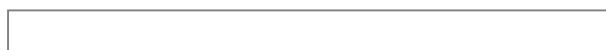


Structure of a bilateral agreement for border crossing points

Version 2

January 14, 2009



A: Structure and contents of the Border Crossing Agreement

1. Scope of agreement

- valid for individual border crossings or for all border crossings between two states (Framework Border Crossing Agreement)

2. Objective of the Agreement

- contribute to increasing the competitiveness of the two neighbouring states in the present and future markets of the European Union
 - contribute to increasing the competitiveness of the railway sector on the respective corridors (routes)
 - comply with the EU transport policy of an open rail market as outlined in the EU Treaty, in particular, Titles III (Free movement of persons, services and capital), IV (Visa, asylum – for border police issues), V (Transport), VI (Common rules on competition) and the three railway packages with their regulations on network access and non-discrimination.
 - **simplify the border procedures and reduce the waiting times at the Border Crossing Points (BCP) by:**
 - carrying out border dispatching activities of one state on the territory of the other state
 - establishing the rules for the border dispatching of one state on trains that are moving on the territory of the other state
- **determine by means of agreement:**
- in which stations of the one state border dispatching can be carried out by border authorities of the other state, so-called joint border stations,
 - on which sections of railway lines the border authorities of one state can carry out border dispatching on the territory of the other state, be it in stations facilities or moving trains,
 - in which zones the border authorities of one state can carry out border dispatching on the territory of the other state, be it in stations facilities or moving trains,

3. Open access for licensed rail operators to cross the border

- Open access for any licensed rail operator to the rail infrastructure at least in **the zone**
- Non-discriminatory access and fair competition

4. The zone

➤ **The zone is defined for each border crossing point**

- The zone can comprise the fixed installations (buildings etc.) where the border authorities of the other state can carry out their functions, the tracks and lines in the defined area (for example of a freight and passenger station, warehouses inside the

zone, waiting facilities for passengers), the trains moving between the defined sections or stations

5. The border dispatching in the zone

In a zone, the laws and regulations of the other state are valid concerning the border crossing of persons, of goods (import, export and transit) with the following principle:

- Persons and goods are treated with the same procedure and with the same legal consequences as if it were in the territory of the state.
- It also includes actions such a police intervention and the putting into custody of persons with the exceptions that have to be agreed in **the agreement** or in a **separate agreement between the customs and police authorities of the two countries.**

6. Principles of the procedures of control for the border authorities

- The state to which the territory belongs, carries out the procedures before the authorities of the other state carry out their procedures (export comes before import, emigration before immigration, transit leaving the state before transit entering the state.
- Once the procedure of the import, immigration has started, the authorities of the other state have terminated their functions unless they have judicial reasons to intervene but only with agreement of the state. Such exceptions have to be agreed in **the agreement** or in a **separate agreement between the customs and police authorities of the two countries.**

7. Status of the employees of the border authorities

- Free access into the zone of the other state, in uniforms and armed, in order to carry out their duties. (Note: railway employees are not considered to be employees of border authorities, they belong to private enterprises even if the capital is owned by the state).
- In the zone are valid the laws and regulations of the other state concerning its employees.
- The employees of the other state need special identification cards to act in the zone.
- If an employee of the other state is killed or injured, loses goods which he carries with him (arms, uniforms etc.) during the execution of his functions, the laws and regulations of the other state apply.

8. Border dispatching points

- On trains, the rail undertakings offer reserved compartments free of charge for the employees of the border authorities while they are carrying out their functions.
- Concerning the space and rooms assigned to the border authorities of the other state, the respective border authorities conclude the respective agreement detailing the rent and

compensation for other services (means of communication such as telephone, mail, internet etc.).

- No customs formalities for the employees

9. Service principle in the Zone

- **Single window principle (Guichet unique) for freight customs**
- **Passenger Control on the moving trains**
- **The one-stop-shop for the use of rail infrastructure in the zone** is based on a separate agreement between the Infrastructure Managers (the **border crossing network statement**)

10. Acceptance of International Conventions (e.g. COTIF - CIM -/SMGS)

11. Freedom of the use of transport documents other than CIM/SMGS

- Bills of Lading (Combined B/L, Through B/L, Multimodal B/L)
- other documents (air bills?)

in order to promote multi-modal international (intercontinental) transport

12. Freedom of organising one's own rail border dispatching

- every rail undertaking is free to make its own agreements with the respective border authorities,
- every rail undertaking is free to organise its own border dispatching procedures with its partner railway undertaking (in accordance with the existing laws and regulations as well as the agreement of the two Infrastructure Managers)

13. Freedom of the border authorities to conclude separate bilateral agreements with each other, in particular

- Border police on how to proceed in detail during controls on the territory in the other state, persecuting persons, prisoners etc.
- Customs on how to establish a single window service
- Phyto-sanitary, sanitary and health authority, in particular, on the mutual acceptance of certificates and control

14. Rail infrastructure managers establish non-discriminatory rules for the rail operations in the zone - the Border Crossing network statement -

- network admission procedures of the two infrastructure managers for railway undertakings
- one-stop-shop procedures

- path allocation
- infrastructure fee and invoicing

15. Principle of transferring commercial and technical aspects to hinterland terminals

- acceptance of customs and other documentation carried out in the hinterland

16. Independent authority (Border Crossing Commission) as regulator/arbitrator/quality commission

- non-discriminatory access for rail undertakings. (Note: The task should rather be carried out by the national railway regulator).
- arbitration between infrastructure managers and rail undertakings. (Note: The task should rather be carried out by the national railway regulator).
- arbitration between rail undertakings and the border authorities
- problems arising from the cooperation of the border authorities in the zone
- improvement of services

17. Freedom of choice of language

- All contracting partners can agree on which language to use in separate agreements

18. Agreement to publish all border crossing requirements by website

- Documents required by the border authorities
- network statements by the Infrastructure Managers
- opening hours
- other useful information

at least in the official languages of the states and other languages according to the principle of customer orientation.

B: Definition of the Terms included in the Border Agreement in accordance with EU directives:

- ⇒ Railway Undertaking
- ⇒ Rail Infrastructure Manager
- ⇒ International railway transport services
- ⇒ Border dispatching
- ⇒ Border Section ("free rail operation zone")
- ⇒ One-stop-shop (OSS)
- ⇒ Single window (customs)

- ⇒ Border Station
- ⇒ Other terms

⇒ SEETO and/or the EU-Project will provide the official English definitions of the terms mentioned above in order to harmonise the agreement with the existing EU legislative terminology in order to ensure a common technical language in compliance with the terminology employed in EU legislation.

C: Further border agreements to be signed (= subsequent agreements)

- **Border Network Statement agreed between the neighbouring infrastructure managers, which will be a common appendix to the Network Statement of the two neighbouring infrastructure managers**
- **Bilateral Customs Agreements**
- **Bilateral Border Police Agreements, in particular, activities on the neighbouring country's territory (see separate proposal)**
- **Bilateral Phyto-sanitary Agreements**
- **Bilateral Sanitary Agreements**
- **Other bilateral agreements between border authorities, if necessary**