

Independent Regulators' Group - Rail

IRG – Rail

MEMORANDUM of UNDERSTANDING

Preamble

International cooperation in railways is becoming increasingly important. It is already firmly established between both railway undertakings and between infrastructure managers through their participation in European railway associations and fora. Likewise, in the natural monopolies setting, rail regulation fosters sustainable and effective rail services for the public and for the economy by promoting effective competition in the railway sector and thereby contributing to the development of a European internal rail market. In this respect closer cooperation between independent national Rail Regulatory Bodies as laid down in this memorandum and outlined in the attached Background Paper will help implementing the European regulatory framework in a harmonised way, to develop regulatory best practice and speak at Community level with a strong voice.

In addition to the Rail Regulatory Bodies Working Group established and chaired by the European Commission and other corridor related international cooperation this Memorandum of Understanding sets out the framework for an informal cooperation network of independent regulatory bodies to more frequently share experiences and views among its members on key issues relating to the regulation and development of a competitive European rail market.

This network shall conduct an open dialogue with all relevant parties (including the European Commission and the Rail Regulatory Bodies working group) and shall ensure that its views and activities are presented in a transparent manner. It shall maintain close relations especially with the Rail Regulatory Working Group and the European Commission.

National Regulatory Bodies remain fully competent within their jurisdiction. No decision of the IRG-Rail can overrule a decision based on national competences. However national regulatory bodies shall take into account the decisions of the IRG-Rail.

CHAPTER I NAME, DURATION

Article 1 – Name

To enhance the co-operation between national Rail Regulatory Bodies in Europe on an informal basis, the undersigned have decided to establish an Independent Regulators' Group Rail (IRG-Rail).

CHAPTER II OBJECTIVES

Article 2 – Objectives

The objectives of IRG-Rail are to promote by the utilisation and management of its resources, cooperation, mutual assistance and information exchanges between its members (hereafter, the "Members")

- a. a consistent approach to the European regulatory framework for railways by its Members;
- b. the development of regulatory best practice in the *railway* sector in Europe *both for freight and passenger rail transport*;
- c. sustainable and effective competition in the provision of *freight and passenger rail transport*;
- d. the development of the European internal market in *railways*;
- e. the interests of passengers and freight users of its Member countries;
- f. transparency in the railway sector.

Article 3 – Fulfilment of objectives

In order to fulfil its objectives, IRG-Rail shall:

- a. provide a forum for discussion and exchange of ideas and expertise between its Members and with other experts regarding regulatory issues in the *railway* sector;
- b. prepare and publish documents, e.g. reports, guidance, Principles of Best Practice ("PIBs") and common positions to inform the market on regulatory strategies and developments;
- c. cooperate with other regulatory networks; and
- d. maintain an open dialogue with all relevant parties (including the Rail Regulatory Working Group and the European Commission).

CHAPTER III MEMBERSHIP

Article 4 – Admission, resignation

1. Admission of Members:

Membership is open to any national independent Regulatory Bodies in the *railway* sector which at all times:

- a. regulates its *railway* market and, in the case of EU members, is the national regulatory authority that has been established according to Article 30 of directive 2001/14/ EC;
- b. is independent of its government, railway undertakings and infrastructure managers as confirmed by the attached confirmation;

- c. is in a country which is an EU Member State or an EFTA state, which has a liberalised railway market, or an EU acceding country or a candidate for membership of the EU, which is working towards a liberalised *railway* market (according to the EU regulatory framework), i.e. has opened the market for competitors and has more than one active operator;
 - d. is not subject to ongoing EU infringement proceedings in respect of the first railway package that relate to the insufficient independence of the Regulatory Body from the (incumbent) railway undertaking and/or the infrastructure manager, or to being part of the same ministry that contributes to the control of the state railway undertaking or infrastructure manager.
2. Any Regulatory Body wishing to apply for membership shall send notice to the Chairperson expressing its interest and providing the signed confirmation of independence.
 3. Any RB which does not currently fulfil the membership criteria shall be allowed to participate informally in IRG-Rail working groups to the extent the subject matter is relevant to it.
 4. Resignation of Members:
A Member may resign its membership at any time by sending a notification to that effect to the Chairperson of the IRG-Rail.

CHAPTER IV PLENARY ASSEMBLY

Article 5 – Composition

1. The Plenary Assembly is composed of all Members.
2. Members attending the meetings are represented by their respective heads or representatives of their heads.

Article 6 – Powers and duties

The Plenary Assembly is the forum for discussion and monitoring of the IRG-Rail's activities.

It shall:

- a. take all decisions aimed at pursuing IRG-Rail's objectives;
- b. approve documents;
- c. admit new Members and exclude Members;
- d. approve any amendments to the Memorandum of Understanding;
- e. adopt and amend its own Rules of Procedure and/or Working Arrangements;
- f. appoint its Chairperson; and
- g. set up working groups and appoint the Chairpersons of the working groups.

Article 7 – Meetings

1. The ordinary Plenary Assembly shall be convened by the Chairperson or by the Vice-Chairperson at least once a year and more frequently when appropriate.
2. Any extraordinary meeting of the Plenary Assembly shall be convened by the Chairperson at the request of at least a quarter of its Members.

Article 8 – Deliberations

1. The Members present or represented at the Plenary Assembly shall use their best efforts in order to reach consensus.
2. The Rail Regulatory Bodies Working Group established and chaired by the European Commission will be regularly informed about the decisions taken.

CHAPTER V Chairperson and Vice-Chairperson

Article 9 – Chairperson and the Vice-Chairperson

1. The IRG-Rail shall be represented by a Chairperson and a Vice-Chairperson.
2. The Chairperson shall have a term of one year. Before serving his or her term as Chairperson, he or she shall first serve one year as Vice-Chairperson.
3. Every year the Plenary Assembly shall appoint a person who shall act as Vice Chair in the following year and Chair in the year after that.
4. The Chairperson shall submit the draft annual Work Programme to the Plenary Assembly for approval.

CHAPTER VI WORKING GROUPS

Article 10 – Working Groups

1. The Plenary Assembly shall establish Working Groups, composed of representatives of IRG-Rail members and chaired by one IRG-Rail Member. Any other RB having expressed an interest in a topic of a Working Group shall be allowed to participate in the working Group; it shall contact the chair of that Working Group to arrange participation.
3. The Working Groups shall report to and submit for approval to the Plenary Assembly draft documents.
4. In principle, Working Groups shall be free to organise themselves and meet regularly. The Working Group Chair shall be responsible for coordinating the work.

CHAPTER VII GENERAL PROVISIONS

Article 11 – Rules of Procedure

Except as otherwise provided by this Memorandum of Understanding the detailed rules governing the execution of the functions of the Plenary Assembly, the Chairperson and the Vice-Chairperson, shall be set out in the Rules of Procedure and/or Working Arrangements. The Rules of Procedure and/or Working Arrangements shall be approved by consensus of all Members present in the inaugural Plenary Assembly of IRG-Rail.

Article 12 – Finances

There are no financial contributions requested. Each Member has to bear the costs arising from its participation.

Article 13 – Secretarial Functions

Secretarial functions with regard to the Plenary Assembly shall be carried out by the Member that provides the Chairperson. With regard to the Working Groups, they shall be carried out by the Working Group Chair.

Article 14 – Language

The working language of the IRG-Rail shall be English.

Signed in The Hague, 9 June 2011

AUSTRIA

Schienen-Control GmbH



Ursula Zechner
Director

CROATIA

Rail Market Regulatory Agency



Goran Matesić
Chairman



DENMARK

Jernbanenaevnet

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ESTONIA

Estonian Competition Authority



Margus Kasepalu
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FRANCE

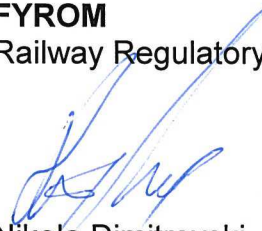
L'Autorité de régulation des activités ferroviaires



Pierre Cardo
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Railway Regulatory Agency



Nikola Dimitrovski
Head of RB



GERMANY

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HUNGARY

National Transport Authority

Matthias Kurth
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THE NETHERLANDS

The Netherlands Competition Authority



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FINLAND

The Finnish Rail Regulatory Body



Mervi Kaikkonen
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