this area, and in 2002 the European Aviation Safety Agency (EASA) was established to implement and monitor safety rules and to certify aircraft and components.

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<sup>18</sup> [http://europa.eu/legislation\\_summaries/competition/specific\\_sectors/transport/l24077\\_en.htm](http://europa.eu/legislation_summaries/competition/specific_sectors/transport/l24077_en.htm)

<sup>19</sup> [http://europa.eu/legislation\\_summaries/transport/air\\_transport/tr0025\\_en.htm](http://europa.eu/legislation_summaries/transport/air_transport/tr0025_en.htm)

<sup>20</sup> Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:070:0011:0016:EN:PDF>



- A.17** Regulation 216/2008,<sup>21</sup> extended the common aviation safety rules and the corresponding responsibilities of EASA to aircraft operations and crew licensing and training. Regulation 1194/2009<sup>22</sup> extended the common rules covering safety aspects of aerodrome operations and provision of air navigation services and air traffic management. This will lead to implementing rules for the training and licensing of crews, flight operations (of both Member State and third country operators), as well as safety aspects of aerodrome operations, air traffic management and provision of air navigation services.
- A.18** Cooperation and mutual assistance procedures govern the investigation of civil aviation accidents and incidents. A suite of directives aims to ensure that information relating to flight safety is collected and disseminated, that the operation in the EU of those aircraft not complying with the requirements of the Convention on International Civil Aviation<sup>23</sup> (the “Chicago Convention”) is limited, that Member States ground aircraft found or suspected to be dangerous and that the issuing of a European air traffic controller licence<sup>24</sup> increases safety standards and improves the operation of the European air traffic control system.
- A.19** The harmonisation of the technical requirements and administrative procedures in the field of civil aviation concern both air safety and market organisation.<sup>25</sup> Regulation 2027/97<sup>26</sup> determines the air-carrier liability in the event of death or injury suffered by a passenger and provides for rapid payment of a lump sum to the victims or entitled persons in the case of an accident.

## Security

- A.20** Regulation 300/2008<sup>27</sup> together with its supporting and implementing instruments lays down common minimum standards of aviation security across the EU. The Regulation permits Member States to apply more stringent measures than those specified, enabling them to respond appropriately to the specific threat level in their own territory. Detailed implementing legislation is agreed in the EU Aviation Security Committee. To ensure compliance with the requirements of the Regulation, the European Commission carries out inspections including

<sup>21</sup> Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:079:0001:0049:EN:PDF>

<sup>22</sup> Commission Regulation (EC) No 1194/2009 of 30 November 2009 amending Regulation (EC) No 1702/2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances as well as for certification of design and production organisations: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:321:0005:0035:EN:PDF>

<sup>23</sup> <http://www.icao.int/publications/pages/doc7300.aspx>

<sup>24</sup> [http://europa.eu/legislation\\_summaries/transport/air\\_transport/l24005\\_en.htm](http://europa.eu/legislation_summaries/transport/air_transport/l24005_en.htm)

<sup>25</sup> [http://ec.europa.eu/transport/air/internal\\_market/internal\\_market\\_en.htm](http://ec.europa.eu/transport/air/internal_market/internal_market_en.htm)

<sup>26</sup> Regulation (EC) No 2027/97 of the Council of 9 October 1997 on air carrier liability in respect of the carriage of passengers and their baggage by air:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997R2027:20020530:EN:PDF>

<sup>27</sup> Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:097:0072:0084:EN:PDF>

of EU airports and air carriers. If these reveal serious deficiencies, there are provisions and procedures enabling the European Commission to make this known to other Member States.

## Passenger rights and service quality

- A.21** Regulation 1008/2008 bans price discrimination on the basis of the place of residence or the nationality of the customer or the place of establishment of the travel agent. This means that for the same product – i.e. the same seat on the same flight booked at the same moment – there should be no price differences wherever in the EU a passenger books a ticket. Price transparency is improved by clarifying that the final price must include all applicable fares, charges, taxes and fees, so as to avoid misleading advertising.
- A.22** Regulation 295/1991, which established a system of compensation for passengers denied boarding on overbooked flights was repealed by and supplemented by Regulation 261/2004<sup>28</sup>, which goes to great lengths to protect air passengers subject to denied boarding, delays or cancellations. As mentioned earlier, the European Commission has recently proposed amendments to the Regulation. Regulation 1107/2006<sup>29</sup> introduced greater rights for passengers with reduced mobility.

## Working conditions

- A.23** Directive 2000/79/EC<sup>30</sup> extended the employment law provisions for mobile workers to those working in civil aviation, guaranteeing leave and limiting working time, and ensuring appropriate health and safety provisions.

# 3. Environmental

## Noise

- A.24** The EU has banned the noisiest aircraft from operating in the EU with the aim of improving the environment for citizens living near airports.

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<sup>28</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:046:0001:0007:en:PDF>

<sup>29</sup> Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:204:0023:003:en:PDF>

<sup>30</sup> Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA): <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:302:0057:0060:EN:PDF>

The EU adopted the ICAO "balanced approach" to noise management,<sup>31</sup> which requires careful assessment of all different options to mitigate noise, including reduction of aeroplane noise at source, land-use planning and management measures, subject to current laws and established policies.

- A.25** The Environmental Noise Directive 2002/49/EC<sup>32</sup> requires Member States to produce noise maps to inform the public about noise exposure and its effects and to draw up action plans to assist in the management of noise. For airports, this involves the modelling of noise from airports with more than 50,000 movements per annum or those that affect larger urban areas.

### **Greenhouse gas emissions**

- A.26** The EU has exercised its competence to regulate GHG emissions from aircraft and other measures to mitigate the impact of aviation on climate change. Of particular significance has been the inclusion of air transport in the EU ETS (see paragraph 35 above).

## **4. Infrastructure**

- A.27** In 2009, the EU launched the Single European Sky ATM Research project (SESAR) to support the modernisation, including improving the safety, of Air Traffic Management in the EU. SESAR aims to support the implementation of the SES by researching the next generation of technological systems and implementing a fully harmonised and interoperable ATM infrastructure network by 2020.

## **5. External relations**

- A.28** Legislative measures by the EU in the area of air transport also need to be considered in the context of action at a global level.
- A.29** The International Civil Aviation Organization (ICAO) generates common standards and recommended practices for air transport, which are usually implemented by individual states. Although the EU is not a member of ICAO, those recommendations can be made directly applicable in all 27 Member States through EU law. EU implementation of ICAO standards is designed to ensure common interpretation across the single market.
- A.30** The EU can strengthen the policy objectives of Member States. For example, functioning as a co-ordinator, the EU can help to focus and amplify the individual voices of Member States in ICAO negotiations.

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<sup>31</sup> [http://europa.eu/legislation\\_summaries/environment/noise\\_pollution/l28068\\_en.htm](http://europa.eu/legislation_summaries/environment/noise_pollution/l28068_en.htm)

<sup>32</sup> Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise:  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:189:0012:0025:EN:PDF>

- A.31** The EU has led the way in certain areas of aviation legislation, including passenger rights and limiting the effect of aviation on climate change. It has introduced legislation which goes further than that agreed globally. For example, Regulation 261/2004 provides passengers with greater protection than comparable legislation elsewhere.
- A.32** The inclusion of aviation in the EU ETS from 1 Jan 2012 was in response to years of inaction at the global level. This action helped re-galvanise ICAO negotiations, with increasing pressure for an ambitious outcome for climate change measures at the 2013 General Assembly. The development of an internationally-agreed framework for market-based measures (such as the ETS) is now progressing, as well as further work on a global measure. As mentioned earlier, the EU has “stopped the clock” on the extra-EEA application of the aviation ETS to allow these negotiations to conclude.
- A.33** International relations between the Member States and third countries have traditionally been governed by bilateral air service agreements where Member States reserved rights for their own airlines. However, the ECJ found these agreements to be contrary to the freedom of establishment guaranteed by the Treaty. Following this, the EU adopted Regulation 847/2004, which established a procedure for authorising the bilateral negotiations<sup>33</sup> conducted by Member States with a view to ensuring the introduction of standard clauses to make existing agreements compliant with EU law. With a mandate from the European Council, the European Commission has also negotiated comprehensive EU-level agreements with partner countries, including the ‘open-skies’ agreement with the United States.<sup>34</sup>

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<sup>33</sup> [http://europa.eu/legislation\\_summaries/internal\\_market/single\\_market\\_services/l24260\\_en.htm](http://europa.eu/legislation_summaries/internal_market/single_market_services/l24260_en.htm)

<sup>34</sup> [http://ec.europa.eu/transport/modes/air/international\\_aviation/country\\_index/united\\_states\\_en.htm](http://ec.europa.eu/transport/modes/air/international_aviation/country_index/united_states_en.htm)

# Part B: Maritime

## 1. Economic

### The single market and the removal of restrictions on cabotage

- B.1** The main single market maritime measures relate to cabotage. Council regulations apply the principle of freedom to provide services to maritime transport between Member States, between Member States and third countries and within Member States.
- B.2** The EU has tried to reduce the remaining technical barriers to encourage market integration (e.g. promoting short sea shipping, simplifying the regulatory framework in maritime and inland waterway markets and harmonising boatmasters' certificates) and has proposed an action plan to establish an EU maritime transport space without barriers<sup>35</sup> so that there is a level playing field for shipping in competition with other transport modes.

### Competition law/state aid

- B.3** There are rules on state aid to shipping and ports to combat distortion of competition. The European Commission's 2004 White Paper invited views on the need to review Regulation 4056/1986,<sup>36</sup> which exempted liner conferences<sup>37</sup> from general competition laws. The justification for this exemption, that it guaranteed stability in the supply chain, was challenged. The UK supported the repeal of the Regulation (through Regulation 1419/2006<sup>38</sup>) and the extension of EU competition law to the sector.

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<sup>35</sup> [http://europa.eu/legislation\\_summaries/transport/waterborne\\_transport/tr0014\\_en.htm](http://europa.eu/legislation_summaries/transport/waterborne_transport/tr0014_en.htm)

<sup>36</sup> Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1986R4056:20040501:EN:PDF>

<sup>37</sup> Liner conferences are cargo shipping services operating on a regular scheduled basis on set routes.

Under the Liner Conference Code, the operators could cooperate to set uniform/common freight rates and other agreed conditions of carriage while guaranteeing the stability of the supply chain.

<sup>38</sup> Council Regulation (EC) No 1419/2006 of 25 September 2006 repealing Regulation (EEC) No 4056/86 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport, and amending Regulation (EC) No 1/2003 as regards the extension of its scope to include cabotage and international tramp services:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:269:0001:0003:EN:PDF>

## 2. Social

### Safety

- B.4** Whilst the EU has encouraged Member States to ratify and accede to existing International Conventions on safety it has also legislated widely in this area following the European Commission's 1993 Communication *A common policy on safe seas*.<sup>39</sup>
- B.5** To improve the implementation of EU maritime legislation, much of which implements international standards, the Committee on Safe Seas (COSS)<sup>40</sup> was established.
- B.6** Regulation 1406/2002<sup>41</sup> established the European Maritime Safety Agency (EMSA) to provide technical and scientific assistance and to ensure the implementation and enforcement of EU maritime safety legislation and evaluate its effectiveness.
- B.7** There was a significant increase in EU legislation relating to maritime safety and prevention of pollution from ships as a result of two major oil tanker incidents in EU Member States' waters: the *Erika* (December 1999) and the *Prestige* (November 2002). These incidents prompted greater exercise of EU competence in this area with the adoption of the First, Second and Third Maritime Safety Packages<sup>42</sup> and the Directive on ship-source pollution.<sup>43</sup>
- B.8** There are two major areas of EU intervention on navigational safety matters. One is the Standards of Training, Certification and Watchkeeping (STCW) changes implemented through Directive 2012/35/EU<sup>44</sup>. The aim is to enforce higher standards of training for seafarers and improve safety by introducing new lower alcohol limits for professional mariners. The other is "E- Maritime"<sup>45</sup> – a project to make the shipping and ports sectors more efficient by greater use of common IT systems across the EU. E- Maritime is still at a conceptual stage, but the aim is to mirror other electronic systems being developed around the world, for example in Singapore and China.

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<sup>39</sup> COM(93) 66 final: <http://aei.pitt.edu/4929/1/4929.pdf>

<sup>40</sup> [http://europa.eu/legislation\\_summaries/transport/waterborne\\_transport/l24241\\_en.htm](http://europa.eu/legislation_summaries/transport/waterborne_transport/l24241_en.htm)

<sup>41</sup> Regulation (EC) No 1406/2002 of the European Parliament of the Council of 27 June 2002 establishing a European Maritime Safety Agency:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:208:0001:0009:EN:PDF>

<sup>42</sup> [http://ec.europa.eu/transport/modes/maritime/safety/third\\_maritime\\_safety\\_package\\_en.htm](http://ec.europa.eu/transport/modes/maritime/safety/third_maritime_safety_package_en.htm)

<sup>43</sup> Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:255:0022:014:en:PDF>

<sup>44</sup> Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers:

[http://ec.europa.eu/transport/modes/maritime/seafarers/doc/new\\_stcw\\_directive.pdf](http://ec.europa.eu/transport/modes/maritime/seafarers/doc/new_stcw_directive.pdf)

<sup>45</sup> [http://ec.europa.eu/transport/modes/maritime/e-maritime\\_en.htm](http://ec.europa.eu/transport/modes/maritime/e-maritime_en.htm)



## Security

- B.9** The UK has had an effective risk-based maritime security regime since the early 1990s. Until 31 March 2004 the EU had not exercised competence in the field of maritime counter-terrorism security. The IMO's introduction of the International Ship and Port Facility Security (ISPS) Code<sup>46</sup> in 2002, developed in response to perceived threats to ships and port facilities in the wake of the 9/11 attacks in the US, acted as a spur to EU action in this area.
- B.10** In 2004 the EU decided to put in place common security requirements to improve transport (including maritime) security, which the EU believed would make Europe's maritime transport systems (both passenger and cargo) more resilient to acts of unlawful interference.
- B.11** Regulation 725/2004<sup>47</sup> established the mandatory provisions of the ISPS Code as part of EU law. The ISPS Code aims to provide a standardised, consistent framework for evaluating risk, enabling governments to offset changes in threat with changes in vulnerability for ships and port facilities through determination of appropriate security levels and corresponding security measures. The Regulation did not introduce any significant measures which were not already covered by the existing UK security regime. Key EU measures under the Regulation included the requirement to conduct Port Facility Security Assessments for all EU Port Facilities regularly serving international traffic and the creation of Port Facility Security Plans for those facilities. Ship Security Assessments, Ship Security Plans and implementation of Ship Security Measures were also required for certain categories of international and domestic shipping.
- B.12** Directive 2005/65/EC<sup>48</sup> on enhancing port security expanded the exercise of EU competence beyond the immediate ship-port interface (the focus of the previous Regulation and UK regime) to the wider port area, including waterside areas. Key measures under the Directive included the creation of Port Security Authorities (which would have strategic security responsibility for several Port Facilities) and the requirement for the completion of Port Security Assessments and Plans.

## Passenger rights

- B.13** Regulation 1177/2010,<sup>49</sup> establishes the right of all passengers to assistance in cases of cancelled or delayed departures and lays down the right, in certain circumstances, to compensation in case of delay in

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<sup>46</sup> <http://www.imo.org/ourwork/security/instruments/pages/ispscode.aspx>

<sup>47</sup> Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:129:0006:0006:EN:PDF>

<sup>48</sup> Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:310:0028:0039:EN:PDF>

<sup>49</sup> Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:334:0001:0001:EN:PDF>

arrival. It also provides disabled persons or those with reduced mobility the same rights and accessibility assistance when travelling by sea and inland waterways, as they have in other transport sectors.

- B.14** Over time and as with other transport modes, the EU has become increasingly interested in the protection of the rights of passengers on board ships and in establishing responsibilities and accountabilities of ship owners and carriers (e.g. through Directive 2009/20/EC<sup>50</sup> requiring shipowners to have insurance for certain maritime claims).

### Working conditions

- B.15** The European Commission has proposed two directives governing enforcement of the Maritime Labour Convention, 2006 (MLC), covering port state<sup>51</sup> and flag state<sup>52</sup> responsibilities respectively. The EU is not a member of the International Labour Organization (ILO) and cannot itself ratify, or require Member States to ratify the MLC. The proposed directives aim to ensure consistent implementation across the EU and are limited to those aspects of the MLC which fall within EU competence. In the context of the proposed flag state directive, this is determined by the coverage of a Social Partners Agreement on the MLC, and is being taken forward under Article 155 TFEU.

- B.16** The review of the exclusion of seafarers from the scope of several EU employment directives recognised that applying legislation to workers who are not 'land' based poses longstanding problems. The United Nations Convention on the Law of the Sea (UNCLOS) generally precludes a flag state from applying its law to foreign flagged vessels in its territorial waters on the grounds that this would interfere with their right of innocent passage. The global nature of the shipping industry coupled with the practical difficulties of defining which jurisdiction applies to any particular group of seafarers has made application of labour law at a national or EU level very difficult.

## 3. Environmental

- B.17** From the late 1990s, the EU's air quality agenda has driven legislation – resulting in two directives on the sulphur content of liquid fuels and subsequently marine fuels.<sup>53</sup> The IMO's success in adopting the Hong Kong Convention<sup>54</sup> on ship recycling has provided the impetus for a proposed EU Regulation on ship recycling,<sup>55</sup> while the continuing high

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<sup>50</sup> Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:131:0128:0131:EN:PDF>

<sup>51</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0129:FIN:EN:PDF>

<sup>52</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0134:FIN:EN:PDF>

<sup>53</sup> Directive 2012/33/EU of the European Parliament and of the Council of 21 November 2012 amending Council Directive 1999/32/EC as regards the sulphur content of marine fuels:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:327:0001:0013:EN:PDF>

<sup>54</sup> <http://www.imo.org/about/conventions/listofconventions/pages/the-hong-kong-international-convention-for-the-safe-and-environmentally-sound-recycling-of-ships.aspx>

<sup>55</sup> <http://ec.europa.eu/environment/waste/ships/>



profile of climate change, coupled with the difficulty in achieving global measures in any of the international forums, has provided the driver for a planned proposal for a Regulation on monitoring, reporting and verification of greenhouse emissions from ships.

- B.18** Various measures on maritime pollution have been introduced, such as the gradual phasing out of the fleet of single-hull tankers and replacing these with double hull tankers and of the use of sanctions for those responsible for causing oil spills or other ship-source pollution. Action has also been taken to tackle sulphur dioxide emissions from ships working at international level through the IMO.

## 4. Infrastructure

- B.19** After the Maastricht Treaty the EU has facilitated investment in priority infrastructure designed to move freight from road to more environmentally friendly modes, particularly short-sea shipping. (See paragraph C34 below for discussion of Trans European Networks in the area of transport (TEN -T)).
- B.20** The development and adoption of Intelligent Transport Systems has aimed at helping improve the use of transport infrastructure. For example, Vessel Traffic Monitoring and Information systems for sea transport (e.g. SeaSafeNet) and River Information Services for inland waterways facilitate data exchange.

## 5. External relations

- B.21** The EU has entered into external maritime agreements with third countries (or included maritime elements in wider external agreements), aiming to improve market access for EU shipping in third countries. For example the EU-China Maritime Transport Agreement (signed in 2002, entering into force in 2008). This *shared competence* agreement aims to improve the conditions under which maritime cargo transport operations are carried out and deals with broader maritime transport cooperation. A regular dialogue has been established with Brazil and a wide range of countries are being engaged under the General Agreement in Trade in Services (GATS).<sup>56</sup> The European Commission leads for the EU and its Member States in World Trade Organisation (WTO) discussions, including on maritime trade in services.

### The EU and the International Maritime Organization (IMO)

- B.22** The European Commission has observer status at the IMO but does not hold full membership. While there is no formal agreement between Member States, the EU or the European Commission about how to conduct business at the IMO, the Member States and the European

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<sup>56</sup> [http://www.wto.org/english/tratop\\_e/serv\\_e/gatsintr\\_e.htm](http://www.wto.org/english/tratop_e/serv_e/gatsintr_e.htm)

Commission work at Shipping Working Party level to co-ordinate an EU line for each IMO Committee and Sub-Committee meeting. Where the business covers areas governed by EU legislation, and where any agreement in IMO would affect EU rules, the European Commission coordinates a position. For items where there is an EU interest but no competence the European Commission and Member States still endeavour to coordinate a position and EU Member States have sometimes blocked IMO initiatives.

- B.23** The EU's Directorate-General for the Environment has generally supported the IMO's work on sulphur emissions. Its proposal for the amendment of the sulphur content of marine fuels Directive sought, for the most part, to align EU legislation with international standards.

### **The EU and the International Labour Organization (ILO)**

- B.24** Some EU social policy law (notably on working time and health and safety) overlaps with ILO instruments: the MLC and the Work in Fishing Convention. These conventions update and consolidate a wide range of earlier ILO Conventions and Recommendations. Neither convention is yet in force; the MLC will come into force in August 2013.

- B.25** The ILO constitution prohibits its members from interpreting the provisions of a new Convention in a way that would override existing higher national standards, so there is no direct conflict between the EU approach of combining existing EU standards with MLC standards. However, EU legislation often has a broader scope than a corresponding ILO Convention, causing difficulties for the drafting of implementing legislation.

- B.26** The EU has promoted a Council Decision authorising and encouraging the MLC's ratification – and there is also an EU social partners agreement – in relation to those parts of the convention that are within EU competence. The latter now forms the basis of Directive 2009/13/EC<sup>57</sup> which will come into force when the MLC comes into force, with 12 months for transposition. The social partners' agreement reflects EU standards where these are higher or more detailed than those in the MLC. As mentioned earlier, the EU has also proposed two further directives relating to the MLC.

- B.27** EU Member States have expressed a commitment to ratify the MLC. However, although the proposed directives in respect of flag state and port state control largely mirror the terms of the MLC, they will add further regulation.

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<sup>57</sup> Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:124:0030:0050:EN:PDF>

# Part C: Rail

## 1. Economic

### **Liberalisation: establishing a single European rail market**

- C.1** In order to remove national barriers to successful integration, and realise the benefits of the single European railway area, over the last 20 years the European Commission has introduced a programme of legislative reform. It has concentrated on three areas which it believes are crucial for the development of a strong and competitive rail industry. These are the opening of rail passenger and freight markets to competition, improving the interoperability and safety of national networks, and developing rail transport infrastructure. The process of reform started in the early 1990s with legislation introducing a limited degree of market opening, management independence from the state and some separation between the management of infrastructure and the operation of services. By the late 1990s, the European Commission was ready to propose further legislation building on these foundations in order to increase competition and efficiency in the rail sector through gradual liberalisation. It has done this through a series of “Railway Packages”.
- C.2** The First Railway Package<sup>58</sup> was adopted in 2001. It made changes aimed at stimulating competition in the rail market at EU-wide level including:
- establishing a general framework for the development of European railways including creating an independent regulator and requiring separate accounts for passenger and freight operations;
  - separating the operational functions of managing infrastructure and running rail services to remove the potential for discriminatory behaviour against market entrants;
  - requiring that network access charges are based on marginal cost (subject to certain allowances); and
  - opening the international rail freight market.
- C.3** Directive 2012/34/EU<sup>59</sup> consolidated and strengthened the First Railway Package. Revisions aim to improve the framework for investment in rail,

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<sup>58</sup> [http://ec.europa.eu/transport/rail/packages/2001\\_en.htm](http://ec.europa.eu/transport/rail/packages/2001_en.htm)

<sup>59</sup> Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast):  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:343:0032:0077:EN:PDF>

ensure fairer access to infrastructure and rail related services and strengthen the powers of national rail regulators.

**C.4** The Second Railway Package,<sup>60</sup> adopted in 2004, supported market liberalisation by:

- opening national and international rail freight markets on the entire EU rail network from January 2007;
- introducing common safety management and standards and investigation of accidents and incidents;
- introducing common technical specifications for interoperability and operating standards; and
- establishing a European Railway Agency (ERA).

**C.5** The Third Railway Package,<sup>61</sup> adopted in 2007, opened up international passenger services to competition from 2010. It also harmonised the licensing system for train drivers across the EU and ensured minimum rights for rail passengers based on the existing system established by the Convention Concerning the International Carriage by Rail (COTIF)<sup>62</sup> in particular relating to the international carriage of passengers, luggage and freight by rail. In the context of international rail passenger services, the United Kingdom maintains its own border controls arrangements, separate from the rest of the Schengen area. The demands of future international rail services to the United Kingdom must continue to accommodate the delivery of effective Schengen area and UK border controls.

**C.6** The European Commission's 2011 White Paper announced a vision to create an internal railway market and remove technical and administrative barriers which the European Commission considers are hindering the development of the single European railway area.

**C.7** Against this background, the European Commission published proposals for a Fourth Railway Package<sup>63</sup> on 30 January 2013. It consists of a number of measures aimed at the further liberalisation of the EU railway market including:

- further harmonising standards and approvals and a move towards the ERA issuing safety certificates and interoperability approvals;
- liberalising the domestic passenger services market;
- making infrastructure management fully independent; and

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<sup>60</sup> [http://ec.europa.eu/transport/modes/rail/packages/2004\\_en.htm](http://ec.europa.eu/transport/modes/rail/packages/2004_en.htm)

<sup>61</sup> [http://ec.europa.eu/transport/modes/rail/packages/2007\\_en.htm](http://ec.europa.eu/transport/modes/rail/packages/2007_en.htm)

<sup>62</sup> Convention concerning International Carriage by Rail of 9 May 1980 as amended by the Vilnius Protocol of 3 June 1999:

<http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&edirect=true&treatyId=5041>

<sup>63</sup> [http://ec.europa.eu/transport/modes/rail/packages/2013\\_en.htm](http://ec.europa.eu/transport/modes/rail/packages/2013_en.htm)

- making competitive tendering of new public service contracts mandatory from December 2019, and of all existing ones from the end of 2022.

**C.8** The Government is considering the detail and implications of the proposals but has identified a number of areas where we want to ensure that the proposals implemented are flexible enough to work within the UK public passenger transport structure and are compatible with our plans for rail reform.

### **Train operator licensing**

**C.9** The European Commission believes a uniform system for the licensing of operators is crucial to facilitate the operation of the single European railway area by breaking down barriers to cross-border services.

**C.10** Legislation to harmonise train operator licensing first introduced in 1995 (Directive 95/18/EC<sup>64</sup>) was revised as part of the First Railway Package ensuring the introduction of common criteria for licence applications and making independent designated national bodies responsible for the assessment and issuing of licences in each Member State. Licences granted by national licensing authorities are valid across the EU.

### **Train driver licensing**

**C.11** The European Commission has identified significant variations in national standards for the licensing of train drivers as another potential barrier. In particular the European Commission considered that the lack of mutual recognition of driver qualifications was hampering cross-border operations.

**C.12** The creation of a common licensing system for train drivers, as part of the Third Railway Package, is intended to make it easier for cross-border services to operate and increase public confidence in the rail system by ensuring all train drivers meet minimum professional standards. It is also intended to create a more flexible labour market in this area enabling drivers to move between railway undertakings both within one country and across Member States.

### **Railway interoperability**

**C.13** Another key barrier identified by the European Commission in creating a single European railway area is the lack of technical interoperability between railways in EU Member States such as differences in track gauge, electrification systems, signalling and control systems.

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<sup>64</sup> Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1995:143:0070:0074:EN:PDF>

- C.14** The EU has exercised its competence (Directive 2008/57/EC<sup>65</sup>) to introduce common technical standards and authorisation processes across the EU for new, upgraded or renewed rail vehicles and infrastructure. This approach is intended to create a single market for the supply of components and an effective trans-European network so that rail can compete more effectively with other transport modes. It is also designed to reduce costs.
- C.15** The Fourth Railway Package includes proposals for the ERA to carry out authorisations for vehicle and trackside signalling instead of national safety authorities.

## Freight

- C.16** The EU has taken action to restructure the rail freight industry to reduce costs and improve quality of service. This is in light of the relatively poor performance of rail in the rapidly growing international freight sector, and problems associated with the growth of road haulage in terms of congestion and environmental pollution.
- C.17** Regulation 1692/2006<sup>66</sup> encourages multi-modal transport by granting EU financial assistance to improve the environmental performance of the freight transport system. This provides for a second tranche of grants which give companies incentives to avoid or reduce road transport by co-funding new projects during the start-up phase before they become profitable.
- C.18** As noted above, the EU rail freight market is now also fully liberalised. The on-going development of an EU freight rail network, including defined cross-border freight corridors, is anticipated to provide further significant improvements.

## State aid

- C.19** A core part of the rail sector's business concerns the provision of public passenger transport services at below cost in order to fulfil a public interest or need. Regulation 1370/2007<sup>67</sup> governs the award of public service contracts. This Regulation sets out the mandatory content of public service contracts and general rules including when such contracts should be subject to competitive tendering. It also gives state aid clearance and exempts public service contracts from the prior

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<sup>65</sup> 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 (Recast):

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:191:0001:0045:EN:PDF>

<sup>66</sup> Regulation (EC) No 1692/2006 of the European Parliament and of the Council of 24 October 2006 establishing the second 'Marco Polo' programme for the granting of Community financial assistance to improve the environmental performance of the freight transport system (Marco Polo II) and repealing Regulation (EC) No 1382/2003:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:328:0001:0013:EN:PDF>

<sup>67</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:315:0001:0013:EN:PDF>

notification requirements in Article 108(3) TFEU (there are proposals to modernise state aid legislation).<sup>68</sup>

- C.20** As part of the Fourth Railway Package, the European Commission is also proposing to re-cast Regulation 1370/2007. Its main objective is to increase competition within the market in order to increase the quantity and improve the quality of passenger services through the mandatory competitive award of public service contracts.
- C.21** The European Commission has also published guidelines on state aid for railway undertakings.<sup>69</sup> The aim of the guidelines is to assist Member States and railway undertakings on the type and form of public funding that is likely to be considered compatible with the common market. All state aid schemes apart from those relating to public service contracts must be notified to the European Commission for prior approval.

## 2. Social

- C.22** As well as acting as a stimulator of economic growth, railways perform a vital social function. Social aspects of the railway – including better safety, enhanced security and recognition of both the rights and obligations of passengers and railway workers – have been an integral part of the approach to market liberalisation since the publication of the First Railway Package.

### Safety

- C.23** There are significant differences in levels of safety performance between Member States with the UK having one of the safest railways. The EU has identified divergent national standards and processes on the management of safety issues as another key barrier to the creation of the single European railway area. The EU's key aim has been to maintain, and where possible, improve overall levels of safety performance.
- C.24** Legislation to harmonise safety standards was first introduced in the Second Railway Package (Directive 2004/49/EC<sup>70</sup>) which also included the establishment of the ERA. Further legislation has been introduced in response to specific issues, such as the suite of common safety methods and a certification regime for entities in charge of maintenance of freight wagons.<sup>71</sup> These requirements have, in most cases, largely

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<sup>68</sup> COM(2012) 730 final: [http://ec.europa.eu/competition/state\\_aid/legislation/enabling\\_regulation\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/enabling_regulation_en.pdf)

<sup>69</sup> [http://europa.eu/legislation\\_summaries/competition/state\\_aid/tr0004\\_en.htm](http://europa.eu/legislation_summaries/competition/state_aid/tr0004_en.htm)

<sup>70</sup> Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive):

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:164:0044:0113:EN:PDF>

<sup>71</sup> Commission Regulation (EU) No 445/2011 of 10 May 2011 on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) No 653/2007:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:122:0022:0046:EN:PDF>



accorded with existing UK practice and have therefore not required significant changes to national law.

- C.25** Further action on safety, including an enhanced role for the ERA in considering applications for and issuing safety certificates, has recently been proposed as part of the Fourth Railway Package.

## Security

- C.26** In May 2012 the European Commission published a staff working document with suggestions for improving transport security.<sup>72</sup> These included security training for public transport staff, common rules for transport interchanges and the TEN-T, cross border contingency plans and an EU equipment standard. At the same time the European Commission also established an Expert Group on Land Transport Security to enable Member States to consider these points with the European Commission. It met for the first time in January 2013, deciding not to propose EU legislation at this stage.
- C.27** The terrorist threat to transport varies across different transport modes and Member States. Generally Member States are best placed to assess the level of risk they face in respect of a potential terrorist attack on their rail networks and the measures appropriate to mitigate that risk. Even when there are international cross-border issues, where there is a case for cooperation, this does not necessarily mean security measures should be set by the EU if local agreements can be made either bi-laterally or multi-laterally, for example, between France, Belgium and the UK for international rail services running through the Channel Tunnel.
- C.28** Regulation 1371/2007<sup>73</sup> introduced mandatory rules on the personal security of passengers, requiring railway authorities, infrastructure managers and station managers to take adequate measures to ensure passengers' personal security in railway stations and on trains.

## Passenger rights and service quality

- C.29** Regulation 1371/2007 also provides minimum rights for rail passengers in the areas of information provision, compensation, assistance and rights for persons with reduced mobility. The Government has decided that the “non-core elements” of this legislation will not apply to domestic rail passenger services until at least December 2014<sup>74</sup> (activated by S.I. 2009/2970). The national exemption can then be extended for two further periods of five years on a transparent and non-discriminatory basis.

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<sup>72</sup> <http://ec.europa.eu/transport/themes/security/doc/2012-05-31-swd-transport-security.pdf>

<sup>73</sup> Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:315:0014:0041:EN:PDF>

<sup>74</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/2368/guidance-note.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/2368/guidance-note.pdf)



- C.30** The European Commission has included enhancements to passenger rights legislation in the Fourth Railway Package which includes provisions related to integrated ticketing and a requirement for railway undertakings to put in place and co-ordinate contingency plans to assist passengers in the event of a major disruption.

### Working conditions

- C.31** Directive 2005/47/EC<sup>75</sup> implements an agreement reached between European railway stakeholders on driving and rest periods for mobile workers assigned to interoperable cross-border services. The agreement aims to strike a balance between the need to ensure adequate protection of the health and safety of mobile workers on cross border services and the need for flexibility in the operation of the European railway network. The Directive sets minimum standards and may not be used to justify a lower level of protection for workers where better protection is afforded under national legislation. The working conditions of rail workers on domestic services remain a contractual matter between employer and employee.

## 3. Environmental

- C.32** There are two principal pieces of EU environmental legislation which affect rail. First, exhaust emissions from diesel rail vehicles were brought within the scope of the Non-Road Mobile Machinery Emissions Directive 97/68/EC<sup>76</sup> in 2004. Previous emission standards for railway vehicles had been largely voluntary.
- C.33** Second, the Environmental Noise Directive 2002/49/EC requires Member States to produce noise maps to inform the public about noise exposure and its effects and to draw up action plans to address the management of noise. For rail, this involves the modelling of noise on many routes. In the UK, the rail industry is currently working with Government to review the noisiest areas identified by the noise maps and to consider whether any further action is required beyond the improvements made since the mapping was done. In particular, there has been a significant reduction in rail roughness – one of the major causes of rail related noise – following the introduction of a comprehensive rail grinding regime by Network Rail.

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<sup>75</sup> Council Directive 2005/47/EC of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:195:0015:0017:EN:PDF>

<sup>76</sup> Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997L0068:20111213:EN:PDF>

## 4. Infrastructure

- C.34** The TFEU provides for the establishment and development of Trans-European Networks in the area of transport (TEN-T). The objective is to promote cohesion, interconnection and interoperability of national networks as well as access to such networks across the EU. The European Commission published proposals for a new regulation in October 2011. This includes a dual-layer planning approach for TEN-T consisting of a Comprehensive Network and a Core Network. The latter is a more focused higher-level subset of the Comprehensive Network. It identifies core nodes: capital cities, major urban centres and transport hubs of strategic importance supporting traffic flows within the internal market and between the EU and its neighbours, connecting them via major road and rail networks. Negotiations on the new Regulation are under way.
- C.35** The Channel Tunnel is a unique piece of international transport infrastructure, providing a link for the UK economy to continental Europe, since it carries passengers, cars and freight. Around 17 million journeys were made between the UK and continental Europe via the Channel Tunnel in 2011. EU legislation on liberalisation, safety and interoperability is particularly relevant to it, since it is an important international rail link.

## 5. External relations

- C.36** While EU action in the rail sector is generally aimed at achieving a common framework within the European railway area, many harmonised EU standards are accepted (and in some cases adopted) by non-EU countries benefiting EU manufacturers globally.
- C.37** The EU acceded to COTIF in 2011. The Convention facilitates the development of a uniform legal system applicable to the international carriage of passengers and freight by rail and promotes the interests of rail transport worldwide through the Intergovernmental Organisation for International Carriage by Rail (OTIF) which it created. The EU's accession to the Convention was intended to widen the EU's sphere of influence in the international rail sector and to assist OTIF in its objective of promoting, improving and facilitating international rail transport.

# Part D: Roads

## 1. Economic

- D.1** Good road networks are vital to economic growth. The EU aims to create a single competitive market by promoting a framework for fair competition and access to the goods and services transport markets; establishing consistent safety management standards for roads, drivers and vehicles; and developing and deploying Intelligent Transport Systems (ITS) as a vital tool for aiding the delivery of policy objectives.
- D.2** EU rules allow for the free movement of goods and passengers between Member States but there are restrictions on the extent to which vehicle operators licensed in other Member States can provide services in domestic markets. For example, the existing cabotage rules put limitations on the carriage of passengers (e.g. by bus) and goods wholly within the UK by a foreign registered operator. This provides a level of protection to domestic operators and ensures that operators based in the UK are regulated by UK-based licensing authorities. It also provides local accountability and prevents operators using whichever Member State has the least effective licensing system.

### Internal market measures

- D.3** EU measures adopt different approaches to promote the internal market in this area predominantly by establishing compulsory minimum standards and mutual recognition.
- D.4** For example, the EU aims to promote the internal market and deliver safer, cleaner and quieter road vehicles through technical harmonisation. Based upon a system of type approval, Member States recognise approvals to harmonise technical requirements in their domestic market without further checks. Minimum technical requirements are negotiated with Member States and stakeholders, including the UN Economic Commission for Europe (UNECE)<sup>77</sup> which offers a gateway to worldwide technical harmonisation. National requirements remain applicable whilst they are not covered by EU legislation, but over time these have reduced significantly in number.
- D.5** The first motor insurance directive made third party cover compulsory in all Member States and required mutual recognition of insurance issued in one Member State. Further directives on insurance have meant that

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<sup>77</sup> <http://www.unece.org/>

today there are minimum levels of third party cover and provision has been made for the compensation of victims of accidents involving uninsured and unidentified drivers.<sup>78</sup> All Member States are required to have information centres to keep details of all insurance policies issued in that state and to share and exchange information with their equivalent bodies in other Member States in relation to accidents involving vehicles from different Member States.

- D.6** International road freight and passenger services were first liberalised following the European Commission's 1992 White Paper and included limited liberalisation of cabotage services.
- D.7** The European Commission is in the process of developing proposals to further liberalise cabotage rules and the rules governing operator licensing with a view to creating a single European traffic area. This is expected in July 2013 and has implications for all businesses, enforcement and administration in the area.

## 2. Social

### Safety and security

- D.8** The European Commission proposes to maintain a target of halving the overall number of road deaths in the EU between 2010 and 2020. In 2011, more than 30,000 people died on EU roads.
- D.9** The EU has exercised its competence to set rules requiring roadworthiness checks of vehicles. This started in 1977, initially for commercial vehicles, but later extended to cars and vans. Directives 2009/40/EC<sup>79</sup> and 2000/30/EC<sup>80</sup> support road safety while allowing for the free movement of vehicles. The European Commission has proposed stricter requirements on testing frequency and coverage. These proposals are being considered by the Council and European Parliament.
- D.10** EU drivers' hours rules apply to drivers of goods vehicles over 3.5 tonnes and passenger carrying vehicles with 10 or more passenger seats, unless covered by a range of specific EU-wide exemptions and national derogations. These rules require the use of tachographs and prescribe maximum limits on driving time and minimum requirements for breaks and rest periods. Both the EU drivers' hours and the mobile road

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<sup>78</sup> [http://europa.eu/legislation\\_summaries/other/l22028\\_en.htm](http://europa.eu/legislation_summaries/other/l22028_en.htm)

<sup>79</sup> Directive 2009/40/EC of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers (Recast):

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:141:0012:0028:EN:PDF>

<sup>80</sup> Directive 2000/30/EC of the European Parliament and of the Council of 6 June 2000 on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Community:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:203:0001:0008:EN:PDF>

transport working time rules (Directive 2002/15/EC<sup>81</sup>) are in place to promote road safety, by limiting time spent at the wheel and on other duties, thus helping reduce fatigue-related accidents. They also ensure fair competition in the industry and help improve the working conditions of drivers across the EU.

- D.11** The road infrastructure safety management Directive<sup>82</sup> places various requirements on Member States, including undertaking road safety audits and road safety assessments of new road schemes. It sets minimum safety standards and requirements to prevent accidents endangering human life, the environment and tunnel installations on the Trans-European Road Network.
- D.12** Greater sharing of relevant information or data such as cross-border information on road safety related traffic offences; compulsory minimum standards for third party motor insurance for temporary visits to other Member States, enhances safety in the EU, as well as the standards of foreign vehicles on UK roads.
- D.13** Dangerous goods have both a safety and a security dimension. Detailed rules for the international transport of dangerous goods by road are set out in a UNECE Agreement<sup>83</sup>. There is no overall enforcing authority; in practice checks are carried out by Contracting Parties and non-compliance is dealt with by national authorities in accordance with domestic legislation. The EU has adopted these rules in a series of directives, which extend the scope of the Agreement to apply to national as well as intra-Community transport.

### **Passenger rights and service quality**

- D.14** The EU has adopted legislation on the rights of passengers in bus and coach transport<sup>84</sup>. These include the rights for passengers with reduced mobility and compensation for delayed journeys. The Regulation came into force on 1 March 2013 but allows Member States to use exemptions for some services for up to eight years.

### **Working conditions**

- D.15** Directive 2002/15/EC applies to mobile workers (mainly drivers and accompanying crew) operating on vehicles in scope of the EU drivers' hours rules. This limits the total amount of work that can be carried out in one week, including driving but also any other work carried out, with

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<sup>81</sup> Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:080:0035:0039:EN:PDF>

<sup>82</sup> Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:319:0059:0067:EN:PDF>

<sup>83</sup> [http://www.unece.org/trans/danger/publi/adr/adr\\_e.html](http://www.unece.org/trans/danger/publi/adr/adr_e.html)

<sup>84</sup> Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:055:0001:0012:EN:PDF>

requirements to take breaks and rest. Drivers are also subject to two provisions of the general working time directive (Directive 93/104/EC<sup>85</sup>) covering entitlement to paid annual leave and health checks for night workers.

### 3. Environmental

#### Emissions and air quality

- D.16** The EU aims to improve air quality including by setting exhaust emission limits from road vehicles. New emission standards for motorcycles are currently being finalised through the EU negotiation process. For cars and light vans new standards (which will be mandatory for new vehicle type-approvals from September 2014 and for all new registrations from September 2015) will set lower emission limits for oxides of nitrogen. A new standard for buses and lorries (which will be mandatory for all new registrations from January 2014) aims to both reduce emissions of oxides of nitrogen to control particulate matter. The EU also acts to limit carbon dioxide emissions from cars and light goods vehicles and reduce the emissions of specific fluorinated greenhouse gases in their air conditioning systems to address environmental concerns over climate change.
- D.17** Minimum mandatory requirements are in place to deliver EU policy on the promotion and uptake of renewable transport fuels, primarily referred to as biofuels, in the UK. For example, many of the requirements of the Renewable Energy Directive (RED)<sup>86</sup> have been transposed into UK law through the Renewable Transport Fuel Obligation, which requires fuel suppliers to ensure that a proportion of their fuels is from a renewable, sustainable source. This is a fast developing area of EU policy.
- D.18** Important issues in the future include existing targets set in the RED and Fuel Quality Directive (FQD)<sup>87</sup> (as amended by Directive 2009/30/EC<sup>88</sup>), biofuel feedstocks sustainability and the development of advanced biofuels and non-bio renewable fuels. The European Commission has published a proposal to limit global land conversion for biofuel production, and promote the benefits of using biofuels in the EU. It has

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<sup>85</sup> Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1993:307:0018:0024:EN:PDF>

<sup>86</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=Oj:L:2009:140:0016:0062:en:PDF>

<sup>87</sup> Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:350:0058:0067:EN:PDF>

<sup>88</sup> Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0088:0113:EN:PDF>



also announced as part of its work programme for 2013 a new climate and energy framework for the period up to 2030.<sup>89</sup>

## Noise

- D.19** Road traffic is a significant contributor to environmental noise and noise nuisance has costs in both amenity and health terms (current monetisation of noise nuisance is based entirely upon its amenity impact). Noise limits are set for new motor vehicles as reducing noise emissions at source is usually the most cost-effective route to improve vehicle related noise nuisance.
- D.20** The European Commission published a proposal in 2011 intended to reduce the noise produced by vehicles. Noise limit values would be lowered in two steps. The first step would apply two years after the publication of the final Regulation and the second step three years thereafter. The Regulation would introduce a new test method to measure sound emissions under conditions that better reflect typical use patterns, and would permit the fitting of noise generating devices to electric and hybrid electric vehicles if these devices meet a defined standard.
- D.21** The Environmental Noise Directive 2002/49/EC requires Member States to produce noise maps to inform the public about exposure to noise and its effects and to draw up action plans to assist in its management. For roads, this involves noise modelling on routes in the larger urban areas and on routes with more than three million vehicle movements a year.

## 4. Infrastructure

- D.22** The establishment and development of TEN-T (see paragraph C34) is an important element of the EU's policy on promoting cohesion, interconnection and interoperability of national networks in order to support and facilitate free movement of goods and people.
- D.23** The 2001 White Paper suggested that the development of ITS solutions at the EU level could improve the use of transport infrastructure by reducing congestion and energy consumption, supporting greener mobility and increasing traffic safety.
- D.24** The ITS Directive<sup>90</sup> provides an opportunity to share skills and experience with fellow Member States for the development and deployment of ITS. Future developments in this area will play an increasing role in contributing towards achieving transport policy

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<sup>89</sup> A 2030 framework for climate and energy policies (COM(2013) 169 final):

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0088:0113:EN:PDF>

<sup>90</sup> Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:207:0001:0013:EN:PDF>



objectives, though the costs, benefits and effectiveness of deployed technologies will vary between Member States according to national priorities, existing infrastructure and network characteristics.

- D.25** Until now the exercise of competence on road charging has been relatively limited. For Member States with HGV charging, the Eurovignette Directive<sup>91</sup> prescribes rules for distance-based and time-based charges to ensure fair competition in international haulage, and sets out minimum rates of Vehicle Excise Duty (VED). The relatively prescriptive rules for time-based charging, where the €11 maximum daily charge does not reflect externalities and was not increased in the most recent revision of the Directive,<sup>92</sup> is consistent with the European Commission's desire to prohibit time-based charges in future. There is no hypothecation of revenues; it is for Member States to determine where revenues are spent.
- D.26** Directive 2004/52/EC<sup>93</sup> aims to achieve interoperability (technical compatibility) between electronic toll systems across the EU by setting out a framework for a European Electronic Toll Service. Interoperability would enable road users who wish to do so to drive on a wide range of tolled infrastructure across the EU using one subscription contract with one service provider and one piece of on-board electronic equipment.
- D.27** In the longer term the European Commission has signalled an aspiration – in its 2011 White Paper – for EU wide road pricing with the aim of moving towards 'user-pays' and 'polluter-pays' principles, generating revenues and financing transport investments. The Transport Commissioner has indicated plans to bring forward a proposal on road charging in summer 2013, including the possibility of mandatory distance-based HGV charging and some hypothecation of toll revenue for transport spending including on TEN-T.

## 5. External relations

- D.28** In many instances EU action needs to be seen in the context of international arrangements at the UNECE. The UNECE works on regulations that cover safety, environmental protection, security and energy efficiency.
- D.29** For example, discussion of a common set of technical standards for motor vehicles began in 1952 through the World Forum for Harmonisation of Vehicle Regulations at the UNECE. By 1958,

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<sup>91</sup> Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ%3AL%3A1999%3A187%3A0042%3A0050%3AEN%3APDF>

<sup>92</sup> Directive 2011/76/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:269:0001:0016:EN:PDF>

<sup>93</sup> Directive 2004/52/EC of the European Parliament and of the COUNCIL of 29 April 2004 on the interoperability of electronic road toll systems in the Community: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:166:0124:0143:EN:PDF>

participating countries had reached agreement creating a uniform system of regulations for vehicle design to facilitate international trade and also mutual recognition, which facilitated the trade of vehicles throughout the EU.

- D.30** The 1958 agreement<sup>94</sup> has been effective as the main international framework for the harmonisation of vehicle technical standards at the international level and the EU system has run in parallel. Recent regulatory developments at the EU level have seen Directives replaced with a number of UNECE Regulations. Common standards have a major role to play in reducing burdens on industry and are often seen as a route to increasing competitiveness in a global market. A further Agreement (the Global Agreement) was adopted in 1998<sup>95</sup> and this seeks to establish fully harmonised Global Technical Regulations (UN-GTR). Since 2000, 12 UN-GTRs have been adopted.
- D.31** There is a UNECE agreement on tachographs and drivers' hours<sup>96</sup> (signed by 49 countries, including all EU Member States and former eastern bloc countries such as Belarus and the Russian Federation). The European Commission is currently putting forward proposals for the EU to accede to this agreement.

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<sup>94</sup> Concerning The Adoption Of Uniform Technical Prescriptions For Wheeled Vehicles, Equipment And Parts Which Can Be Fitted And/Or Be Used On Wheeled Vehicles And The Conditions For Reciprocal Recognition Of Approvals Granted On The Basis Of These Prescriptions:

<http://www.unece.org/trans/main/wp29/wp29regs.html>

<sup>95</sup> Agreement Concerning The Establishing Of Global Technical Regulations For Wheeled Vehicles, Equipment And Parts Which Can Be Fitted And/Or Be Used On Wheeled Vehicles:

<http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29glob.html>

<sup>96</sup> European Agreement Concerning The Work Of Crews Of Vehicles Engaged In International Road Transport (AETR):

<http://www.unece.org/fileadmin/DAM/trans/doc/2006/sc1/ECE-TRANS-SC1-2006-02e.pdf>