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REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)
No. prev. doc.:	6849/16 TRANS 68 CODEC 256
No. Cion doc.:	6015/13 TRANS 41 CODEC 228
Subject:	4th Railway Package: Proposal for a Regulation of the European Parliament and of the Council repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings - Analysis of the final compromise text with a view to agreement

The annex to this document contains the text provisionally agreed at the trilogue on 19 April, as referred to in document 8061/16 INIT.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91 and 109 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with a ordinary legislative procedure,

Whereas:

(1) Regulation (EEC) No 1192/69 allows Member States to compensate 40 enumerated railway undertakings for the payment of obligations which undertakings of other transport modes do not have to support. Correct application of the rules for normalisation results in Member States being exempted from State aid notification obligations.

(2) A series of legislative measures has been adopted at European level, opening up the rail freight and international rail passenger markets to competition and establishing, by way of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast), certain fundamental principles which include that railway undertakings shall be managed according to principles that apply to commercial companies, that entities responsible for the allocation of capacity and charging for rail infrastructure shall be separate from entities which operate rail services and that there shall be a separation of accounts, that any railway undertaking licensed in accordance with EU criteria should have access to railway infrastructure on fair, non-discriminatory terms, and that infrastructure managers may benefit from State financing.

(3) Regulation (EEC) No 1192/69 is inconsistent and incompatible with legislative measures currently in force. In particular, in the context of a liberalised market where railway undertakings compete directly with the enumerated railway undertakings, it is no longer appropriate to discriminate between these two groups of different undertakings.

(4) As a consequence, it is appropriate to repeal Regulation (EEC) No 1192/69 to eliminate inconsistencies in the EU legal order and this will contribute to simplification by eliminating a legal act which is now obsolete.

(5) Member States may continue to pay compensation for the costs of crossing facilities on the basis of Article 8 of Directive 2012/34/EU. They may, nevertheless, need time to amend their national law and administrative provisions to take account of the repeal of Regulation (EEC) No 1192/69. As a consequence, this repeal should not take immediate effect for cases covered by Annex IV of Regulation (EEC) No 1192/69.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1192/69 is repealed, with the exception of the provisions of that Regulation applicable to the normalisation of accounts concerning Class IV, as laid down in the Annex IV to that Regulation, which shall continue to apply until 1 January 2018.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,
For the European Parliament
The President

For the Council
The President