COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

The quality of rail freight services

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1. THE COMMISSION'S 2004 PROPOSAL FOR A REGULATION

In March 2004 the Commission adopted a proposal for a Regulation of the European Parliament and of the Council on compensation in cases of non-compliance with contractual quality requirements for rail freight services (COM(2004) 144 final of 3 March 2004). The reasons for this proposal were the poor quality of service provided by freight operators and the need to raise standards within a reasonable period in order to maintain an adequate position for the railways within the EU's logistics system.

The Commission also considered that the development of competition would be too slow to bring about an adequate improvement in the quality of rail freight. It therefore thought it worthwhile to propose measures to make it compulsory for compensation to be provided for in contracts between rail operators and their customers. It considered that these measures were suited to a context characterised by the as yet very limited opening-up of the market and the continued preponderance of incumbent operators, in order to encourage rail operators to improve their performance further.

In its proposal for a Regulation, the Commission identified three quality criteria to be met by freight operators: the agreed delivery time, information for customers in the event of delivery problems and a degree of flexibility concerning the transport order.

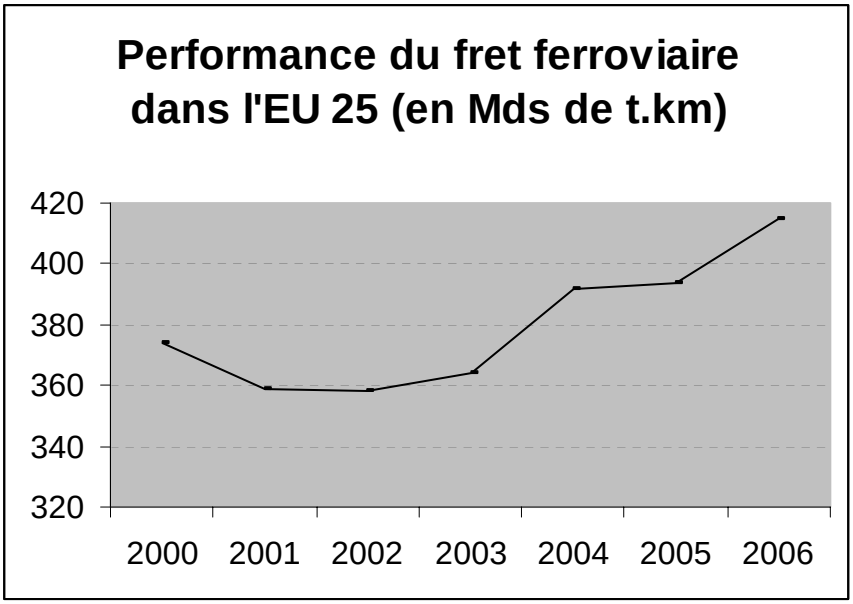
While supporting the Commission's objectives, the legislator considered the proposal for a Regulation to be inappropriate. In view of this, and in order to ensure that the problems identified by the Commission in its proposal continue to be examined carefully, the Commission committed itself to producing a report on the progress made by rail freight in terms of the quality of service and on the merits of legislating in this area in 2008.

This communication gives an analysis of the quality of rail freight services and its development in recent years and of the effectiveness of the agreements and voluntary measures implemented by the sector. It sets out recommendations for Community action in this area. It has been drawn up on the basis of information from a series of players involved in the sector (freight customers, operators and infrastructure managers). It is also based on data provided by the sectoral associations.

2. CURRENT NEEDS IN TERMS OF FREIGHT QUALITY

In recent years there has been a change in the trend where rail freight is concerned. Its performance has not deteriorated since 2004, and it increased significantly in 2006, with the result that the modal share of the railways in freight transport in Europe increased that year.

However, this trend still seems rather fragile since it is basically the result of external factors (such as the increases in oil prices and road congestion, combined with weather conditions unfavourable to inland waterway transport) rather than a significant increase in the attractiveness of the railways. While it is true that the railways have a number of advantages, including the growth in combined transport and the longer distances that goods are now being transported within the EU, in order to be able to seize these opportunities the railways must be more competitive, i.e. more flexible, quicker, more reliable and/or less expensive.



Source: Eurostat

The concept of quality can be understood in two ways: the level of service proposed and offered, and compliance with contractual commitments. The Commission's proposal for a Regulation did in fact cover these two aspects of quality through flexibility and information for the customer on the one hand, and compliance with punctuality on the other.

However, the expectations of the railways' industrial customers may concern other aspects of the service expected: availability, safety and security. Depending on the nature of the products transported and the stakes involved, each of these criteria, together with punctuality, information and flexibility, is more or less important to the customer. All in all, the satisfaction of current or prospective rail customers presupposes the provision of a quality of service tailored to the type of goods transported. It therefore appears difficult to establish a hierarchy of quality criteria for all customers.

3. THE PROGRESS MADE BY RAIL FREIGHT

a) Qualitative aspects

Within the Community the opening-up of domestic and international rail freight market competition is a comparatively recent phenomenon. The market for international services has been gradually opened up since 15 January 2003, and the market for domestic services since 1 January 2007. However, several Member States opened up their markets well before these dated.

This process of opening up to competition in EU 12 and in EU 15 is the main incentive for incumbent freight operators to restructure their activities and improve their performance. In many cases, the incumbent rail operator's restructuring process will be more advanced if the opening-up process started earlier.

The rail freight market is divided into several submarkets the needs of which may differ. They frequently include the steel industry, the chemical industry, the motor vehicle industry, the paper industry, the agri-food industry, raw materials and intermodal transport. Many rail operators have embarked on reforms with a view to getting a better understanding of the needs of the submarkets and adapt the service offered to meet these needs (the service offered by large operators now ranges from individual wagon loads to the transport of containers and whole train loads, programmable over longer or shorter periods.

New tools and instruments aimed at customers have been established: commercial teams dedicated to submarkets or major customers, computer tools to facilitate customer relations, for example. In general, customer information and the commercial responsiveness of rail freight operators have constantly improved over the last few years.

In parallel, the incumbent rail operators have embarked on restructuring their output. Here too, the progress made varies considerably from one Member State to another, the development of competition being a deciding factor in this respect. It promotes the rationalisation of production and operators' costs, the emergence of new methods, new production methods, the extension of the services offered by operators and the deployment of new, more efficient instruments.

Despite this progress, the overall assessment of rail freight customers with regard to the quality of service provided by the railways varies considerably. The quality of service offered by the railways still seems to be inferior to what the road sector can now deliver, in particular on market segments where, in theory, the railways have major advantages over road transport.

b) Monitoring and quality clauses

Where quality monitoring is concerned, several improvements have been achieved. Firstly, the sector as a whole committed itself to improve freight quality with the charter signed in July 2003 by the UIC[1], the CER[2] and the CIT[3] (see Annex I), the joint declaration of

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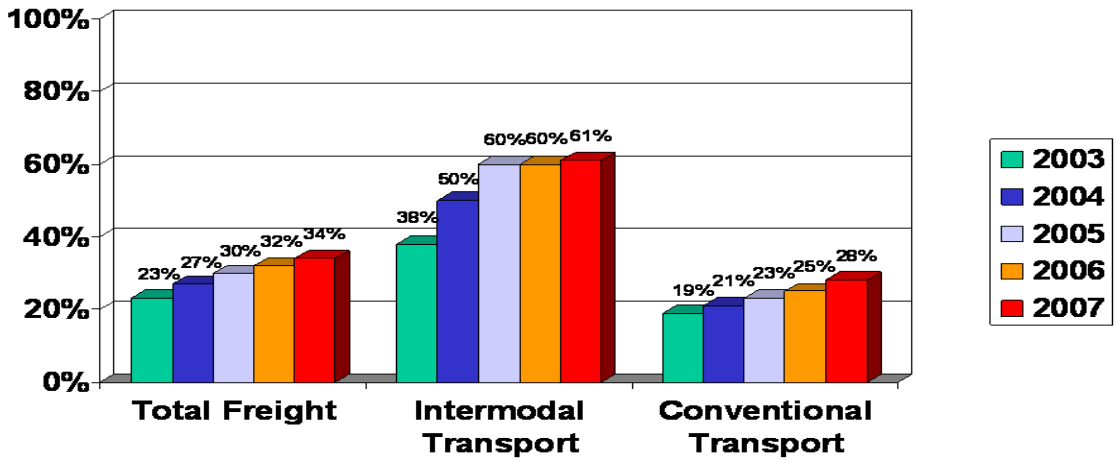
1 International Union of Railways.
2 Community of European Railway and Infrastructure Companies.
3 International Rail Transport Committee.

April 2005 by UIC/CER and FIATA[4]/CLECAT[5] on the quality of conventional and combined international freight, and the guidelines on the development and implementation of agreements on quality for certain segments of conventional international freight published by UIC/FIATA/CIT in October 2006.

Secondly, many incumbent operators have embarked on a policy of certification of the quality of their services (see Annex II), thus showing their desire to improve their performance and offer their customers additional guarantees. These initiatives were aimed less at promoting the introduction of binding clauses in contracts than encouraging operators to do better on a voluntary basis as regards both the level of service and in terms of attentiveness to their customers.

It would appear that the inclusion of quality clauses in contracts has increased significantly over the last four years, in particular for the combined transport market. However, it would seem that the proportion of contracts containing such clauses has levelled off in recent years. Moreover, the development of the activities and the market share of new entrants would appear to be a favourable factor in the development of quality clauses, since this type of operator appears more inclined to accept them in contracts, possibly subject to an increase in the rate of service.

Proportion of contracts containing quality clauses



Source : CER

[4] International Federation of Freight Forwarders Associations.

[5] European Association for forwarding, transport, logistic and customer services.

c) Quantitative aspects of improvements in quality

The effects of the various initiatives taken by the sector (Chapter 3(b)) are unclear. Information about the quality of freight services is at best sporadic and not sufficiently representative to allow a reliable assessment to be made of the effectiveness of the voluntary initiatives taken.

The information most widely available concerns the punctuality of trains. However, these data are few and far between and they indicate diverging trends. According to the data published by the UIRR[6] (see Annex III), the punctuality of international combined transport trains would seem to be very poor and falling in recent years. The level of compliance with timetables is below 60% (53% in 2006, and a few percentage points more in 2007).

According to the figures published by CER (see Annex IV), overall the punctuality of freight trains is increasing slightly. In Austria, Denmark, Finland, the Netherlands, Sweden and Spain the level of punctuality of freight trains is, according to the operators' association, more than 90% for domestic traffic, and at least 80% in the vast majority of Member States, also for domestic traffic.

Apart from the fact that the punctuality of trains is only one part of the quality expected by customers, it can be concluded that:

– the information available and its reliability are limited;

– the levels of punctuality of domestic traffic are good. However, it would seem that the levels are poor or even very poor in the case of international traffic which represents 50% of rail freight traffic in the EU and which also has the greatest growth potential in the years ahead (in particular as a result of the increase in the volumes of containers to be transported);

– overall progress has been made but not sufficient progress.

4. ISSUES AT STAKE CONCERNING INFRASTRUCTURE AND ANCILLARY SERVICES

So far, this analysis has focused on the activities of operators, their progress in terms of organising their activities, quality monitoring, and relations with their customers. It is not always easy to identify the causes of the delays to freight trains and, in general, their lack of compliance with the contractual commitments. According to ERFA[7] at least 60% of the responsibility for poor quality of service does not lie with the operator. Sometimes it lies with the customers, and very often the infrastructure managers and/or providers of ancillary services (terminals and marshalling yards).

The conditions governing access to infrastructure and services, and the quality of service provided by the latter are not comparable throughout the EU. Rail infrastructure and investment management policies in this area vary very significantly between the different Member States. However, it is certain that more progress needs to be made in this connection

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6 International Union of Combined Road-Rail Transport Companies.

7 European Rail Freight Association.

by the various infrastructure managers. Improvements are called for in particular in areas relating to rail traffic management to minimise the impact of unforeseen events on train performance. This presupposes in particular the use of new innovative technologies and improvements in infrastructure maintenance. Where international services in particular are concerned, this entails stepping up cooperation between national infrastructure managers and much quicker development of technical and administrative interoperability. Lastly, in some cases the only way to improve infrastructure performance is to invest in new infrastructure.

It should be pointed out that this analysis concerns both rail infrastructure and terminals and other ancillary services which are a vital component of the rail freight production chain and are in some cases not able to offer an adequate level of service to rail operators.

5. GUIDELINES AND PROPOSALS FROM THE COMMISSION

It is clear from the analysis set out in the earlier sections that while the sector, and in particular the new and incumbent operators have made progress and made a big effort to improve the quality of their service, it is still below the level expected by customers. The sectoral initiatives therefore do not yet seem to be sufficient, even though the performance of the operators is not the only variable affecting the level of quality of rail freight, and the capacities of the infrastructure and ancillary services play an important role in the railways' production process.

In the light of this and the firm opposition of the legislator and the sector to any legislative obligation in the contractual relations between operators, infrastructure managers and customers, the Commission thinks it appropriate to withdraw its proposal for a Regulation on compensation in cases of non-compliance with contractual quality requirements for rail freight services. To respond to the problems raised in its proposal to which the sector has not provided a satisfactory voluntary response, it will continue and, where appropriate, will step up its action to develop competition and its initiatives to ensure that freight has at its disposal high-quality infrastructure and ancillary services, while reserving the right to submit a new proposal if the development of rail freight so requires.

a) Continuing and stepping up action to develop competition

The development of competition is a vital component of improvements in the quality of service. However, the Commission's proposal for a Regulation indicated that competition is developing too slowly. In order to speed up the effective implementation of the guidelines adopted at Community level to promote competition in the rail sector, in the short term the Commission will focus on the following action:

– effective application of the rules concerning competition contained in the first and second rail packages[8];

– recasting of the first rail package.

[8] Follow-up to the report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of the first railway package (COM(2006) 189 final of 3 May 2006).

Monitoring the implementation of the guidelines on State aid to railway undertakings[9] will also be an important aspect of improving the operation of the rail transport markets.

b) Continuing and stepping up action to improve infrastructure and develop interoperability

To ensure that in future rail freight operators have at their disposal sufficient high-quality infrastructure and ancillary services, the Commission will step up its action to optimise the use of infrastructure, cooperation between infrastructure managers and investment in rail infrastructure. It will remain attentive to the management of a balanced and effective mix of traffic between passenger and freight trains. These guidelines will be established in the context of the following initiatives in particular:

– achievement of a European network giving priority to freight[10];

– promotion of and accompanying measures for the deployment of ERTMS[11] and the Technical Specification for Interoperability "Telematics Applied to Freight" (TSI TAF)[12];

– promotion of best practices relating to infrastructure management, through the widest possible dissemination and implementation of the principles contained in the communication on multiannual contracts[13], for example;

– the TEN-E programme[14], in particular the work of the European coordinators;

– continuation of the Marco Polo programme which encourages in particular the integration of the logistics chain.

c) Continuing and stepping up action to promote greater transparency of information and the management of the performance of the rail system

To increase transparency relating to the quality of the service provided by rail freight and to encourage the sector as a whole (infrastructure managers and operators, in particular) to provide an even more efficient service, the Commission will continue to encourage and verify:

– the establishment of schemes for the improvement of performance[15];

– the development of tools for measuring the performance of rail freight[16];

– the publication of quality indicators.

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9 Community guidelines on State aid for railway undertakings (SEC(2008) 512 of 30 April 2008).

10 Communication from the Commission to the Council and the European Parliament "Towards a rail network giving priority to freight" (COM(2007) 608 final of 18 October 2007).

11 European Rail Traffic Management System.

12 Commission Regulation (EC) No 62/2006 of 23 December 2005 concerning the technical specification for interoperability relating to the telematic applications for freight subsystem of the trans-European conventional rail system.

13 Communication from the Commission to the Council and the European Parliament on multiannual contracts for rail infrastructure quality (COM(2008) 54 final of 6 February 2008)

14 Trans-European Transport Network.

15 Article 11 ("Performance improvement scheme") of Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification.

16 See point 2.3 of the communication from the Commission to the Council and the European Parliament "Towards a rail network giving priority to freight" (COM(2007) 608 final of 18 October 2007).

ANNEXES

Annex I: UIC, CER and CIT Freight Quality Charter

Annex II: Quality certification of the main rail operators (source CER)

Annex III: Punctuality of international combined transport trains (source UIRR)

Annex IV: Punctuality of freight trains (source CER)

ANNEX I: UIC, CER AND CIT FREIGHT QUALITY CHARTER

UNION INTERNATIONALE DES CHEMINS DE FER
INTERNATIONALER EISENBAHNVERBAND
INTERNATIONAL UNION OF RAILWAYS

Freight Quality Charter-2003

(Adopted on 4 July 2003 in Rome)

This Rail Freight Charter sets out a voluntary commitment by the European Railway Undertakings on the service quality offered to their Freight Customers. This initiative is intended to meet the requirements of the market and support business development.

By subscribing to this Charter, European Railway Undertakings demonstrate commitment to the customer to provide and further develop attractive rail services, respecting contractual quality provisions. The charter covers areas relevant to the stages of freight transport.

The Railways undertake to work out all the necessary international measuring methods to ensure that the commitment contained in this Charter is implemented and respected. To this end they commit to introduce the appropriate arrangements in agreement with customer need.

THE COMMITMENT

It is Freight Customers' obvious right to freely negotiate Quality of Service commitments with Railway Undertakings and to enter into agreement with Railway Undertakings on such commitments.

Contracts between Freight Customers and Railway Undertakings shall include customer service quality provisions in one or more of the following service areas, depending on Customers and Railways respective quality requirements towards each other.

1. Responsibility

Responsibility towards the customer for the entire transport chain will be clearly specified in line with the CIM conditions (which will be considered as the minimal requirement).

2. Safety

Railway undertakings have safety as their highest priority: they aim to move freight in secure conditions, free of damage, and with respect for the environment. Compensation terms and conditions for damage to goods in transit will be defined in the contract. They will respect at least the terms set out in the CIM conditions.

3. Planning

The service planned for the customer – service frequency, departure, arrival times and transport order deadlines – will be clearly defined (within agreed performance margins in line with market conditions) for major traffic flows with quality requirements. Improved international planning processes will be pursued.

4. Punctuality and reliability

Railway Undertakings commit to improve their processes in order to guarantee service reliability and punctuality. Contracts with negotiated quality standards and according to client requirements shall provide for appropriate compensation in the event of unacceptable reliability and punctuality performance.

The compensation structure, levels and thresholds will be individually negotiated in line with business standards and taking into account the respective responsibility of the partners. Processes to develop methods and ensure application will be in place.

5. Information

Railway Undertakings shall provide transport status information, in particular any delays or service changes, to customers as soon as possible. Railway Undertakings will commit to arrangements for defining with the customer the particular reasonable information needs for the traffic flow concerned. Cross border information systems are in process of being worked out.

6. Rolling Stock

When contracted and Railway Undertakings are also rolling stock provider they will provide sufficient, clean freight rolling stock in a timely manner (and according to defined standards). When required by the client contracts may include provisions for any shortfall.

7. Billing

Transparent billing arrangements will be contracted (according to commercial circumstances) between railway undertakings and freight customers.

8. After-sale service

Processes will be in place to ensure the timely resolution of any matters raised by the customer under the terms of the contract.

CUSTOMER SUPPORT

The Railway Undertakings' commitments depend upon customer support on

- *timely customer presentation of wagons and cargo at the handover point,*
- *proper and timely receipt of customer documentation.*

Railway Undertakings will require appropriate contractual provisions in this respect.

Railway Undertakings may also require contractual commitments from customers on

- *the earliest possible notice to railway undertakings of any delays or changes,*
- *the hand-over of cargo in the form and packaging agreed between the parties.*

COMMUNITY OF EUROPEAN RAILWAY AND INFRASTRUCTURE COMPANIES - COMMUNAUTÉ EUROPÉENNE DU RAIL ET DES COMPAGNIES D'INFRASTRUCTURE - GEMEINSCHAFT DER EUROPÄISCHEN BAHNEN UND INFRASTRUKTURGESELLSCHAFTEN

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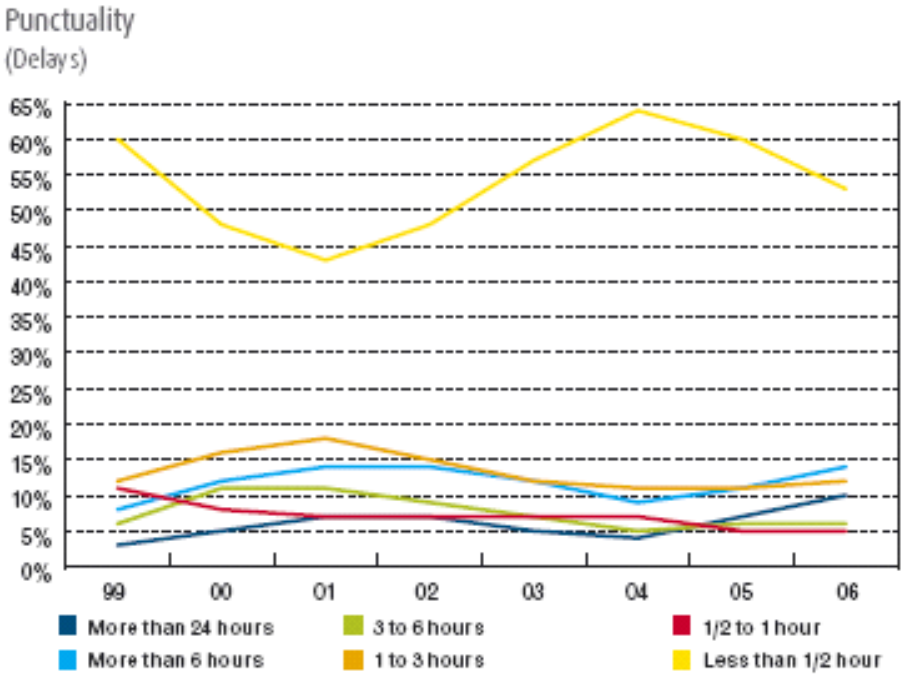
ANNEX II: QUALITY CERTIFICATION OF THE MAIN RAIL OPERATORS (SOURCE : CER)

	ISO 9001	SQAS[17]	ISO 14001[18]	OHSAS 18001[19]	VDA 6.2[20]
BDZ	**(X)**[21]				
BLS Cargo	**X**				
CFL Cargo	**(X)**				
CFR Marfa	**X**		**(X)**		
Green cargo	**X**		**X**	**(X)**	
GYSEV	**X**				
MAV Cargo	**X**		**X**		
PKP Cargo	**X**		**X**	**(X)**	
RCA	**X**	**(X)**	**(X)**	**X**	**X**
Railion Deutschland	**X**	**X**	**X**		
Railion Nederland	**X**	**X**			
RENFE	**X**		**X**		
SBB Cargo	**X**	**X**	**(X)**	**(X)**	
SZ	**X**		**X**		
SNCB	**X**	**X**	**X**		
SNCF Fret	**X**	**X**			
Trenitalia Logistica	**X**		**X**	**X**	
VR	**X**		**X**		
ZSSK Cargo	**X**		**(X)**	**(X)**	

17 Safety and quality certification system.
18 Environmental quality certification procedure.
19 Occupational health and safety certification procedures.
20 Certification specific to the motor vehicle industry.
21 In preparation.

ANNEX III: PUNCTUALITY OF INTERNATIONAL COMBINED TRANSPORT TRAINS – 2006

(SOURCE UIRR)

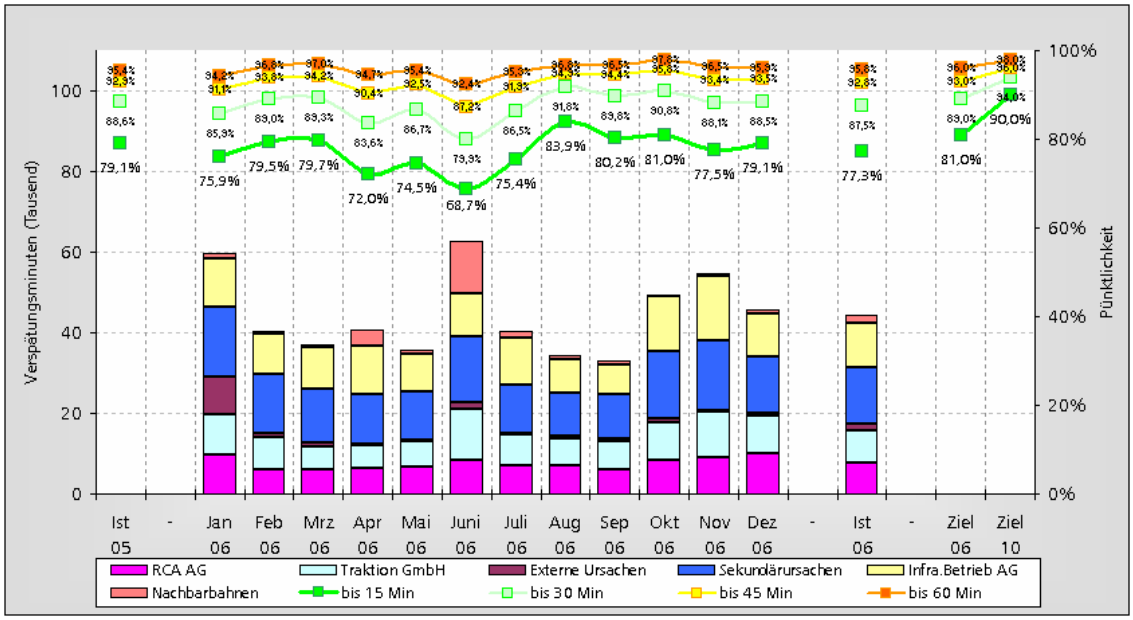


ANNEX IV: PUNCTUALITY OF FREIGHT TRAINS

(SOURCE CER)

Austria

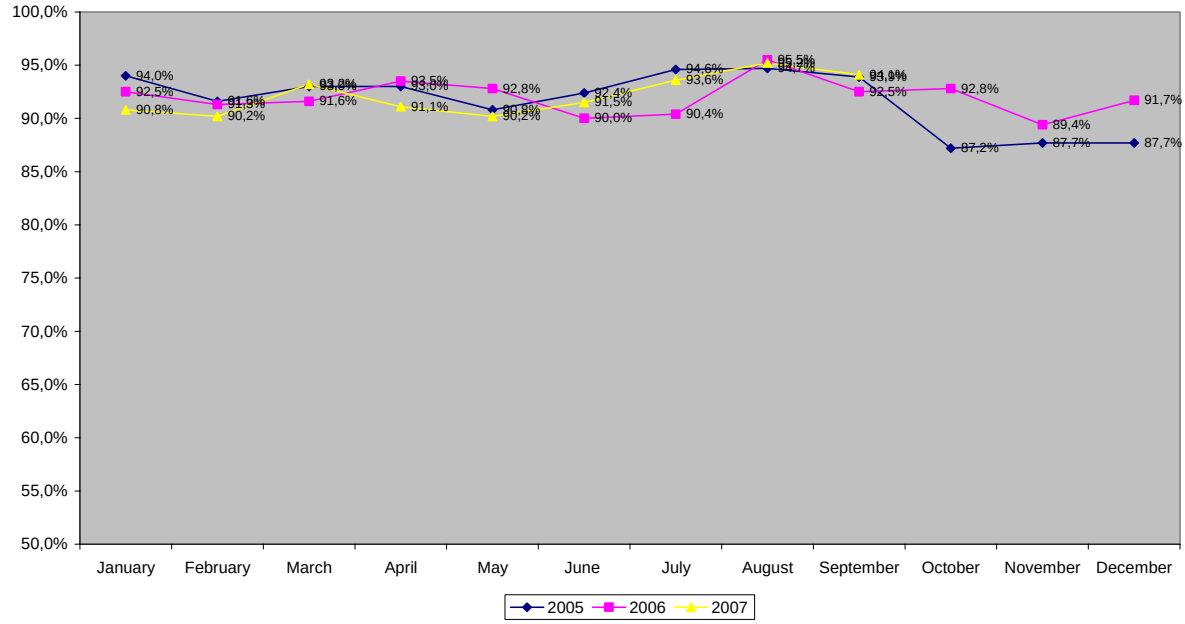
Punctuality Rail Cargo Austria in 2006



Belgium

Punctuality in B-Cargo 2005-2007

Percentage of Freight Trains < 60´delay on the Belgian Network
Domestic Traffics (Arrival)



Denmark

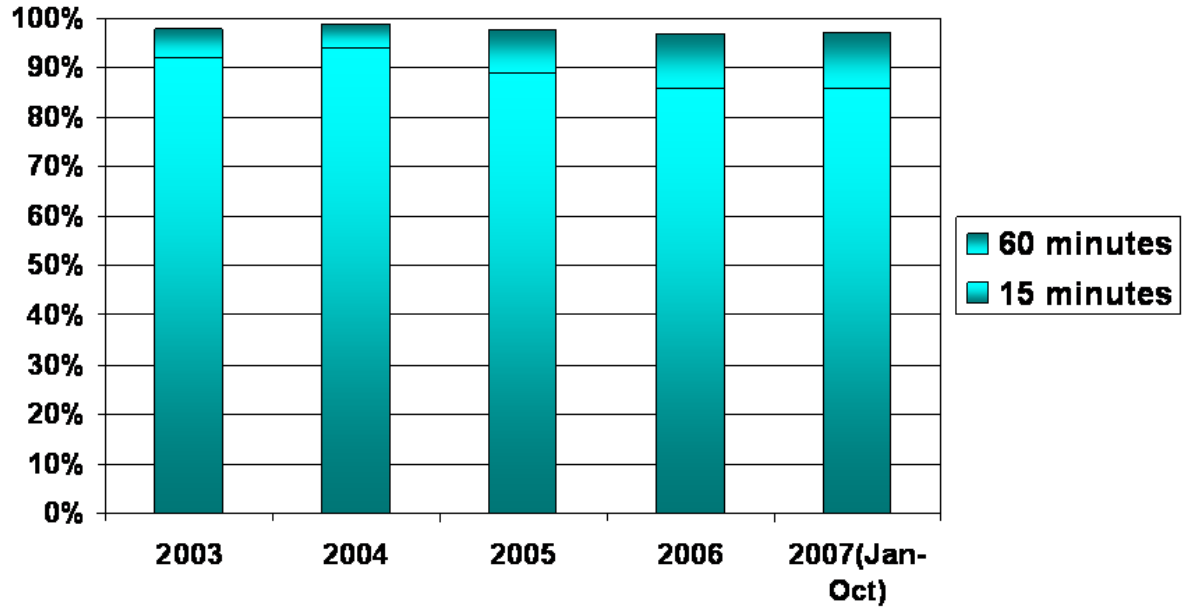
Punctuality Railion Denmark in 2006

2006 Punctuality in %	Jan	Feb	Mar	Apr	Mai	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Cum.
1 Punctuality at departure	85	93	95	94	96	88	88	96	88	90	81	83	90
2 Punctuality at arrival	84	89	87	90	90	87	80	90	81	81	73	87	85

> 80 % > 76 % < 76 % **Punctuality at 60 minutes tolerance margin**

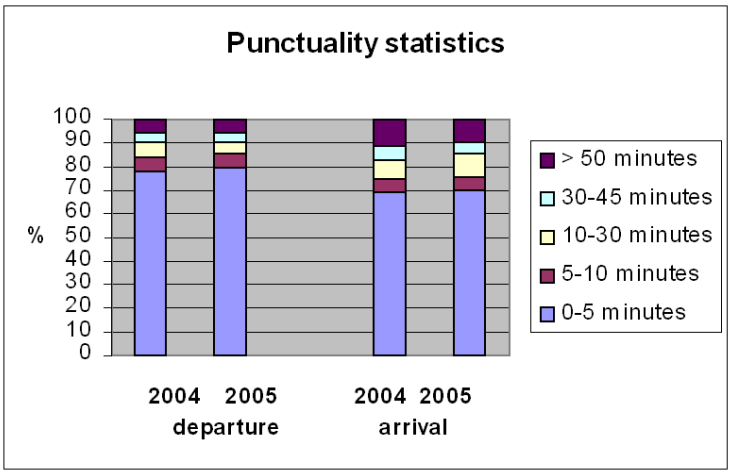
Finland

Punctuality VR, 2003-2007



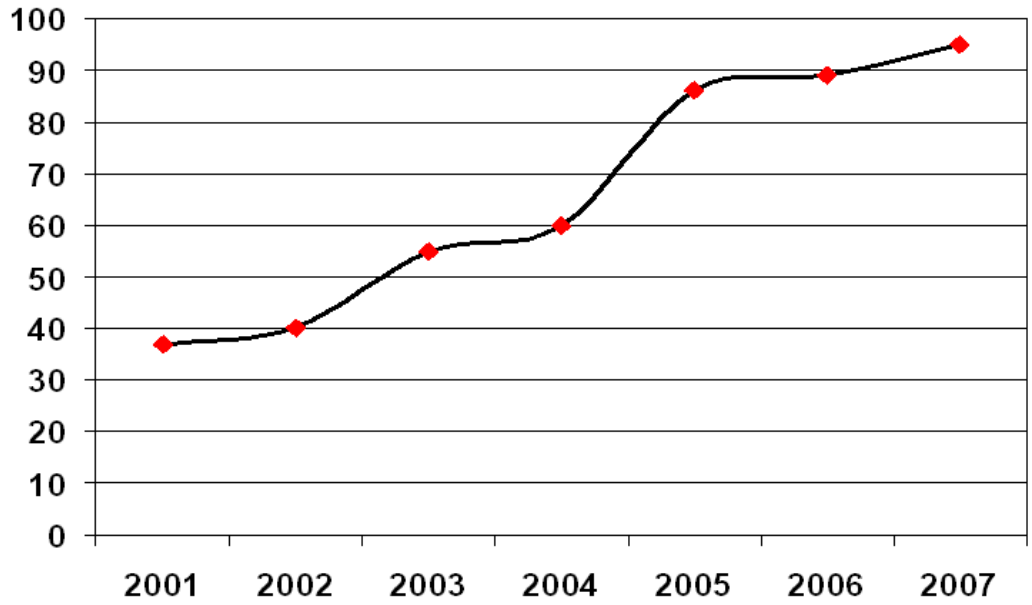
The Netherlands

Punctuality in the Netherlands, 2004-2005

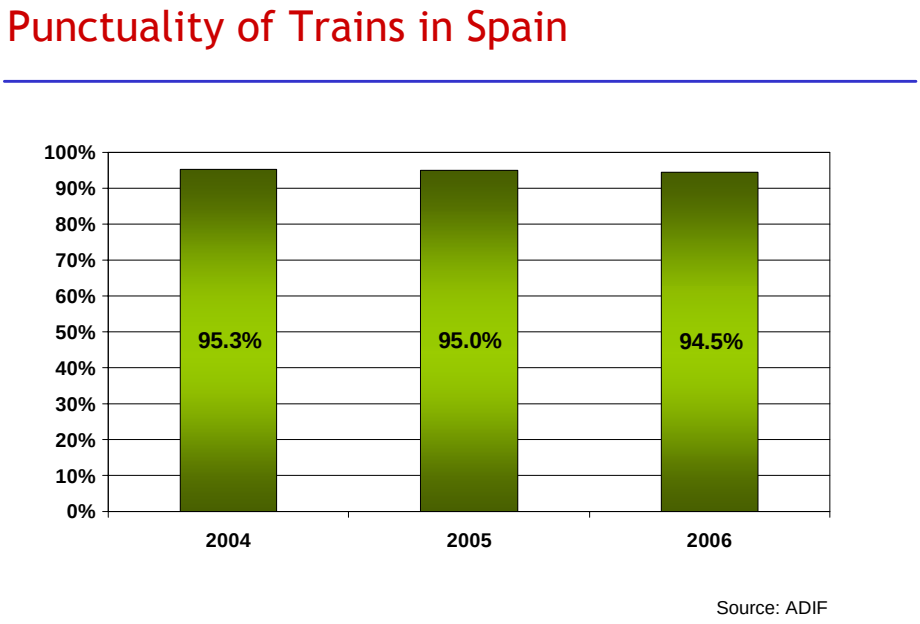


Sweden

Punctuality GreenCargo, 2001-2007



Spain



Source: ADIF