

Support for Implementing Measures for South East Core Regional Transport Network Multi Annual Plan 2008-2012 (EuropeAid/125783/C/SER/MULTI)

Draft Regulatory Manual for a Harmonised Infrastructure Charging Regime Presentation to 9th RW WG

Prepared by:
Vassilis Evmolpidis, Tatjana Jankovic
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Contractor: WYG Engineering Ltd. as Leading Partner
TRADEMCO S.A.
VIENNA CONSULT
TRL Ltd

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1. REQUIREMENTS OF TOR AND PROPOSAL

- According to the TOR of the project "the RM should contain a methodology for the evaluation of the elements for decision making on levels of railway access fees to be charged and an outline of Rail Infrastructure Access Regime" taking into consideration:
 - the legal environment
 - the concrete and coherent solutions for a charging system taking into account the existing institutional capacities and current fiscal scenarios
 - a simplified formula for the calculation of access charges.
- In his tender proposal, the Consultant suggested that the Regulatory Manual (RM) should act as rulebook for decision making in the field of regulatory questions in the railway sector. The RM should contain information on the assignment of capacity on the railway infrastructure, train path prioritization, type of trains, guidelines for the creation of timetables as well as appropriate procedures for the solution of conflicts

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2. PURPOSE AND OBJECTIVES OF R.M.

The purpose of the RM is:

- To prepare a document that is agreed upon to act as guideline applicable by the Region and the Participants for access to infrastructure with harmonised procedures .

The objectives of the RM are, to include:

- an acceptable methodology for access charges calculation and criteria to be used
- an acceptable process for capacity allocation,
- an acceptable process for path allocation,
- to present the role and responsibilities of the Regulatory Body, as Market Regulator,
- to enable the following of harmonized approaches at Regional and SEETO Participant level concerning railway reform.

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2. PURPOSE AND OBJECTIVES OF R.M.

The principles of RM and its content were presented and discussed in the 1st RWR Workshop in Belgrade (February 25-26)

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2. PURPOSE AND OBJECTIVES OF R.M.

Why to establish a R.M. for the Region?

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3. RESULT OF QUESTIONNAIRE IN 1ST RWR WS

QUESTIONS	ANSWERS	# of answers	%
1) Is there a need for an agreement to enhance railways in West Balkan Region?	yes	21	75
	no	3	11
	something else	4	14
2) Should Regulatory Body have market perspective and enforcement authority in every SEETO Participant?	yes	24	89
	no	2	7
	something else	1	4
3) Do you agree that harmonisation is a catalyst for railways development?	yes	26	93
	no	1	4
	something else	1	4
4) Do you agree that regulatory manual is a suitable instrument for harmonization?	yes	24	89
	no	1	4
	something else	2	7
5) What period is acceptable to achieve the 1st level harmonization given in Regulatory Manual?	6 months	3	21
	1 year	7	50
	something else	4	29
and For how long should it apply?	for 2 years	18	82
	for 5 years	2	9
	something else	2	9
6) What network is acceptable on which to seek 1st level of harmonization?	Core network	17	65
	the whole network	4	15
	something else	5	19
7) Do you agree to have harmonised TAC methodology (MC+) and criteria in SEETO Participants?	yes	21	84
	no	1	4
	something else	3	12
8) Do you agree to have harmonised capacity allocation, path allocation procedures and criteria in SEETO Participants?	yes	22	85
	no	2	8
	something else	2	8
9) Do you agree on giving priority to international and transit freight trains in all Participants?	yes	18	72
	no	4	16
	something else	3	12
10) Do you agree to have regional cooperation of infrastructure managers as "one stop shop"?	yes	20	77
	no	1	4
	something else	5	19
11) What is your opinion for formalised communication of Regulatory Bodies?	joint regional body	3	11
	reg. meetings of reg. bodies	20	71
	something else	5	18

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3. RESULT OF QUESTIONNAIRE IN 1ST RWR WS

- There is a remarkable convergence of 89% about the Regulatory Manual being a very good “instrument” to achieve harmonization concerning railway reform in SEETO Participants.
- This Regulatory Manual is prepared with this objective in mind, in order to attain harmonization at regional level on the issues presented above within the next 12 months.
- This period is slightly longer than the remaining lifetime of the project.

REGULATORY MANUAL TABLE OF CONTENTS

- Glossary of Terms
1. Introduction and the Need for Regional Harmonization
 2. A Proposal for Harmonised Track Access Charge (TAC) Calculation
 3. A Proposal for Harmonised Capacity and Path Allocation
 4. The Regulatory Body as Market Regulator
 5. Regional approach for Regulatory Bodies
 6. Conclusions

4. A PROPOSAL FOR HARMONISED TRACK ACCESS CHARGE (TAC)

- The infrastructure access charging regime should create incentives in relation to track wear due to the usage of the lines by trains.
- This requires that relevant usage costs are identified and accounted for in the access charges.
- TAC covers traffic management, maintenance and renewals since the assets must be maintained and renewed in order to sustain network serviceability and performance.

4. METHODOLOGY PROPOSED

The characteristics of this methodology concern:

- the **principle** to be used for calculation of costs for using the infrastructure
- the **railway network** on which it is applicable
- the **period of time (phase)** for which this methodology will be applicable
- the **criteria** to be used and the coefficients with which the criteria are expressed in the relevant methodology

4. THE PRINCIPLE

- The proposed structure of charges involves a simple tariff structure based on recovery of marginal costs plus, where appropriate, a mark-up to cover some of the fixed costs (MC+).

5. METHODOLOGY PROPOSED – THE NETWORK

- implementation of the harmonized charging system on the core network
- implementation on the whole network and on lines with international traffic
- **SEETO Participants railway network: Corridors (X and Vb and Vc) for freight trains**

5. METHODOLOGY PROPOSED – PERIOD & PHASING

- 1st phase during 2 years, with a harmonized simple formula -based just only on “train-km”- will be used taking into consideration common coefficients with similar multiplier values of the coefficients, for similar conditions on the railway network.
- In a 2nd phase (after the first 2 years) a more comprehensive formula that also takes into consideration “gross tonkm” can be developed and used by SEETO Participants.
- In 3rd phase, formulae using two-part charges could also be used.

5. METHODOLOGY PROPOSED – CRITERIA

- The methodology that is proposed is based on the development of a TAC regime that needs to reflect:
 - infrastructure manager’s costs need to be fully recovered,
 - users should be required to pay only for costs efficiently incurred in the provision of services they require.
- The aspiration to reach “efficient cost” levels should be seen as a long term objective for the infrastructure manager, since the operators should not be charged for the infrastructure manager’s inefficiencies. That cost (that mostly concern over numbered personnel or outdated equipment and premises) should be borne by the Government as part of the railway restructuring cost.

5. METHODOLOGY PROPOSED – CRITERIA

- The level of access charges for the minimal access service package is set based on the:
 - unit price for the use of railway infrastructure per train kilometre,
 - categorisation of railway tracks and
 - categorisation of trains with special coefficients for weighing the types of railway lines and type of trains and number of train kilometre realised.

5. METHODOLOGY PROPOSED-FORMULA

$$U = (Q_{km(main)} \times P_{(main)} + Q_{km(reg)} \times P_{reg}) \times C_{tkm} \times K \times F$$

- U= User charge for the allocated train path, in monetary units
- Q_{main} = The amount of trainkm realised on main railway track
- Q_{reg} = The amount of trainkm realised on regional railway track
- C= The price of line per trainkm, in monetary units per trainkm
- P_{main} = The coefficient for running on main railway track
- P_{reg} = The coefficient for running on regional railway track
- K= The coefficient for track wear
- F= The factor which depends on timetable requests

5. METHODOLOGY PROPOSED-COEFFICIENTS

- The price for train kilometer is based on real costs which are calculated and presented by the IM’s. The price that is being proposed for the purposes of harmonised access charges is = 3Euro/trainkm
- Track wear coefficient “K” is applied for differentiating trains according to their gross weight and their type:
 - for cargo trains (more than 1300 ton gross): 1,00 – 1,50
 - for cargo trains (less than 1300 ton gross): 0,50-0,60
 - for cargo trains that are empty (less than 100 ton net): 0,30-0,40
 - for cargo trains (circular, collecting, locomotive): 0,10-0,20
 - for passenger trains: 0,30-0,40

5. METHODOLOGY PROPOSED-COEFFICIENTS

- Weighing coefficient “P” is applied for differentiating the cost of using main and regional railway lines. The suggested values are:
 - for main rail lines: 1,00
 - for regional rail lines: 0,60-0,80
- RU’s demand related coefficient “F” represents the timeliness of train paths regarding the timetable (regular or additional requests):
 - for allocated train paths, which are requested prior to timetable enforcement: 1
 - for allocated train paths, which are requested ad hoc: 1,2

5. METHODOLOGY PROPOSED- USE OF CATENARY

- A separate formula is proposed for the electricity consumed by the trains, when using electrified railway lines.
- The calculation of electricity charge can be made in the scope of a separate contract, or the same contract as for track access charges.
- This is also a simple formula that is based on the same unit (trainkm) and the amount of electricity consumed per trainkm and the cost of electricity.

5. METHODOLOGY PROPOSED-USE OF CATENARY

$$E = Q_{tkm} \times CO_{kWh/km} \times T_{Euro/kWh}$$

- E = The charge of electricity consumed, in monetary terms
- Q_{tkm} = The amount of trainkm realised on railway track
- $CO_{kWh/km}$ = The consumption of electricity per trainkm
- $T_{Euro/kWh}$ = Unit Tarrif for electricity (in monetary terms per kWh)

6. CRITERIA FOR CAPACITY AND PATH ALLOCATION

- Infrastructure capacity allocation is done through the following 2 procedures:
 - procedure for infrastructure capacity allocation for the annual time-table of trains;
 - infrastructure capacity allocation procedure, outside of the procedure for the annual compilation of time-table (including ad-hoc requests).

6. CRITERIA FOR CAPACITY AND PATH ALLOCATION

- The stakeholders involved in application procedure for capacity and path allocation and their responsibilities are the following:
 - IM – as the managing body of infrastructure and as the body for capacity allocation.
 - RU – Operators which present requests for capacity allocation.
 - RNE – Rail Net Europe - body coordinating capacity allocation in international traffic.
 - BOSS – Balkan One Stop Shop - body coordinating capacity allocation in regional and international traffic.
- Since during the 1st RWR WS there was a strong convergence (77%) to have regional cooperation of IM's as "one stop shop", it is proposed that SEETO Participants should establish a new body called Balkan One Stop Shop - "BOSS", which will be responsible for coordination of capacity allocation in regional and international traffic and for establishing coordination with RNE.

6. CRITERIA FOR CAPACITY AND PATH ALLOCATION

- Requests of RU for capacity allocation for the annual time-table for train movements have to be presented according to deadlines, to the address of respective IM's in each SEETO Participant or to BOSS.
- Harmonization of the major deadlines within the regional and international timetabling process of BOSS is the following:
- Deadline for path ordering for the annual timetable:
 - Every year on the second Monday in April
- Deadlines for drafting the international timetable:
 - Every year on Monday, at the beginning of the 13th week after the path request date
- Deadlines for final answers to customers:
 - Every year on Monday, at the beginning of the 18th week after the path request date, lasting 2 weeks

6. CRITERIA FOR CAPACITY AND PATH ALLOCATION

As regards the timetabling process for the timetable of 2010 (process starting in 2009), the following deadlines should to be harmonized among SEETO Participants:



6. CRITERIA FOR CAPACITY AND PATH ALLOCATION

- In cases when an IM declares the infrastructure “congested”, it should analyze congested infrastructure capacities and shall define limitations which give cause to the inability to meet the requests of RU’s for capacity allocation. The IM should also propose plan to improve capacities.
- If the number of requests for the same capacity exceeds the allowed capacity of that certain railway segment, then the IMs shall use rules of priority according to the following order:
 - international freight trains
 - transit international freight trains
 - international passenger trains
 - domestic passenger trains
 - combined transport services
 - other freight transport services

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6. CRITERIA FOR CAPACITY AND PATH ALLOCATION

- The priority for international and transit freight trains was agreed on the 1st Workshop for Railway Reform.
- By taking into consideration the above-mentioned priorities the allocation of paths will be done as follows:
 - requests for regular trains should have priority in comparison with special trains,
 - requests for train paths according to a signed framework agreement have priority in comparison with new requests,
 - requests for train paths which will be used for a long-term have priority in comparison with requests for short-term use,
 - requests for train paths in longer relations should have priority in comparison with train paths for shorter relations on the same route

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7. EU REQUIREMENTS FOR REGULATORY BODY AS MARKET REGULATOR

The main tasks of the RB are as follows:

- The Regulatory Body shall be an **appeal body** in relation to decisions taken by an infrastructure manager or a railway undertaking regarding discriminatory access conditions.
- The Regulatory Body shall **ensure** that the charges set by the infrastructure manager are non-discriminatory. It shall supervise any negotiation between an applicant and an infrastructure manager on the level of the charges and intervene if necessary.
- The Regulatory Body shall **monitor** the competition in the rail services market. In its monitoring function it shall decide on complaints or on its own initiative (ex-officio) on appropriate measures to correct undesirable developments.

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7. EU REQUIREMENTS FOR REGULATORY BODY AS MARKET REGULATOR

RB receives appeals on the following issues:

- a) the network statement;
- b) criteria contained within it;
- c) the allocation process and its result;
- d) the charging scheme;
- e) level or structure of infrastructure fees which it is, or may be, required to pay;
- f) safety certificate, enforcement and monitoring of the safety standards and rules.
- The RB will ensure that charges set by the IM comply with Annex II of the Directive and are non-discriminatory. Negotiation between RU applicants and an IM concerning the level of infrastructure charges will only be permitted if these are carried out under the supervision of the RB. The RB will intervene if negotiations are likely to contravene the requirements of the Directive.

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7. EU REQUIREMENTS FOR REGULATORY BODY AS MARKET REGULATOR

- The RB has the power to request relevant information from the IM, RU applicants and any 3rd party involved within the MS concerned, which must be supplied without undue delay.
- The RB has to decide on any complaints and take action to remedy the situation within a maximum period of 2 months from receipt of all information. But the RB can decide to act on its own capacity (ex-officio), based on rumors or other information from the market or in fact in the scope of regular market monitoring.
- A decision of the RB is binding on all parties covered by that decision but Member States shall take the measures necessary to ensure that decisions taken by the RB are subject to judicial review.
- In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the RB will either confirm that no modification of the IM’s decision is required, or it will require modification of that decision in accordance with RB.

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7. EU REQUIREMENTS FOR REGULATORY BODY AS MARKET REGULATOR

- On 18 October 2007 the European Commission adopted a Communication to the Council and the European Parliament on monitoring development of the rail market COM(2007) 609, with focus on:
 - the regulatory and institutional framework created with a view to liberalizing the rail market and strengthening the position of railways as a safe and environmentally friendly transport mode;
 - development of the rail market in terms of freight, passenger, intermodal indicators and market-opening indicators;
 - the financial performance of the sector, including information on the capacity, state of play and utilisation rate of rail infrastructure and on development of the supply industry.
- The RB’s in Member States assume therefore a critical role in the monitoring of the railway and competing transport market in Europe. This prospect was approved also by almost 90% of the participants of the 1st RWR WS.

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8. PRINCIPLES OF GOOD REGULATOR

- **proportionality (scale of problem)**, i.e. investigation and level of actions taken should be proportional to magnitude of complaint and problem;
- **accountability (to stakeholders and public)**, i.e. the RB should exercise its authority by considering itself accountable to all stakeholders in RW transport and to the public in general, whose interests should be protected by a fair and non-discriminatory RW market;
- **consistency (no surprises)**, i.e. decisions of RB should be consistent and not create surprises to the stakeholders and market;
- **transparency (clear reasoning)**, i.e. decision making process should be fair and transparent. Stakeholder should be able to identify criteria, procedure followed and reasoning behind the evaluation,
- **targeting (to meet desired end result)**, i.e. decision should be targeted, addressing the essence of the complaint. It should set example for future.

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9. ACTIVITIES OF RB CONCERNING NETWORK STATEMENT AND CRITERIA FOR NS

- proper preparation of NS
- proper and timely publication on internet
- ad hoc evaluation of NS on the field
- criteria used in NS and consistency of their application related to network segments

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10. ACTIVITIES OF RB CONCERNING ACCESS CHARGES

- access charge calculation method and level of track access charges
- application of similar track access charges to similar type of operations
- track access charges and relevant contracts
- track access charges in the scope of international operations
- level of track access charges in comparison to competition (road) in the scope of market monitoring exercised by RB

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11. ACTIVITIES OF RB CONCERNING CAPACITY AND PATH ALLOCATION AND ITS RESULTS

- time to place a request for capacity and path allocation and satisfaction of requests
- ad hoc evaluation of capacity consumed and relevance to access charge implemented
- ad hoc evaluation that allocated path is being used by RU
- non-transfer of assigned cap. or path to 3rd party (Art.13, 2001/14)
- evaluate the context of framework agreements to avoid exclusive use of infrastructure or even prior approval of such agreements
- evaluate conditions for re-allocation of path that has not been used
- evaluate conditions and priorities for path allocation
- establishing collaboration between IM's for proper handling of international train paths
- evaluation of measures taken by IM to resolve problems of lack of capacity at network level, in a way not causing problems to any RU

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12. ACTIVITIES CONCERNING SAFETY CERTIFICATE ENFORCEMENT & MONITORING SAFETY STANDARD AND RULES

- evaluate the monitoring of safety standards and rules in relation to network statement, if requested
- evaluate complaints concerning non-granting of safety certificates by respective independent authority, for rolling stock; for employees and RU staff; and for RU's internal organisation

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13. DATA REQUESTING PROCEDURES FROM NATIONAL STAKEHOLDERS OR FROM OTHER RB'S

- The RB should be in a position to make its evaluation on a placed complaint within 2 months. It is important to receive all data in a timely manner.
- The issue is more difficult when such data is requested from other RB of neighbouring countries, who in-turn have to request such information from their own IM, and/or RU's and/or third parties.
- Data requesting procedures should be properly organized at national level. But for the cases involving two RB's from two different SEETO Participants it is proposed to create a three-lingual procedure, whereby one of the languages is English

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13. DATA REQUESTING PROCEDURES FROM NATIONAL STAKEHOLDERS OR FROM OTHER RB'S

- An effective way to reduce the time for decision making, is for the RB to initiate its own ex-officio investigations,
- Finally, another way of resolving issues related to complaints is to bring the parties in a commonly agreed environment where a friendly and amicable settlement can be reached.

14. MARKET MONITORING

The monitoring of the market can include such commonly agreed indices as:

- active and idle rolling stock by type,
- train kilometres, gross - net ton km, passenger km,
- type and quantity of cargo train type,
- track access charges on the network and its segments,
- technical characteristics of the network, for a regional N.S.
- transport costs and travel times for goods categories and loading type, with O-D,
- border delays in international transports,
- wagon turnaround time,
- services on the network and at stations,
- services at ports and at multimodal transport terminals,
- similar items for other modes of transport.

15. CAN THE RB BE RESPONSIBLE FOR OTHER "REGULATORY" ACTIVITIES AS WELL?

- Initially the reply is yes.
- On the other hand, if all authorities are concentrated within the same Body, conflicts may show up. It is considered most advisable, in case of shortage of suitable experts or at least until the appropriate skills are developed or attracted to the RB's, that licensing, safety and market monitoring can be under the same organisational roof, but should constitute separate departments or directions of one Body.
- But the Accident Investigation Body, should be truly separate in terms of personnel and organisation and location since, in addition to the skills mentioned earlier, it would contain representatives from police, insurance companies and possibly health organisations.

16. REGIONAL APPROACH FOR RB

Question in WS: What is your opinion for formalised communication of R.B.? Replies:

- 11% for a joint regional RB,
- 71% for regular meetings of national RB's, and
- 18% for something else.

To formalise the collaboration among SEETO Region RB's with quarterly regular meetings which should take place at the level of Directors of the RB's. The Directors are accompanied by their substitute –typically another high ranking officer of RB- and one or more technical experts from the RB organisational structure, whose participation is decided by the Director, according to the topics to be discussed in each meeting on the basis of a previously agreed agenda. The meetings should last maximum two days.

16. REGIONAL APPROACH FOR RB

- The "mandate" of these meetings will be set during the first meeting of the Directors of RB and will be ratified by the BoD of the RB's.
- SEETO Secretariat can provide to the RB's some of the market related information that it has in its disposal, for the purposes of the monitoring activities of the RB's.
- The decisions of these meetings should have obligatory and universal implementation in SEETO Participants. Only in exceptional cases, it would be necessary for the decisions to have to be ratified by the Board of Directors of the RB's of each SEETO Participant, in a time framework that will be specified

17. SWOT ANALYSIS-STRENGTHS

- Proposals of RM are endorsed
- Common vision for international & transit trains
- Follow procedures practiced in EU
- Make RB's with conflicting interests talk
- Common ways to resolve problems possible
- Seek assistance of EC
- Adopt the harmonised processes set by RM
- Set common rules for licenses
- Set common rules for safety certification
- Set the principles for a regional Network Statement
- Verify TAC calculation method and implementation according to RM
- Verify capacity and path allocation method according to RM
- Encourage setting up of BOSS
- Evaluate the types of appeals received and results of actions on them

17. SWOT ANALYSIS-WEAKNESSES

- RB's with conflicting interests do not want to meet each other
- RB's think that their national pride is harmed and become defensive
- Across the border practices become known to each other, giving rise to protectionism
- Participant objectives prevail to objectives of international cooperation
- RB's agree, that "they can not agree"
- Short term gains are considered more important than long term gains

17. SWOT ANALYSIS-OPPORTUNITIES

- Impacts of RM can be monitored
- A regional strategy for RW's in the Region is possible
- Build confidence on each other for requesting data
- Improve the harmonised processes suggested by RM
- Transparency of decision making improved
- IM and RU are controlled and unfair practices are minimised
- Implement mutual recognition of licenses
- Implement mutual recognition of safety certificates
- Implement the regional NS
- Enhance the TAC method by making it more comprehensive
- Monitor activities of BOSS
- Comparative market monitoring and regional market evaluation
- Optimise capacity utilisation

17. SWOT ANALYSIS-OPPORTUNITIES

- Agreement can be delayed, hindering rather than enhancing opportunities of cooperation
- Harmonisation is considered as weakness rather than strength
- Problems inherent to railways are revealed leading again to protectionism
- The existence of RB's implies the opening of the railway market, which is in turn considered a threat to established railway companies

We thank you for your attention!