

NOTICES FROM MEMBER STATES

Decision of the Executive Boards of Rail Freight Corridors No 1 and No 2 establishing the Framework for capacity allocation on the Rail Freight Corridors No 1 and No 2

(2013/C 65/04)

THE MINISTERS OF TRANSPORT OF THE KINGDOM OF BELGIUM, THE FEDERAL REPUBLIC OF GERMANY, THE FRENCH REPUBLIC, THE ITALIAN REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS,

IN PRESENCE OF THE VICE PRESIDENT OF THE EUROPEAN COMMISSION,

Having regard to:

- The Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area ⁽¹⁾ and in particular Articles 39, 43, 45, 46, 48, 56.1 and Annex VII of the Directive;
- The Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight ⁽²⁾; and in particular Articles 8, 13, 14, 15, 18, 19 and 20 of the Regulation;

Whereas:

- The Executive Boards of Rail Freight Corridors No 1 and No 2, as referred to in Article 8 of the Regulation (EU) No 913/2010, have been established and their mission statements have been adopted at the occasion of the Antwerp Conference, the 27th of June 2011;
- The Chairpersons of the Executive Boards of Rail Freight Corridors No 1 and No 2 have informed the European Commission of the establishment of their Boards by letters dated respectively the 29th of June 2011 and the 11th of July 2011;
- The European Commission has answered to these Chairpersons, by letters dated 19th of October 2011, welcoming the establishment of the Executive Boards of Rail Freight Corridors No 1 and No 2;
- The Executive Boards must define the framework for the allocation of the infrastructure capacity on the freight corridor in accordance with Article 14(1) of Regulation (EU) No 913/2010;
- Switzerland is negotiating the transposition of the Regulation (EU) No 913/2010 with the European Commission;
- The Rail Freight Corridors No 1 and No 2 are interconnected in Rotterdam, Antwerp, Basle; the Rail Freight Corridors No 1 and No 8 are interconnected in Rotterdam, Antwerp, Duisburg; the Rail Freight Corridors No 1 and No 6 are interconnected in Milan; the Rail Freight Corridors No 2 and No 6 are interconnected in Lyon; and the Rail Freight Corridors No 2 and No 4 are interconnected in Metz;
- Common binding rules are needed at the corridors' level allowing the Corridor One-stop-Shops (C-OSS) to allocate fairly including in the event of conflicting applications;
- A harmonised framework for the allocation of the infrastructure capacity on all the Rail Freight Corridors is desirable;

⁽¹⁾ OJ L 343, 14.12.2012, p. 32.

⁽²⁾ OJ L 276, 20.10.2010, p. 22.

- The Management Boards of Rail Freight Corridors No 1 and No 2 have agreed on this framework for the allocation of the infrastructure capacity;
- The Infrastructure Managers/Allocation Bodies will refer to it in their respective national network statement in view of its implementation;
- The Regulatory Bodies expressed their position on this framework for the allocation of the infrastructure capacity;
- The Ministers signing this document will aim at applying this document and consider to extend its application to other corridors in which they are involved;
- An English version of this framework is available,

DECIDE to adopt the framework for the allocation of the infrastructure capacity of the Rail Freight Corridors No 1 and No 2, in Annex;

DECIDE that this framework must be implemented;

EXPRESS the consent of their States to be bound by this decision;

ASK the European Commission to publish the present decision and the framework for the allocation of the infrastructure capacity of the Rail Freight Corridors No 1 and No 2 in Annex, in the *Official Journal of the European Union*,

CORRIDOR-FRAMEWORK

for the allocation of the infrastructure capacity on freight corridors according to Regulation (EU) No 913/2010

I. PURPOSE, SCOPE AND CHARACTER OF THE FRAMEWORK

1. Article 14.1 of Regulation (EU) No 913/2010 ('the Regulation') requires the Executive Board to establish a corridor framework for capacity allocation. The framework for capacity allocation on the corridor concerns the mandatory aspects of the Regulation regarding the capacity allocation.

This framework for capacity allocation on the corridor ('Corridor-Framework') concerns only the allocation linked to the pre-arranged train paths and to the reserve capacity given to the Corridor One-Stop-Shop ('C-OSS') for freight trains, crossing at least one border on a corridor as foreseen by Article 14.4 of the Regulation, namely where the allocation of capacity by the C-OSS is mandatory, according to Article 13 of the Regulation.

The Executive Board will evaluate the functioning of the Corridor Framework, taking into account the monitoring established in Annex 1. The regulatory bodies will inform the Executive Board of their own observations.

2. The framework shall apply to Infrastructure Managers and Allocation Bodies (IMs/ABs) in order to install clear and transparent principles for the allocation process of pre-arranged train paths and reserve capacity by the C-OSS. IMs and ABs will enforce the implementation of the framework by including the relevant provisions in their network statements.

The scope of the application of the framework will be defined in the corridor implementation plan where routes and connecting lines will be defined.

II. PRINCIPLES OF SUPPLY OF PRE-ARRANGED PATHS

The capacity provided by the national Infrastructure Managers and Allocation Bodies ('IMs/ABs') for the pre-arranged train paths and the reserve capacity to the C-OSS, is taken from the national capacity dedicated

to freight traffic. The construction of pre-arranged paths and the definition of reserve capacity, is realised by the IMs/ABs in accordance with Article 14 of the Regulation, by taking into account i.a.:

- the Transport Market Study, analysing the demand for international freight traffic on the corridor and covering the different types of traffic, in particular passenger traffic,
- the request for infrastructure capacity relating to the past and present working timetables,
- the national framework agreements.

Details of supply of the pre-arranged paths are explained in the Corridor Information Document.

These pre-arranged paths are handed over to the C-OSS for exclusive management at the latest X-11 and for reserve capacity at least 60 days before the train running (X-2).

The IMs/ABs will aim to include in the supply of pre-arranged train paths, the access and the paths connecting terminals where feasible.

The pre-arranged paths managed by the C-OSS for the allocation in the yearly timetable and the reserve capacity are dedicated to the corridor. Therefore it is essential that the displayed dedicated capacity is protected against subsequent adaptations by the IMs/ABs critical for the applicants.

The Management Board shall decide whether and if so to what extent the unused capacity shall be returned by the C-OSS to the relevant IMs/ABs at X-7,5, according to a principle published in the Corridor Information Document and taking into account the need for sufficient reserve capacity of good quality.

III. PRINCIPLES OF ALLOCATION OF THE PRE-ARRANGED TRAIN PATHS AND RESERVE CAPACITY BY THE C-OSS

The decision on the allocation of pre-arranged train paths and reserve capacity on the freight corridor is taken by the C-OSS, in accordance with Article 13 of the Regulation.

Like the IMs/ABs, the C-OSS has to respect the rules of Directive 2012/34/EU, especially Article 29.

The activities within the timetabling processes concerning pre-arranged train paths and reserve capacity are described in Annex 2.

1. General principles related to the establishment of the C-OSS

The C-OSS has to be established under and is governed by the principles of transparency, non-discrimination, independence, balance and fairness.

The Management Board is responsible for designating or for setting-up the C-OSS including its operating modalities. The implementation plan, which will be part of the Corridor Information Document to be published by the Management Board according to Article 18 of the Regulation, will describe the competences, the form of organisation, the access rights, the liability vis-à-vis applicants and the mode of functioning of the C-OSS and its conditions of use.

2. Principles of transparency and non-discrimination

In addition to the Corridor Information Document, once adopted, the IMs/ABs will publish the functioning and set-up of the C-OSS in their network statements. They will also mention the Corridor Information Document in their own network statements.

In accordance with Articles 13 of the Regulation, any application of pre-arranged paths and reserve capacity for corridor infrastructure capacity, crossing at least one border on a corridor, from a railway undertaking or authorised applicant will be conducted (requests handling, coordinating with IMs/ABs, monitoring, deciding and answering) by the C-OSS. Each application should be registered by the C-OSS and be subject to an appropriate response.

After receipt of all path requests for pre-arranged paths at X-8 (regular deadline for submitting path requests for the annual timetable) the C-OSS will decide on the allocation of pre-arranged paths without delay until X-7,5 and mark the allocation in the path register accordingly.

According to Articles 13.3 and 13.4 of the Regulation, in the same way it is requested that the C-OSS inform the competent IMs/ABs on its received applications and the decisions taken on them without delay. It is also requested that for any application which cannot be met, the C-OSS shall forward the application for infrastructure capacity without any delay to the competent IMs/ABs, which shall take a decision on that application and communicate this decision to the C-OSS for further processing. This procedure allows a follow-up on applications for international rail freight paths on the corridor that the C-OSS could receive.

3. Principles of fairness and independence

The C-OSS respects the duties of confidentiality regarding the applications received.

In the context of the corridor, and consequently from a view point of international cooperation, the experts of the C-OSS staff are, within their mandate, to work independently from their IMs/ABs' tasks and they are ensuring allocation decisions for pre-arranged paths and reserve capacity on a corridor level. However, the C-OSS experts may work with the IMs/ABs for the purpose of coordinating the allocation of corridor paths with the allocation of feeder/outflow national paths.

4. Principles of cooperation and balance

The IMs/ABs will coordinate and pool their pre-arranged corridor train paths into the pre-arranged path catalogue of the C-OSS in order to take into account the needs of the market, expressed through i.a. the Transport Market Study. The Management Board will inform the Executive Board on an annual basis on the quantitative and qualitative development of corridor train paths, according to Article 19.2 of the Regulation (see Annex 1 for a minimum set of indicators).

5. Priorities to be applied by the C-OSS in case of conflicting applications

After receipt of all requests for pre-arranged train paths at X-8, the C-OSS will decide on the allocation of the pre-arranged paths.

In the event of conflicting applications, the C-OSS will apply the common priority rule for coordination which focuses on rewarding applicants with higher commercial value from IMs/ABs point of view and to maximise the use of capacity (longer pre-arranged path sections and more often). The formula is described in Annex 3.

Changes to this Annex can be done under the condition of a common agreement of both Executive and Management Boards.

This priority rule for coordination concerns only the pre-arranged train paths of the corridor and are applied only between X-8 and X-7,5 in case of conflicting applications.

Once the allocation decision is made following requests until X-8, the C-OSS will propose alternative pre-arranged train paths to the dissatisfied applicants. If these alternative solutions are not sufficiently adequate for the applicant, the C-OSS will forward the requests to the competent IMs/ABs according to Article 13.4 of the Regulation. Those path requests should be considered by IMs/ABs as having been submitted before the X-8 deadline.

Regarding the requests placed after X-8, the priority rule for coordination 'first in, first served' will be applied.

These rules will be inserted in the national network statements of each member of the Management Board of the corridor, describing the corridor aspects, and will afterwards be published in the Corridor Information Document.

IV. REGULATORY CONTROL

The impact of the framework on capacity allocation on the annual allocation is, in the case of complaints, subject to (ex post) control by the regulatory bodies. Regulatory bodies may also start own-initiative investigations.

According to Article 20 of the Regulation, the regulatory bodies of each corridor shall collaborate. Ministers invite the Regulatory Bodies to describe their way of cooperation on regulatory control of C-OSS, and in particular by reaching a cooperation agreement defining how complaints regarding the allocation process of the C-OSS shall be filed and how a decision following a complaint shall be taken. This agreement should be published.

According to national provisions in some countries the regulatory bodies have to be involved in the allocation process (e.g. if a request cannot be met). In this case the regulatory body will be competent to monitor the IMs/ABs on its own territory according to Article 56.1 of the Directive 2012/34/EU.

V. AUTHORISED APPLICANTS

According to Article 15 of the Regulation an authorised applicant may directly apply to the C-OSS for the allocation of pre-arranged train paths/reserve capacity. If the pre-arranged train path/reserve capacity was allocated by the C-OSS accordingly, the authorised applicant should appoint to the C-OSS within the time, as decided by the Management Board, the designated railway undertaking(s) which will use the train path/reserve capacity on behalf of the authorised applicant. The designated railway undertaking has therefore to conclude the necessary individual contracts with the IMs or ABs concerned relying on the respective national network access conditions.

The Corridor Information Document will describe the rights and obligations of applicants vis-à-vis C-OSS, in particular where no Railway Undertaking has been assigned yet. Network Statements should contain reservation fees in order to provide an incentive for efficient use of the allocated train path.

IMPLEMENTATION

This Corridor Framework shall come into force with the signing of the present framework. A first evaluation of the Corridor framework by the Executive Boards will take place two months after receiving the monitoring report for the year 2014 foreseen by Article 19.2. This version of this framework has to be published in the Corridor Information Document.

ANNEXES

1. Monitoring of the allocation process.
2. Activities within the timetabling processes concerning pre-arranged train paths and reserve capacity.

3. Description of the priority rule for coordination at X-8 in the event of conflicting requests for pre-arranged paths.

Signed at Brussels, on 20 December 2012 established in a single original in the French, German, Italian and Dutch languages, each text being equally authentic.

Melchior WATHELET

Staatssecretaris voor Mobiliteit

Secrétaire d'Etat à la mobilité

Staatssekretär für Mobilität

Voor het Federal Overheid Dienst Mobiliteit and Vervoer van België

Pour le service publique fédéral mobilité et transports de Belgique

Für den Föderaler Öffentlicher Dienst Mobilität und Transportwesen

Peter RAMSAUER

Bundesminister für Verkehr, Bau und Stadtentwicklung von Bundesrepublik Deutschland

Für das Bundesministerium für Verkehr, Bau und Stadtentwicklung

Frédéric CUVILLIER

Ministre délégué auprès de la ministre de l'écologie, du développement durable et de l'énergie, en charge des transports, de la mer et de la pêche de la République française

Pour le ministre de l'écologie, du développement durable et de l'énergie

Mario CIACCIA

Vice Ministro delle infrastrutture e dei trasporti de la Repubblica italiana

Per il Ministero delle infrastrutture e dei trasporti

Claude WISELER

Ministre du développement durable et des infrastructures du Grand-Duché de Luxembourg

Pour le Département des Transports du Grand-Duché de Luxembourg

Wilma J. MANSVELD

De Staatssecretaris van Infrastructuur en Milieu van het Koninkrijk der Nederlanden

Voor het Ministerie van Infrastructuur en Milieu

In Anwesenheit von Siim KALLAS, *Vizepräsident der Europäischen Kommission*

En présence de M. Siim KALLAS, *vice-président de la Commission européenne*

In presenza di Siim KALLAS, *vicepresidente della Commissione europea*

In aanwezigheid van Siim KALLAS, *vicevoorzitter van de Europese Commissie*

ANNEX 1

Monitoring of the allocation process

On an annual basis the process of capacity allocation will be evaluated on the corridor with a view to a continuous improvement of the process. The evaluation will be done after the allocation of the annual timetable, i.e. in period mid-August-October each year.

The evaluation will be done by the Management Board, and the Railway Undertaking Advisory Group and Terminal Advisory Group will be consulted.

A draft evaluation report with recommendations will be discussed in the Executive Board in the 4th quarter of each year.

The results of the monitoring will be published by the Management Board, according to Article 19 of the Regulation.

The first evaluation report will be done for the year 2014.

Indicators to be monitored on a bi-annual basis (period 1: mid-December till mid-June, period 2: mid-June to mid-December (change of timetable)):

- pre-arranged train path:
 - number of offered pre-arranged train paths X-11 per section,
 - the number of requests period X-11 till X-8 and X-8 (- 1 day) till X-2 (without feeder/outflow sections),
 - number of train paths which are allocated by C-OSS,
 - number of train paths which reached active timetable phase,
 - number of conflicting applications (double booking at X-8),
 - indicator for reserve capacity to be allocated by C-OSS at X-2:
 - train paths offered,
 - train paths allocated,
 - train paths reaching the status of active timetable.
-

ANNEX 2

Activities within the timetabling processes concerning prearranged train paths and reserve capacity

Date/period	Activity
X-11	Publication of pre-arranged paths provided by the IMs/ABs
X-8	Deadline for submitting path requests
X-7,5	Forwarding requests with 'flexible approaches' (e.g. first/last mile) or 'special treatments' to IMs/ABs
X-7,5	Possible returning of some remaining (unused) pre-arranged paths to the competent IMs/ABs — based on the decision of the Corridor MB — for use during the elaboration of the annual timetable by the IMs/ABs
X-5,5	Finalisation of path construction for requested 'flexible approaches' by the IMs/ABs and delivering of the results to Corridor OSS for information and development of the draft timetable
X-5	Publication of the draft timetable for pre-arranged paths — including sections provided by the IMs/ABs for requested 'flexible approaches' by the C-OSS
X-5 — X-4	Observations from applicants
X-4 — X-3,5	Post-processing and final allocation
X-4 — X-2	Planning (production) reserve capacity for ad-hoc traffic
X-2	Publication reserve capacity for ad-hoc traffic

ANNEX 3

Description of the priority rule for coordination at X-8 in the event of conflicting requests for pre-arranged paths

L^{PAP} = total requested length of pre-arranged path

L^{TP} = total requested length of complete path

Y^{RD} = number of requested running days for the timetable period

K = the rate for priority

All lengths are counted in kilometres.

The priority is calculated according to this formula:

$$(L^{PAP} + L^{TP}) \times Y^{RD} = K$$

This formula can be used so that in a first step the priority value (K) is calculated using only total requested length of pre-arranged path (L^{PAP}) multiplied by the number of requested running days (Y^{RD}).

If the requests cannot be separated in this way, the total requested length of complete path (L^{TP}) will also be added in the calculation in order to separate the requests.
