



Brussels, 18 April 2013

**SECTORAL DIALOGUE  
COMMITTEE  
RAILWAYS**

**Concise minutes of the "Adaptability and Interoperability" working group meeting**

**18 October 2012 (morning)**

The meeting was chaired by the chairman of the working group, Mr Piteljon (workers). The agenda and the minutes of the working group meeting of 27 March 2012 were approved with changes related to remarks made by ETF.

**1. Commission report on the implementation of Council Directive 2005/47/EC**

Ms Guin (DG EMPL, Head of Labour Law Unit) informed the social partners that the Commission report on the implementation of Council Directive 2005/47/EC on the Agreement between the CER and the ETF on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector should be adopted at the end of October<sup>1</sup>. Ms Guin presented the main conclusions (see chapter 7 of the report). On the specific issue of Clause 4 on daily rest away from home, the Commission will urge the social partners to make full use of the flexibility offered by the agreement and to resume the negotiation process at EU level which is laid down in the footnote in Clause 4. ETF suggested to CER to consider a new joint project on the practical implementation of the Agreement. CER did not exclude discussing/negotiating the issue again with ETF provided that the workers' side would take the formal commitment that a third rest away from home would be acceptable under certain circumstances. ETF did not agree to outline a given negotiation result at the start of a negotiation. The parties agreed to postpone their further discussion until after the publication of the report.

**2. Joint project "PSR-RAIL - Identify and prevent psychosocial risks within the railway sector" (VS/2012/0231)**

Mr Olofsson (employers) informed about the state of play of the project which had started in October. Three bids had been received in response to the call for tender. ETF was very satisfied with the level of participation from the employers' side (which included heads of medical services). The following dates have been fixed for the project workshops: 19-20 February, 23-24 April, 18-19 June 2013.

---

<sup>1</sup> COM(2012) 627 final of 26 October 2012

### **3. Work programme 2013-2014**

ETF suggested having a general brainstorming on the work programme, to be compiled at the steering committee meeting of 5 December 2012. The workers' side proposed to keep the first two points (agreement on working conditions: new joint project on the practical implementation of the agreement and preparation of the review according to clause 12; jointly look at CER's survey on the implementation of the locomotive driver licence agreement). On ERTMS, EIM should decide whether they could take the lead for a joint project. The point on TSIs should be amended and contain more specific elements (identify possible points in the ERA work programme and better prepare the discussion with ERA).

CER considered that the social partners should concentrate on the implementation of the Train Driver Directive (be involved in the Commission report on the implementation). Regarding clause 12 of the agreement on working conditions, CER wished to know ETF's vision (does ETF intend to revise the agreement?). A review should take place in a balanced approach. The social partners should meet the new head of the interoperability unit within ERA. The employers' side also stressed the need to come closer to the candidate countries (capacity-building activity<sup>2</sup>).

Regarding the working conditions agreement, ETF referred to the first project on the implementation which identified some needs to adapt the clauses (fragmentation of breaks, definition of driving time). However ETF did not yet have a negotiation mandate. Therefore, ETF proposed as a first step to have another joint look at the practical implementation. The secretariats should work together and agree on all points before the December meeting.

### **4. Information from DG MOVE on the 4th railway package**

DG MOVE representatives informed about the state of play of the impact assessments: they were at the stage of the Commission-internal quality-check. The intention was to come up with legislative proposals in December 2012 if possible. DG MOVE presented the preferred set of options as identified in the impact assessments (and insisted that these were still preliminary as the Impact Assessment Board had not issued its opinion): open access with an economic equilibrium test of public service contracts (PSCs); mandatory tendering of all PSCs with predetermined criteria by the public authority (this would imply the amendment of the PSO Regulation); voluntary integrated ticketing; public authority to take the risk of residual value of rolling stock if the market for rolling stock does not provide for leasing arrangements; complete separation between operation and infrastructure. Regarding the transfer of staff, the PSO Regulation allows the competent authority to extend the application of *Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses* to public transport by road and rail and to impose social standards onto the new operator. The impact assessments would be published together with the legislative proposals.

ETF was scandalised by the favoured options which were the worst conceivable scenario from the workers' point of view. ETF deplored that a blind eye had been turned to the social impact assessment (for instance the disregard of the bad experience of centralised tendering in the UK). It would be very difficult to convince citizens and workers of the

---

<sup>2</sup> Possibly with the assistance of TAIEX: [http://ec.europa.eu/enlargement/taix/index\\_en.htm](http://ec.europa.eu/enlargement/taix/index_en.htm)

expected benefit of these proposals which ETF considered as a threat to services of general interest. The Commission should rethink its model: liberalisation was no panacea; if member states did not have the money to put in the rail system, it would never run properly. The Commission needed urgently to carry out a thorough assessment of the previous liberalisation packages.

CER put more practical questions related to the tendering of PSCs: if a railway undertaking had higher staff costs, it would necessarily lose any call for tender, unless there was a social level playing field at national level. Therefore, the 4th package should provide for such a level playing field at national level. In Sweden, the liberalisation had not caused any disaster, on the contrary, punctuality and safety had increased.

The DG MOVE representatives insisted that the impact assessments were work-in-progress and that no proposals had been tabled yet. They also indicated that workers' views had been properly heard during the stakeholder consultations of the impact assessments (including through the Sectoral Dialogue Committee) and that the assessment of impacts had been conducted in line with the Commission's impact assessment guidelines. DG MOVE also underlined that the views of other stakeholder groups (passengers, railway undertakings, national authorities...) were also taken into account in the process and diverged from those of workers' organisations.

There was further exchange with DG MOVE on the concerns raised related to safety, subsidiarity (definition of services of general interest, collective agreements), administrative capacity to manage public tenders. DG MOVE was convinced that the proposed options would overall lead to a better financing of rail services in Europe.

**Participants 18.10.2012**

<p><b>Employers (2 ♂, 3 ♀)</b></p> <p><b>CER</b>  Ms Boecker (DE)  Ms Grau (FR)  Mr Olofsson (SE)  Mr Preumont (CER)</p> <p><b>EIM</b>  Ms Malheiro</p>	<p><b>Workers (8 ♂, 4 ♀)</b></p> <p><b>ETF</b>  Mr Albertazzi (ETF)  Mr Aufrère (FR)  Mr Gamez Ramirez (ES)  Mr Gobé (FR)  Ms Marzola (IT)  Mr Minchev (BG)  Mr Peer (BE)  Mr Piteljon (BE)  Ms Reiss (AT)  Ms Trier (ETF)  Mr Verleysen (BE)  Ms Zlatkova (BG)</p>
<p><b>European Commission</b></p> <p>Mr Coppens (DG MOVE/B.2)  Ms Durst (DG EMPL/B.1)  Ms Guin (DG EMPL/B.2)  Mr Liégeois (DG MOVE/A.5)  Ms Mazeika (DG MOVE/B.2)  Mr Pedret (DG MOVE/B)  Mr Scherp (DG MOVE/A.5)</p>	