

**PRIME Meeting no 9**  
**17 November, 2016, Brussels, BE**

**Annex to item 5 – Future of PRIME as  
the European Network of Rail Infrastructure managers**

**- For discussion -**

**Background**

This paper considers the future of PRIME and its modus operandi given the following events:

1. Formal mandate and responsibilities of the European Network of Infrastructure Managers (ENIM) foreseen under the 4th Railway Package;
2. Revised rules applicable to Commission expert groups since May 2016<sup>1</sup> (since its inception in 2013, PRIME is registered as a Commission expert group and is therefore subject to the revised rules).

Accommodation of these changes requires some procedural adjustments, but it is also necessary to reflect whether the way PRIME has been operating needs to be adjusted as to accommodate a higher number of members and to deliver on the full set of ENIM objectives.

**Mandate and responsibilities under the 4th Railway Package**

The Market Pillar of the Fourth Railway Package is expected to be adopted in December 2016. A new Article 7f will be added to Directive 2012/34/EU establishing a single European railway area:

**Article 7f European Network of Infrastructure Managers**

1. With the view to facilitating the provision of efficient and effective rail services within the Union, Member States shall ensure that their main infrastructure managers participate and cooperate in a network that convenes at regular intervals to:
  - a) develop the Union rail infrastructure,
  - b) support a timely and efficient implementation of the Single European Railway Area,
  - c) exchange best practices,
  - d) monitor and benchmark performance,
  - e) contribute to the market monitoring activities referred to in Article 15,

<sup>1</sup> Commission Decision of 30.5.2016 establishing horizontal rules on the creation and operation of Commission expert groups C(2016)3301,  
[http://ec.europa.eu/transparency/regexpert/PDF/C\\_2016\\_3301\\_F1\\_COMMISSION\\_DECISION\\_PLUS\\_ANNEXES\\_EN.pdf](http://ec.europa.eu/transparency/regexpert/PDF/C_2016_3301_F1_COMMISSION_DECISION_PLUS_ANNEXES_EN.pdf)

- f) tackle cross-border bottlenecks, and
- g) discuss the application of Articles 37 [*Cooperation in relation to charging systems on more than one network*] and 40 [*Cooperation in the allocation of infrastructure capacity on more than one network*].

For the purpose of point (d), the network shall identify common principles and practices for the Monitoring and benchmarking of performance in a consistent manner.

Coordination under this paragraph shall be without prejudice to the right of applicants to appeal to the regulatory body and the powers of the regulatory body as set out in Article 56.

2. The Commission shall be a member of the network. It shall support the work of the network and facilitate coordination.

In principle, there seems to be no need for major changes in PRIME's modus operandi, but some topics should still be considered:

- **Entry into force of 4<sup>th</sup> package** – the provisions on the role of ENIM, as outlined above enter into force as from the adoption of the Directive. From that date, PRIME may in principle start to act under the mandate of ENIM.

The provisions of the Directive concerning ENIM have to be transposed and implemented by Member States within two years after the entry into force of the Directive. This means that by that time the Member States have to ensure that their main IMs participate in the network.

In practice it would mean that as soon as the status of ENIM gets embedded in PRIME working arrangements, it starts to act under the new mandate with the number of PRIME members assumingly increasing gradually until the end of 2018.

- **Name** – the European Network of Infrastructure Managers can still be called 'PRIME'.
- **Membership** – in future, there will be no need to sign *PRIME's Declaration of Intent*; instead the new members have to become a member according to the rules applicable to EC expert groups. Definition of 'main IMs' needs to be agreed upon.
- **Tasks** – tasks (b)-(e) - support implementation of the Single European Railway Area, exchange best practices, monitor and benchmark performance and contribute to market monitoring - are already covered by the existing structures of PRIME. It needs to be reflected, however, how to cover in future points (a), (f) and (g) regarding development of the Union rail infrastructure, tackling cross-border bottlenecks and enhancing cross-border cooperation on charging and infrastructure capacity allocation.
- **Chairing** – EC/industry co-chairing can continue
- **Secretariat** – current arrangements can continue – DG MOVE together with the office of the industry co-chair provides general secretariat; subgroup chairs provide secretariat to their groups.

- **Travel costs** – while there is no legal obligation to EC to compensate the participation in the network, it acknowledges that this might impede some IMs from participating. EC will therefore look at possibilities to cover the travel costs to plenary meetings, but cannot guarantee that funds will be available. The development of PRIME website, as an online participation tool, is therefore even more important.

### Revised rules applicable to Commission expert groups

- **Mandatory registration in the transparency register** - all industry members are 'Type-C' members in the meaning of EC expert groups and shall therefore register in the transparency register. Many IMs already have done so, PRIME secretariat will send the relevant request to the others.
- **Rules of procedure** – PRIME's 'Working arrangements' need to be reshaped as 'rules of procedure' according to the standard structure applicable to Commission expert groups. According to preliminary assessment, it is possible to do these adjustments so that all essential elements of PRIME's current modus operandi will be maintained, except for additional transparency requirement as outlined below.
- **Transparency** – so far PRIME has published only materials related to its *plenary* meetings. According to the new expert group rules, meeting materials (agendas, contributions, minutes) of *subgroups* need to be also published. Exception can be made where it is deemed that disclosure of a document would undermine the protection of commercial interest. In case of PRIME, this can be relevant in particular to the work of the KPI subgroup and to the Safety subgroup (if discussing incidents).

### Way forward

The proposed way forward is as follows:

- Call for volunteers to work on the revision of Working Arrangements and converting them into Rules of Procedure. Such a group could potentially include representatives of the PRIME co-chairs (DG MOVE and SNCF Réseau), CER, EIM and of two further industry members. Given the important role of RNE in implementing cross border aspects of infrastructure management (see ENIM's tasks 1(f) and 1(g)), RNE could also be represented in the group.
  - The working group will develop a new draft by February 2017 and consult first the subgroup chairs and then all PRIME members.
  - The new Rules of Procedure will be adopted via a written procedure in spring 2017.
- ➔ PRIME members are asked **to discuss** the issue and **agree on the way forward** based on the proposal in this paper.