

**EXPLANATORY MEMORANDUM TO**  
**THE CHANNEL TUNNEL (INTERNATIONAL ARRANGEMENTS) ORDER 2005**

**2005 No. 3207**

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 This Order implements three European Directives, known collectively as the First Rail Package specifically for the Channel Tunnel (see paragraph four for further details).
  - 2.2 The Order sets out a number of requirements in relation to: access and transit rights through the Common Section (as defined in the Schedule to the Order); rights to a minimum access package; the determination of access charges; the allocation of infrastructure capacity; the right of appeal to a regulatory body; and improving the transparency and efficiency of the organisation responsible for the provision of transport services and the management of railway infrastructure. The instrument assigns the functions of the regulatory body to the Intergovernmental Commission (IGC), a joint UK and French body established under the Treaty of Canterbury 1986. These include an appeal function in relation to a range of potential disputes, including those about access and charging. They also give the IGC and appropriate national authorities a monitoring role in relation to charges and competition.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Background**
  - 4.1 This instrument is being made to give force in UK law to a Binational Regulation which has been made by the IGC to implement the First Package of EU Rail Directives in respect of the Channel Tunnel. The instrument is being made under the powers conferred on the appropriate Minister by section 11 of the Channel Tunnel Act 1987.
  - 4.2 The Order implements Directive 91/440/EEC on developing the Community's railways, as amended by Directives 2001/12/EC and 2004/51/EC; Directive 95/18/EC on the licensing of railway undertakings as amended by Directive 2001/13/EC; 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.
  - 4.3 The UK Government is currently subject to infraction proceedings for our failure to notify transposition measures on the First Rail Package. Regulations

to implement the package for Great Britain have now been made and will come into force on 28 November 2005. Separate regulations are also being made in respect of Northern Ireland.

4.4 A transposition note is at Annex A.

4.5 A brief scrutiny history is attached at Annex B.

## **5. Extent**

5.1 This instrument applies to the Channel Tunnel.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The Directives being implemented support the policy objectives of the European Commission, as expressed in the Common Transport Policy, of revitalising railways throughout the EU by opening up rail markets, especially the rail freight market, to competition, and providing that access to the railway infrastructure and services in all Member States is available on a fair and non-discriminatory basis.

7.2 Although separate implementation measures are being made for Great Britain and Northern Ireland, we need to implement separately for the Channel Tunnel. These measures are bi-national since the tunnel is regulated by the Governments of France and the UK in a bi-national manner. The Binational Regulation was signed by the IGC on 25 October on behalf of the French and UK Governments.

7.3 The Department's consultation exercise on the implementation of the First Package of EU Rail Directives set out how they would be transposed in relation to the Channel Tunnel. We sent out over one hundred and seventy copies of the consultation paper. Twenty nine responses were received (including ones from all of the key rail industry stakeholders), an analysis of the responses was completed and consultees views taken into consideration. A separate short consultation of specific key stakeholders for the Channel Tunnel, including Eurotunnel, Eurostar, English Welsh and Scottish Railway International, SNCF and Europorte, was undertaken by the IGC, who also sought the views of the British Railways Board.

7.4 The Department's consultation paper asked consultees for their comments on the Government's plans to transpose the First Rail Package to the Channel Tunnel by means of a Binational Regulation of the Channel Tunnel Intergovernmental Commission, given effect in the UK by an enabling Statutory Instrument. Of the twenty nine respondents only four provided comments in response to this question. All were supportive of the Government's plans to pursue implementation through a Binational Regulation with the French Government. A copy of the consultation report summarising

the comments made and the Government's response is available on the Department's website at [www.dft.gov.uk](http://www.dft.gov.uk)

- 7.5 The IGC received written responses to its consultation on the text of the Regulation from Eurotunnel, EWSI, Eurostar and SNCF. These drew attention to some provisions of the Directives that had been overlooked in the draft Regulation, and that the IGC has subsequently incorporated into its text. Some concerns were also expressed about the lack of recognition in the text of pre-existing contractual arrangements. The IGC made clear in its responses to the consultees that it would be inappropriate to refer to the detail of existing contracts in a Regulation of this nature.
- 7.6 Apart from the fact that the Order implements Directives for the Channel Tunnel, the changes implemented by the Order are not in themselves politically or legally important.

## **8. Impact**

- 8.1 No separate Regulatory Impact Assessment has been produced for this Order; the issues were covered in Appendix A of Regulatory Impact Assessment for the First Rail Package Transposition Regulations for Great Britain. A copy of which has been placed in the Library of each House of Parliament and is available on the Department's website at [www.dft.gov.uk](http://www.dft.gov.uk).
- 8.2 The impact on the public sector is minimal. There may be some additional tasks falling to the Channel Tunnel Intergovernmental Commission from its expanded regulatory role, but the payments already made by Eurotunnel under the terms of the Channel Tunnel Concession Agreement to cover the expenses of the Channel Tunnel Intergovernmental Commission and Safety Authority should be adequate to absorb the cost of those additional tasks.

## **9. Contact**

Deborah Phelan at the Department for Transport Tel: 020 7944 6757 or e-mail: [Deborah.phelan@dft.gsi.gov.uk](mailto:Deborah.phelan@dft.gsi.gov.uk) can answer any queries regarding the instrument.

## Transposition Note

### **Transposition Note for Council Directive 91/440/EEC on the development of the Community's railways, as amended by Directives 2001/12/EC and 2004/51/EC; Council Directive 95/18/EC on the licensing of railway undertakings, as amended by Directive 2001/13/EC; 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, of the European Parliament and the Council**

This Transposition Note outlines how the main elements of Directive 91/440/EEC (as amended), Directive 95/18/EC, (as amended) and Directive 2001/14/EC (as amended) are implemented for the Channel Tunnel by the Channel Tunnel (International Arrangements) Order 2005 ("2005 Order").

This instrument gives force in UK law to the "international articles", which are set out in the Schedule to the Order. The international articles consist of the text of a Binational Regulation made on 25 October 2005 by the Intergovernmental Commission on behalf of the UK and French governments to implement the Directives for the Channel Tunnel. By virtue of the provision in article 2.3 of Directive 91/440/EEC, as amended, which excludes undertakings the train operations of which are limited to providing solely shuttle services for road vehicles through the Channel Tunnel from most of the Directive, much of this Directive does not currently require transposition for the Channel Tunnel.

This instrument relates solely to operations within the boundaries of the Fixed Link, which are subject to joint Anglo-French regulation. The transposition of the requirements of Directives 91/440/EEC (as amended), 95/18/EC (as amended) and 2001/14/EC (as amended) in respect of operations on the rest of the rail network in Great Britain is effected through the Railway (Licensing of Railway Undertakings) Regulations 2005 and the Railways Infrastructure (Access and Management) Regulations 2005.

#### **Directive 91/440, as amended by Directives 2001/12 and 2004/51**

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
2 (as amended by Article 1.3 of Directive 2001/12)	This allows member states to exclude some undertakings from the scope of the Directive.	This requirement has been implemented by regulation 1 of the 2005 Order.	The Secretary of State for Transport through the 2005 Order.
4.1 (as amended by Article 1.6 of Directive 2001/12)	Requires member states to ensure that railway undertakings are independent from the state in management, administration, economic and accounting matters.	No specific application to the Channel Tunnel - see article 2.3 of the Directive. But in any event the Channel Tunnel is required by Treaty to be a private commercial undertaking.	

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
4.2(as amended by Article 1.6 of Directive 2001/12)	States that whilst respecting the framework and specific charging and allocation capacity rules the infrastructure manager shall have responsibility for its own management, administration and internal control.	No implementation necessary - see article 2.3 of the Directive. But in any event the Channel Tunnel is required by Treaty to be a private commercial undertaking.	
5.1 and 3	Requires member states to ensure that railway undertakings adjust their activities to the market and manage those activities under responsibility of their management bodies.	No implementation necessary - see article 2.3 of the Directive. But in any event the Channel Tunnel is required by Treaty to be a private commercial undertaking.	
5.2	States that railway undertakings shall determine their business plans.	No implementation necessary - see article 2.3 of the Directive. But in any event the Channel Tunnel is required by Treaty to be a private commercial undertaking.	
6.1 (as amended by Article 1.7 of Directive 2001/12)	Requires member states to ensure that bodies which have the functions of infrastructure manager and train service provider maintain separate profit and loss accounts and balance sheets for the two areas.	This requirement has been implemented by article 4 of the international articles.	IGC.
6.2(as amended by Article 1.7 of Directive 2001/12)	States that Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.	No implementation necessary - see article 2.3 of the Directive. But in any event Member States to decide whether this requirement is needed.	
6.3 (as amended by Article 1.7 and annex II of Directive 2001/12)	Requires that member states shall ensure that the functions of the infrastructure manager are entrusted to bodies that do not themselves provide any rail services.	No specific application to the Tunnel - see article 2.3 of the Directive	

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
6.4(as amended by Article 1.7 of Directive 2001/12)	States that the application of 6.3 shall be subject to a report by the Commission.	No implementation through Regulations is needed.	
7.1 (as amended by Article 1.8 of Directive 2001/12)	Requires member states to take the necessary measures for the development of their national railway infrastructure.	No specific application to the Channel Tunnel, but already been effected by the passage of the Channel Tunnel Act 1987.	
7.2 (as amended by Article 1.1 of Directive 2004/51)	Requires Member States to ensure that safety standards and rules laid down, rolling stock and railway undertakings are certified accordingly and accidents investigated.	This was deleted by 2004/51/EC.	
7.3 (as amended by Article 1.8 of Directive 2001/12)	States that Member States may also accord the infrastructure manager, financing consistent with the tasks, size and financial requirements, in particular to cover new investment.	Member States to decide whether this requirement is needed - not implemented	
7.4 (as amended by Article 1.8 of Directive 2001/12)	Requires the infrastructure manager to draw up a business plan.	No implementation necessary - this is aimed at State bodies. The Channel Tunnel is required by Treaty to be a private commercial undertaking.	
8	Requires the infrastructure manager to charge a fee for the use of the railway infrastructure. The user fee, must be calculated in such a way as to avoid any discrimination between railway undertakings, may in particular take into account the mileage, the composition of the train and any specific requirements in terms of such factors as speed, axle load and the degree or period of utilisation of the infrastructure.	This requirement has been implemented by article 11(2) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
9.1	Requires member states to set up appropriate mechanisms to help reduce indebtedness of publicly owned or controlled railway undertakings.	Not relevant to the Channel Tunnel - it is a private company, and is moreover debarred from receiving State aid.	
9.2	States that Member States may take the necessary measures requiring a separate debt authorisation unit to be set up within the accounting departments of such undertakings.	Not relevant to the Channel Tunnel.	
9.3 (as amended by Article 1.9 of Directive 2001/12)	States that aid accorded by Member States to cancel the debts referred to in this Article shall be granted in accordance with Articles 73, 87, and 88 of the Treaty.	Not applicable to the Channel Tunnel.	
9.4 (as amended by Article 1.10 of Directive 2001/12)	States that in the case of railway undertakings profit and loss accounts and either balance sheets or annual statement of assets and liabilities shall be kept and published for business relating to the provision of rail freight-transport services. Funds paid for activities relating to the provision of passenger-transport services as public-service remits must be shown separately in the relevant accounts and may not be transferred to activities relating to the provision of other transport services or any other business.	No specific application to the Channel Tunnel, as it does not provide railway transport services within the meaning of the Directive.	
10.1 (as amended by Article 1.11 of Directive 2001/12)	Requires the granting of access and transit rights for international groupings.	This requirement has been implemented by article 3(1) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
10.2 (as amended by Article 1.11 of 2001/12)	Requires the granting of access rights for international combined transport goods services.	This requirement has been implemented by article 3(2) of the international arrangements.	IGC.
10.3 (as amended by Article 1.2 of Directive 2004/51)	Requires the granting of access rights for freight services.	This requirement has been implemented by article 3(2) of the international arrangements.	IGC.
10.4 (as amended by Article 1.11 of 2001/12)	At the request of a Member State or on its own initiative the Commission shall, in a specific case, examine the application and enforcement of this Article, and within two months of receipt of such a request and after consulting the Committee referred to in Article 11a(2), decide whether the related measure may continue to be applied.	No implementation through Regulations is needed.	
10.5 (as amended by Article 1.2 of 2004/51)	Requires any railway undertaking engaged in rail transport services to conclude the necessary agreements on the basis of a contract with the infrastructure managers of the infrastructure used.	This requirement has been implemented by article 6 and 7(1) of the international arrangements.	IGC.
10.6 (as amended by Article 1.2 of 2004/51)	Requires the provision of track access to, and the supply of, services in terminals and ports linked to rail activities.	No current application to the Channel Tunnel, but provision inserted in article 3(4) of the international arrangements to cover possible future construction of a freight terminal on the Concession.	(IGC)
10.7 (as amended by Article 1.11 of 2001/12)	Requires the regulatory body to monitor the competition in the rail services market, including the rail freight transport market.	This requirement has been implemented by regulation 4 and article 12(6) of the international arrangements.	IGC.



<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
10.8 (as amended by Article 1.2 of 2004/51)	Requires the Commission to submit a report to the European Parliament, the European Economic and Social Committee, the Committee of the Regions and the Council on the implementation of this Directive by 1 January 2006.	No implementation through Regulations is needed.	
10a (as amended by Article 1.12 of 2001/12)	Defines the Trans-European Rail Freight Network.	No implementation through Regulations is needed as implementation of Directive 2004/51 removes the need for such a definition.	
10b (as amended by Article 1.13 of 2001/12)	States that not later than 15 September 2001 the Commission shall make the necessary arrangements to monitor technical and economic conditions and market developments of European rail transport.	No implementation through Regulations is needed.	

**Directive 95/18/EC as amended by Directives 2001/13/EC and 2004/49/EC**

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
1.2 (as amended by Article 1.1 of Directive 2001/13)	This allows member states to exclude some undertakings from the scope of the Directive.	No specific application to the Channel Tunnel - railway undertakings licensed in the Member State in which they are established (see the Railway (Licensing of Railway Undertakings) Regulations 2005.	
3 (as amended by Article 1.3 of Directive 2001/13)	Requires each member state to designate a body responsible for issuing licences, which does not provide rail services itself and is independent of bodies or undertakings that do so.	No specific application to the Channel Tunnel.	
4.1	This entitles railway undertakings to apply for a licence in the member state in which it is established.	No specific application to the Channel Tunnel.	

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
4.2	States that member states shall not issue licences or extend their validity where the requirements of the Directive have not been satisfied.	No specific application to the Channel Tunnel.	
4.3	States that railway undertakings will be authorised to receive a licence, if they fulfil the Directive's requirements.	No specific application to the Channel Tunnel.	
4.4	States that no railway undertaking shall be permitted to provide rail transport services without a licence.	This requirement has been implemented by article 6(a) of the international arrangements.	IGC.
4.5 (as amended by Article 1.4 of Directive 2001/13)	States that a licence shall be valid throughout the EU.	No specific application to the Channel Tunnel.	
5.1 and 2	Requires a railway undertaking to demonstrate that it will at any time be able to meet the requirements of good repute, financial fitness, professional competence and cover for its civil liability; and to provide all relevant information for this purpose.	No specific application to the Channel Tunnel.	
6 (as amended by Article 1.5 of Directive 2001/13)	Requires member states to define the conditions under which the requirement of good repute is met in such a manner as to exclude railway undertakings in certain circumstances for example if it has been convicted of a serious offence or declared bankrupt.	No specific application to the Channel Tunnel.	
7 and the Annex, Section I	Sets out the requirements that need to be met in relation to financial fitness.	No specific application to the Channel Tunnel.	

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
8 (as amended by Article 29 of Directive 2004/49)	Sets out the requirements that need to be met in relation to professional competence.	No specific application to the Channel Tunnel.	
9	Requires railway undertakings to be adequately insured for cover of its liabilities in the event of accidents.	This requirement has been implemented by article 6(b) of the international arrangements.	IGC.
10	States that a licence shall be valid as long as the railway undertaking fulfils the obligations laid down in the Directive.	No specific application to the Channel Tunnel.	
11.1	Provides that the licensing authority may check a railway undertaking's compliance with the requirements of the Directive and where it is satisfied that a railway undertaking can no longer meet the requirements it must suspend or revoke the licence.	No specific application to the Channel Tunnel.	
11.2 - 7	Sets out various circumstances where a licence is to be revoked, suspended or reviewed.	No specific application to the Channel Tunnel.	
11.8	Requires a licensing authority to inform the Commission, if the authority issues, suspends, revokes or amends a licence.	No specific application to the Channel Tunnel.	
12.1 (as amended by Article 1.7 of Directive 2001/13)	Requires railway undertakings to comply with national law and regulatory provisions that are compatible with Community law and are applied in a non-discriminatory manner.	This requirement has been implemented by article 6 of the international arrangements.	IGC, through the operating rules of the Concessionaires and the Security provisions laid down by the Principals.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
12.2	States that a railway undertaking may refer to the Commission questions of compatibility of national requirements with Community law.	No specific application to the Channel Tunnel.	
13	States that railway undertakings are to respect international rail transport agreements.	No specific application to the Channel Tunnel.	
14	States that railway undertakings are to be granted a transitional period of 12 months (i.e. until 15 March 2004) for complying with the provisions of this Directive.	No specific application to the Channel Tunnel.	
15.1	Requires that the procedures for the granting of licences shall be made public by the member state.	No specific application to the Channel Tunnel.	
15.2	States that the licensing authority is to take its decision on a licence application within 3 months, and is to give reasons for a refusal.	No specific application to the Channel Tunnel.	
15.3	States that licensing authorities' decisions are to be subject to judicial review.	No specific application to the Channel Tunnel.	

**Directive 2001/14, as amended by Directive 2004/49**

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
1	This allows member states to exclude some undertakings from the scope of the Directive.	This requirement has been implemented by regulation 1 of the 2005 Order.	The Secretary of State for Transport through the 2005 Order.
3.1	Requires infrastructure managers to develop and publish a network statement.	This requirement has been implemented by article 5(1) and (3) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
3.2	The network statement shall set out the nature of the infrastructure which is available to railway undertakings. It shall contain information setting out the conditions for access to the relevant railway infrastructure. The content of the network statement is laid down in Annex I.	This requirement has been implemented by article 5(2) of the international arrangements.	IGC.
3.3	The network statement shall be kept up to date and modified as necessary.	This requirement has been implemented by article 5(1) and (5) of the international arrangements.	IGC.
3.4	The network statement shall be published no less than four months in advance of the deadline for requests for infrastructure capacity.	This requirement has been implemented by article 5(4) of the international arrangements.	IGC.
4.1	Requires member states to establish a charging framework and specific charging rules. The determination of the charge and its collection shall be performed by the infrastructure manager.	This requirement has been implemented by article 11(2) of the international arrangements.	IGC.
4.2	Requires that where the infrastructure manager is not independent of any railway undertaking, in its legal form, organisation or decision making, the functions in relation to the establishing and determining of charges will be performed by a charging body that is so independent.	This requirement has been implemented by article 11(2) and (3) of the international arrangements.	IGC.
4.3	Requires infrastructure managers to co-operate to achieve the efficient operation of train services which cross more than one infrastructure network.	This requirement has been implemented by article 11(1) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
4.4	Requires that except where specific arrangements are made the infrastructure manager must ensure that the charging scheme in use is based on the same principles over the whole network.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
4.5	Requires infrastructure managers to ensure that the application of the charging scheme results in non-discriminatory charges.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
4.6	States an infrastructure manager or charging body shall respect the commercial confidentiality of information provided to it by applicants.	This requirement has been implemented by article 11(5) the international arrangements.	IGC.
5.1 and Annex II	Railway undertakings shall, on a non-discriminatory basis, be entitled to a minimum access package and track access to service facilities.	This requirement has been implemented by articles 3(3) and (4) of the international arrangements.	IGC.
5.2	States that where the infrastructure manager offer any of the range of services in Annex II, point 3 as additional services he shall supply them upon request to a railway undertaking.	To the extent that additional services are, or may become, available, these are specified in article 3(4) of the international arrangements. Some of the services in these articles are specific to the Fixed Link and do not feature in the Directive; their inclusion in the Regulation reflects agreement that they should be considered in the category of additional services listed in Annex II point 3 of the Directive.	IGC.
5.3	States that railway undertakings may request a range of ancillary services, listed in Annex II, point 4 from the infrastructure manager or from other suppliers.	These facilities - access to which is not a requirement - are not available at the Fixed Link. It is therefore unnecessary to transpose this paragraph.	

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
6.1	Requires member states to lay down conditions, including where appropriate advance payment, to ensure that, under normal business conditions and over a reasonable time period the accounts of the infrastructure manager at least balance income, with infrastructure expenditure.	As the Concessionaires are required by Treaty to be a private commercial venture, they are subject to normal commercial law requirements on solvency.	
6.2	Requires that the infrastructure manager is to be provided with incentives to reduce costs of the provision of infrastructure and the level of access charges.	This requirement has been implemented by article 11(4) of the international arrangements and by the fact that the Concessionaires are required by Treaty to be a private commercial company. The Treaty of Canterbury precludes any financial incentives to the Concessionaires.	(IGC)
6.3	Requires Member States to ensure that the provision set out in 6.2 is implemented, either through a contractual agreement or through the establishment of appropriate regulatory measures.	Not applicable to the Channel Tunnel - see above	
6.4	States that where a contractual agreement exists, the terms of the contract and the structure of the payments agreed to provide funding to the infrastructure manager shall be agreed in advance for the whole of the contract period.	Not applicable to the Channel Tunnel - see above	
6.5	States that a method for apportioning costs shall be established.	This requirement has been implemented by article 11(2) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
7.1	States that charges for the use of infrastructure shall be paid to the infrastructure manager and used to fund his business.	This requirement has been implemented by article 11(2) of the international arrangements.	IGC.
7.2	States that Member States may require the infrastructure manager to provide all necessary information on the charges imposed.	This requirement has been implemented by article 11(5) of the international arrangements.	IGC.
7.3	States that the charges for the minimum access package and track access to service facilities shall be set at the cost that is directly incurred as a result of operating the train service.	This requirement (which is qualified by Article 8.2) has been implemented by article 11(4) of the international arrangements.	IGC.
7.4	States that the infrastructure charge may include a charge which reflects the scarcity of the identifiable segment of the infrastructure during periods of congestion.	This requirement has been implemented by article 11(4) the international arrangements.	IGC.
7.5	States that the infrastructure charge may be modified to take account of the cost of the environmental effects caused by the operation of the train.	This requirement has been implemented by article 11(4) the international arrangements.	IGC.
7.6	States that to avoid undesirable disproportionate fluctuations, the charges in 7.3, 7.4, and 7.5 may be averaged over a reasonable spread of train services and times.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
7.7	States that the supply of services in Annex II, point 2, shall not be covered by Article 7.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.



<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
7.8	States that where the services listed in Annex II, points 3 and 4 as additional ancillary services are offered only by one supplier the charge imposed for such a service shall relate to the cost of providing it, calculated on the basis of the actual level of use.	To the limited extent that this is relevant, it is implemented by article 11(4) of the international arrangements.	IGC.
7.9	States that charges may be levied for capacity used for the purpose of infrastructure maintenance.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
8.1	States that in order to obtain full recovery of the costs incurred by the infrastructure manager a Member State can levy mark-ups on the basis of efficient, transparent and non-discriminatory principles.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
8.2	States that for specific investment projects the infrastructure manager may set or continue to set higher charges on the basis of the long-term costs of such projects if they increase efficiency and/or cost-effectiveness and could not otherwise be or have been undertaken.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
8.3	States that to prevent discrimination, it shall be ensured that any given infrastructure manager's average and marginal charges for equivalent uses of his infrastructure are comparable and that comparable services in the same market segment are subject to the same charges.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
8.4	States that if an infrastructure manager intends to modify the essential elements of the charging system referred to in paragraph 8.1, it shall make them public at least three months in advance.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
9.1	States that without prejudice to Articles 81, 82, 86 and 87 of the Treaty and notwithstanding Article 7(3) of this Directive, any discount on the charges levied on a railway undertaking by the infrastructure manager, for any service, shall comply with the criteria set out in Article 9.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
9.2	States that with the exception of paragraph 3, discounts shall be limited to the actual saving of the administrative cost to the infrastructure manager.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
9.3	States that infrastructure managers may introduce schemes available to all users of the infrastructure, for specified traffic flows, granting time limited discounts to encourage the development of new rail services, or discounts encouraging the use of considerably underutilised lines.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
9.4	States that discounts may relate only to charges levied for a specified infrastructure section.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
9.5	States that similar discount schemes shall apply for similar services.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
10	States that Member States may put in place a time-limited compensation scheme for the use of railway infrastructure for the demonstrably unpaid environmental, accident and infrastructure costs of competing transport modes in so far as these costs exceed the equivalent costs of rail.	This is an optional provision and does not require transposition for the Channel Tunnel.	
11.1	Requires that infrastructure charging schemes shall through a performance scheme encourage railway undertakings and the infrastructure manager to minimise disruption and improve the performance of the railway network.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
11.2	States that the basic principles of the performance scheme shall apply throughout the network.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
12	States that infrastructure managers may levy an appropriate charge for capacity that is requested but not used.	This requirement has been implemented by article 11(4) of the international arrangements.	IGC.
13.1	States that once infrastructure capacity has been allocated it cannot be traded.	This requirement has been implemented by article 9(3)(a) of the international arrangements.	IGC.
13.2	States that the right to use a specific train path can only be granted for a maximum duration of one working timetable period (one year).	This requirement has been implemented by article 9(3)(a) of the international arrangements.	IGC.
13.3	States that the definition of respective rights and obligations between infrastructure managers and applicants in respect of any allocation of capacity shall be laid down in contracts or legislation.	This requirement has been implemented by articles 6(d) and 7(1) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
14.1	Allows for member states to establish a framework for the allocation of infrastructure capacity. The infrastructure manager shall perform the capacity allocation process and shall ensure that capacity is allocated on a fair and non-discriminatory basis.	The first sentence of Article 14.1 is permissive and has not been transposed to the Tunnel. The subsequent requirement has been implemented by article 9(1) of the international arrangements.	IGC.
14.2	Where the infrastructure manager, in its legal form, organisation or decision-making functions is not independent of any railway undertaking, the functions referred to in paragraph 1 and described in this chapter shall be performed by an allocation body that is independent in its legal form, organisation and decision-making from any railway undertaking.	This requirement has been implemented by article 9(1) and (2) of the international arrangements.	IGC.
14.3	States that infrastructure managers and allocation bodies shall respect the commercial confidentiality of information provided to them.	This requirement has been implemented by article 9(1) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
15.1	<p>Requires infrastructure managers to cooperate to enable the efficient creation and allocation of infrastructure capacity which crosses more than one network. They shall organise international train paths. They shall establish such procedures as are appropriate to enable this to take place. These procedures shall be bound by the rules set out in this Directive. The procedure established in order to coordinate the allocation of infrastructure capacity at an international level shall associate representatives of infrastructure managers for all railway infrastructures whose allocation decisions have an impact on more than one other infrastructure manager. Appropriate representatives of infrastructure managers from outside the Community may be associated with these procedures. The Commission shall be informed and invited to attend as an observer.</p>	<p>This requirement has been implemented by article 9(6) of the international arrangements.</p>	<p>IGC.</p>
15.2	<p>States that at any meeting or other activity undertaken to permit the allocation of infrastructure capacity for train services, decisions shall only be taken by representatives of infrastructure managers.</p>	<p>This requirement has been implemented by article 9(6) of the international arrangements.</p>	<p>IGC.</p>

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
15.3	States that the participants in the cooperation referred to 15.1 shall ensure that its membership, methods of operation and all relevant criteria which are used for assessing and allocating infrastructure capacity be made publicly available.	This requirement has been implemented by article 9(6) of the international arrangements.	IGC.
15.4	States that working in cooperation infrastructure managers shall assess the need for, and may where necessary propose and organise international train paths to facilitate the operation of freight trains which are subject to an ad hoc request as referred to in Article 23.	This requirement has been implemented by article 9(6) of the international arrangements.	IGC.
16.1	States that applications for infrastructure capacity may be made by railway undertakings and their international groupings and, in the territories of those Member States which so allow, by other applicants complying with the definition in Article 2(b).	This provision has been implemented by article 9(3)(a) of the international arrangements. In accordance with French policy on the definition of applicants, the optional wider application has not been transposed.	IGC.
16.2 - 3	States that the infrastructure manager may set requirements with regard to applicants to ensure that its legitimate expectations about future revenues and utilisation of the infrastructure are safeguarded.	These are optional provisions and have not been transposed.	
17.1	Provides the ability for applicants to enter into framework agreements which specify the characteristics of the infrastructure capacity required by and offered to the applicant over a period of time exceeding one working timetable.	This provision has been implemented by article 8(1) of the international arrangements. The discretion to require prior approval of a framework agreement has not been exercised.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
17.2	States that framework agreements shall not be such as to preclude the use of the relevant infrastructure by other applicants or services.	This requirement has been implemented by article 8(3) of the international arrangements.	IGC.
17.3	States that a framework agreement shall allow for the amendment or limitation of its terms to enable better use to be made of the railway infrastructure.	This requirement has been implemented by article 8(4) of the international arrangements.	IGC.
17.4	States that a framework agreement may contain penalties should it be necessary to modify or terminate the agreement.	This provision has been implemented by article 8(5) of the international arrangements.	IGC.
17.5	States that framework agreements shall in principle be for a period of five years. The infrastructure manager may agree to a shorter or longer period in specific cases. Any period longer than five years shall be justified by the existence of commercial contracts, specialised investments or risks. Any period longer than 10 years shall be possible only in exceptional cases, in particular, where there is large-scale, long-term investment, and particularly where such investment is covered by contractual commitments.	This requirement has been implemented by article 8(2) of the international arrangements.	IGC.
17.6	States that whilst respecting commercial confidentiality, the general nature of each framework agreement shall be made available to any interested party.	This requirement has been implemented by article 8(6) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
18.1	Requires the infrastructure manager to adhere to the timetable for capacity allocation set out in Annex III.	This requirement has been implemented by article 9(3) of Schedule 1 to the 2005 Order.	IGC.
18.2	Requires infrastructure managers to agree with the other relevant infrastructure managers concerned which international train paths are to be included in the working timetable, before commencing consultation on the draft working timetable. Adjustments shall only be made if absolutely necessary.	This requirement has been implemented by article 9(3) of the international arrangements.	IGC.
19.1	States that applicants may apply on the basis of public or private law to the infrastructure manager to request an agreement granting rights to use railway infrastructure against a charge as provided for in chapter II.	This requirement has been implemented by article 9(3) of the international arrangements.	IGC.
19.2	States that requests relating to the regular working timetable must adhere to the deadlines set out in Annex III.	This requirement has been implemented by article 9(3) of the international arrangements.	IGC.
19.3	States that an applicant who is a party to a framework agreement shall apply in accordance with that agreement.	This requirement has been implemented by article 9(3) of the international arrangements.	IGC.
19.4	States that applicants may request infrastructure capacity crossing more than one network by applying to one infrastructure manager. That infrastructure manager shall then be permitted to act on behalf of the applicant to seek capacity with the other relevant infrastructure managers.	This provision has been implemented by article 9(3) of the international arrangements.	IGC.



<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
19.5	Requires infrastructure managers to ensure that, for infrastructure capacity crossing more than one network, applicants may apply direct to any joint body which the infrastructure managers may establish.	This provision has been implemented by article 9(3) of the international arrangements.	IGC.
20.1	Requires the infrastructure manager to meet as far as possible all requests for capacity.	This requirement has been implemented by article 9(3)(b) of Schedule 1 to the 2005 Order.	IGC.
20.2	States that the infrastructure manager may give priority to specific services within the scheduling and coordination process but only as set out in Articles 22 and 24.	This provision is covered by article 9(3)(b) of the international arrangements.	IGC.
20.3	Requires the infrastructure manager to consult interested parties about the draft working timetable and allow them at least one month to present their views.	This requirement has been implemented by article 9(3)(c) of the international arrangements.	IGC.
20.4	Requires the infrastructure manager to take appropriate measures to deal with any concerns that are expressed.	This requirement has been implemented by article 9(3)(c) of the international arrangements.	IGC.
21.1	States that during the scheduling process referred to in Article 20, when the infrastructure manager encounters conflicts between different requests he shall attempt, through coordination of the requests, to ensure the best possible matching of all requirements.	This requirement has been implemented by article 9(3)(b) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
21.2	States that when a situation requiring coordination arises, the infrastructure manager shall have the right, within reasonable limits, to propose infrastructure capacity that differs from that which was requested.	This requirement has been implemented by article 9(3)(b) of the international arrangements.	IGC.
21.3	Requires the infrastructure manager to attempt, through consultation with the appropriate applicants, to achieve a resolution of any conflicts.	This requirement has been implemented by article 9(3)(b) of the international arrangements.	IGC.
21.4	States that the principles governing the coordination process shall be defined in the network statement. These shall in particular reflect the difficulty of arranging international train paths and the effect that modification may have on other infrastructure managers.	This requirement has been implemented by article 5(2)(c)(iv) of the international arrangements.	IGC.
21.5	When requests for infrastructure capacity cannot be satisfied without coordination, the infrastructure manager shall attempt to accommodate all requests through coordination.	This requirement has been implemented by article 9(3)(b) of the international arrangements. The transposition has been addressed in terms of consultation rather than co-ordination.	IGC.
21.6	States that without prejudice to the existing appeal procedures and to the provisions of Article 30, in case of disputes relating to the allocation of infrastructure capacity, a dispute resolution system shall be made available in order to resolve such disputes promptly. If this system is applied, a decision shall be reached within a time limit of 10 working days.	This requirement has been implemented by article 9(3)(d) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
22.1	Requires the infrastructure manager to declare an element of infrastructure congested if it has not been able to satisfy requests for infrastructure capacity on that element of infrastructure adequately.	This requirement has been implemented by article 10(1) of the international arrangements.	IGC.
22.2	Requires that when infrastructure has been declared congested the infrastructure manager shall complete a capacity analysis.	This requirement has been implemented by article 10(2) of the international arrangements.	IGC.
22.3	States that when charges in accordance with Article 7(4) have not been levied or have not achieved a satisfactory result and the infrastructure has been declared to be congested, the infrastructure manager may in addition employ priority criteria to allocate infrastructure capacity.	This provision has been implemented by article 10(1) of the international arrangements.	IGC.
22.4	States that the priority criteria shall take account of the importance of a service to society, relative to any other service which will consequently be excluded.	This requirement has been implemented by article 10(1) of the international arrangements.	IGC.
22.5	States that the importance of freight services and in particular international freight services shall be given adequate consideration in determining priority criteria.	This requirement has been implemented by article 10(1) of the international arrangements.	IGC.
22.6	States that the procedures which shall be followed and criteria used where infrastructure is congested shall be set out in the network statement.	This requirement has been implemented by article 5(3)(c)(v) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
23.1	Requires the infrastructure manager to respond to ad hoc requests for individual train paths as quickly as possible, and in any event, within five working days. Information supplied on available spare capacity shall be made available to all applicants who may wish to use this capacity.	This requirement has been implemented by article 9(3)(e) of the international arrangements.	IGC.
23.2	Requires infrastructure managers where necessary to undertake an evaluation of the need for reserve capacity to be kept available within the final scheduled working timetable to enable them to respond rapidly to foreseeable ad hoc requests for capacity. This shall also apply in cases of congested infrastructure.	This has not been specifically included, as there is no obvious necessity.	
24.1	States that without prejudice to paragraph 24.2, infrastructure capacity shall be considered to be available for the use of all types of service which conform to the characteristics necessary for operation on the train path.	This requirement has been implemented by article 9(1) of Schedule 1 to the 2005 Order.	IGC.
24.2	States that where there are suitable alternative routes, the infrastructure manager may, after consultation with interested parties, designate particular infrastructure for use by specified types of traffic.	No specific application to the Channel Tunnel.	
24.3	States that when infrastructure has been designated pursuant to paragraph 24.2, this shall be described in the network statement.	No specific application to the Channel Tunnel.	

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
25.1	Sets out the objectives of capacity analysis.	This requirement has been implemented by article 10(2) of the international arrangements.	IGC.
25.2	States that the analysis shall consider the infrastructure, the operating procedures, the nature of the different services operating and the effect of all these factors on infrastructure capacity. Measures to be considered shall include re-routing of services, re-timing services, speed alterations and infrastructure improvements.	This requirement has been implemented by article 10(2) of the international arrangements.	
25.3	States that a capacity analysis shall be completed within six months of the identification of infrastructure as congested.	This requirement has been implemented by article 10(2) of the international arrangements.	IGC.
26.1	Requires the infrastructure manager to produce a capacity enhancement plan within six months of the completion of a capacity analysis.	This requirement has been implemented by article 10(3) of the international arrangements.	IGC.
26.2	Sets out who the infrastructure manager should consult during the development of the capacity enhancement plan and what it should cover.	This requirement has been implemented by article 10(3) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
26.3	States that the infrastructure manager shall cease to levy any fees which are levied for the relevant infrastructure under Article 7(4) in cases where: a) he does not produce a capacity enhancement plan; or b) he does not make progress with the action plan identified in the capacity enhancement plan. However, the infrastructure manager may, subject to the approval of the regulatory body continue to levy those fees if: a) the capacity enhancement plan cannot be realised for reasons beyond his control; or b) the options available are not economically or financially viable.	This requirement has been implemented by article 10(3) of the international arrangements.	IGC.
27.1	States that in particular for congested infrastructure the infrastructure manager shall require the surrender of a train path which, over a period of at least one month, has been used less than a threshold quota to be laid down in the network statement, unless this was due to non-economic reasons beyond the operator's control.	This requirement has been implemented by article 9(5)(c) of the international arrangements.	IGC.
27.2	States that an infrastructure manager may specify in the network statement conditions whereby it will take account of previous levels of utilisation of train paths in determining priorities for the allocation process.	This requirement has been implemented by article 5(2)(c)(vii) of the international arrangements.	IGC

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
28.1	States that requests for infrastructure capacity to enable maintenance to be performed shall be submitted during the scheduling process.	This requirement has been implemented by article 9(3)(b) of the international arrangements.	IGC.
28.2	States that adequate account shall be taken by the infrastructure manager of the effect of infrastructure capacity reserved for scheduled track maintenance on applicants.	This requirement has been implemented by article 9(3)(b) of the international arrangements.	IGC.
29.1	States that in the event of disturbance to train movements caused by technical failure or accident the infrastructure manager must take all necessary steps to restore the normal situation. To that end he shall draw up a contingency plan listing the various public bodies to be informed in the event of serious incidents or serious disturbance to train movements.	This requirement has been implemented by article 9(5) of the international arrangements. The contingency plan already exists as part of the Binational Emergency Plan covered by the Concessionaires' Safety Arrangements, which form part of their Safety Rules.	IGC.
29.2	In an emergency and where absolutely necessary on account of a breakdown making the infrastructure temporarily unusable, the paths allocated may be withdrawn without warning for as long as is necessary to repair the system. The infrastructure manager may, if he deems it necessary, require railway undertakings to make available to him the resources which he feels are the most appropriate to restore the normal situation as soon as possible.	This requirement has been implemented by article 9(5) of the international arrangements.	IGC.

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
29.3	States that Member States may require railway undertakings to be involved in assuring the enforcement and monitoring of their own compliance of the safety standards and rules.	No specific application to the Channel Tunnel in this instance.	
30.1	Requires member states to establish a regulatory body.	This requirement has been implemented by regulation 4 and article 12(1) of the international arrangements.	Through the 2005 Order, the Secretary of State for Transport has designated the IGC to be this body.
30.2 (as amended by 2004/49)	Provides an applicant with the right of appeal to the regulatory body if it believes that it has been unfairly treated, discriminated against or in any other way aggrieved.	This requirement has been implemented by article 12(1) of the international arrangements.	IGC.
30.3	States that the regulatory body shall ensure that charges set by the infrastructure manager comply with chapter II and are non-discriminatory. Negotiation between applicants and an infrastructure manager concerning the level of infrastructure charges shall only be permitted if these are carried out under the supervision of the regulatory body. The regulatory body shall intervene if negotiations are likely to contravene the requirements of this Directive.	This requirement has been implemented by article 12(3) of the international arrangements.	IGC.
30.4	Provides the regulatory body the power to request relevant information from the infrastructure manager, applicants and any third party.	This requirement has been implemented by article 12(3) of the international arrangements.	IGC.



<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
30.5	Requires the regulatory body to decide on any complaints and take action to remedy the situation within a maximum period of two months from receipt of all information. Notwithstanding paragraph 6, a decision of the regulatory body shall be binding on all parties covered by that decision. In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager's decision is required, or it shall require modification of that decision in accordance with directions specified by the regulatory body.	This requirement has been implemented by Regulation 4(2) and article 12(4) of the international arrangements.	IGC.
30.6	Member States shall take the measures necessary to ensure that decisions taken by the regulatory body are subject to judicial review.	This requirement has been implemented by article 12(5) of the international arrangements.	IGC.
31	The national regulatory bodies shall exchange information about their work and decision-making principles and practice for the purpose of coordinating their decision-making principles across the Community. The Commission shall support them in this task.	No implementation through Regulations is needed.	

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsibility</b>
32	Requires the establishment of a safety certificate for railway undertakings setting out the safety requirements relevant to the routes concerned	This requirement is implemented through article 6(c) of Schedule 1 to the 2005 Order (but will be superseded in 2006 when transposition of Directive 2004/49/EC, which replaces and repeals this requirement, is completed).	IGC.

## Scrutiny History

### First Rail Package

#### *Scrutiny History of EC Document 11375/98, CPM(1998) 480 Final*

The House of Commons European Scrutiny Committee considered EM 11375/98 (Ref 19442) on 4 November 1998 (Report 39 Session 97/98) and considered it politically important and asked for further information. The Minister wrote to the Chairman on 15 April 1999. The Committee considered the dossier politically important but cleared it on 21 April 1999 (Report 16 Session 98/99).

The House of Lords European Union Select Committee considered EM 11375/98 on 2 November and referred it to Sub-committee B (972nd sift). A letter was sent from the Chairman on 19 November 1998 requesting further information. Two of the three packages, development of Community's railways and licensing of railway undertakings were cleared by letter of 19 January 1999, but the final part on train path allocation maintained scrutiny reserve. The Chairman wrote to the Minister on 8 February 1999. The Minister replied to the Committee on 21 February 1999. The Minister wrote again on 15 April 1999 with a general update. The Chairman replied on 29 April 1999 retaining scrutiny reserve. The Minister wrote to the Committee on 24 May 1999 with an update. The Chairman replied on 10 June 1999 and cleared the EM.

#### *Scrutiny History of EC Document 13417/99 + Adds 1, 2, & 3 COM 99 (616) Final*

The Commission's amended proposal was the subject of EM 13417/99 + ADDs 1, 2 & 3. The House of Commons European Scrutiny Committee considered the EM on 19 January 2000 (report 5 session 99/00, reference 20794). The Committee recommended that the document was of political importance but cleared it. The House of Lords Select Committee on the European Union referred the EM to sub Committee B following the 1016<sup>th</sup> sift on 11 January 2000. The EM was cleared by letter of 27 January to the Minister.

#### *Scrutiny history of Documents 11575/00, 11576/00 and 11577/00 Com (2000) 571 Final, Com (2000) 572 Final and Com (2000) 575 Final*

The Commission's amendments to the package in the light of the European Parliament's second reading were the subject of the above EM covering all three documents.

The House of Commons Select Committee on European Scrutiny considered the EM on 4 November 2000 (report 29, session 99/00). The Committee recommended that the document was not legally or politically important. The House of Lords Select Committee on the European Union referred the EM to sub Committee B following the 1046<sup>th</sup> sift. The document was cleared by a letter to the Minister of 16 November 2000, which also asked for further information. That further information was supplied by a Ministerial letter of 29 November 2000.

The outcome of conciliation was reported to the Committees by a Ministerial letter of 12 December 2000.

## **Second Rail Package**

### ***Scrutiny history of Documents 5721/02, 5723/02, 5724/02, 5726/02, 5727/02 and 5744/02***

The Explanatory Memorandum on the Commission's Second Railway Package (5721/02, 5723/02, 5724/02, 5726/02, 5727/02 and 5744/02) was submitted on 5 March 2002.

The House of Commons European Scrutiny Committee considered the EM at their meeting on 20 February 2002, found it to be of legal and political importance and recommended it for debate in Standing Committee A (Report 22 session 01/02, references 23192, 23202, 23193, 23194, 23195, and 23191). It was debated and cleared from scrutiny on 8 May 2002. The Minister wrote to the Chairman on 11 November 2002 and 11 March 2003 with an update on negotiations. The Chairman replied on 20 November 2002 and 19 March 2003 thanking the Minister for keeping the Committee informed. The Minister wrote to the Chairman on 25 November 2003 with an update following the European Parliament's Second Reading. The Chairman replied on 4 December 2003 thanking the Minister for the information. A further letter was sent on 24 March 2004 to inform the Committee of the outcome of conciliation.

The House of Lords Select Committee on the European Union referred the EM to sub Committee B on 19 March 2002 (1096<sup>th</sup> sift). The Chairman wrote to the Minister on 27 March 2002 requesting the results of the consultation. The Minister wrote to the Chairman on 17 October 2002 with an update on the 3 October Transport Council. The Chairman wrote to the Minister on 30 October 2002 asking for a detailed account of how negotiations were proceeding. The Minister replied to the Chairman's letter of 27 March on 11 November 2002 providing information on the consultation exercise. The Chairman wrote to the Minister on 4 December 2002 thanking him for the information provided and requested the Government's views on the points put forward by the SRA response to the package. The Minister wrote to the Chairman on 11 March 2003 with an update on developments in the European Council and European Parliament. In reply to the Minister's letter the Chairman wrote on 21 March 2003 lifting the scrutiny reserve on the document. The Minister wrote to the Chairman with a further update on 9 April 2003, which was considered by the Committee at its meeting on 12 May 2003. The Chairman replied to the Minister on 14 May 2003 thanking him for the update. The Minister subsequently wrote to the Chairman on 25 November 2003 with an update on the European Parliament's Second Reading. A further letter was sent on 24 March 2004 to inform the Committee of the outcome of conciliation.