

Press release
10 February 2011 – Belgian Court of Audit

**Report to the Federal Parliament:
Rail security - Public procurement**

10 February 2011 – At the request of the Rail security special parliamentary committee the Court examined seven public contracts relating to the rail infrastructure and rolling stock to be equipped with automatic train protection systems. The Court expressed several points of attention with regard to the processing of public procurement, among others the time gap between the call for tenderers and the award of the contract, the major adjustments of the draft tender document, the equal treatment of tenderers and the order of material prior to the formal approval of proposed prototypes. Besides the Court found that the negotiations between the former Belgian National Railway Company, Infrabel and the leading companies on the rail market in Belgium may have influenced the strategic decisions.

In November 2010 the Rail security special parliamentary committee asked the Court to examine several public contracts relating to the rail network and rolling stock to be equipped with automated train protection systems and to focus its attention more specifically on equal treatment in the selection of co-contractors and on the call for competition.

The Court subsequently examined seven public contracts which it selected from the preceding report on rail security it had drawn up in August 2010 at the request of the special parliamentary committee.

Due to the succeeding strategic choices made by the railways companies some public contracts were discontinued and others were drastically modified. In view of the size and the nature of the changes it would have been justified to launch new calls for competition so that interested tendering companies would have been able to vie with each other.

As far as the infrastructure equipment and rolling stock more specifically is concerned, the strategic selection of a TBL1+ system which is not interoperable with foreign systems has contributed to a restriction of competition to equip a rather small-scale Belgian rail network - although admittedly this selection may have been driven by the wish to improve safety.

The Court's examination showed that the selection of train protection systems and the changes to public contracts were sometimes extensively prepared during negotiations with suppliers and submitted formally rather late for approval to the rail companies' management boards.

In violation of the contractual obligation imposed on the co-contractor to have its prototypes formally approved prior to a final order, public contracts were repeatedly awarded or material ordered before the prototypes were formally approved. Infrabel and the Belgian National Railway Company, however, hold the view that they had taken

enough precautionary measures and that the waiting time for the formal approval would have delayed making the safety investments.