

ANNEX 1

SPECIFIC PROJECT RESULT 3: Regulatory Manual (RM) for a harmonised infrastructure charging regime

(REVISED FINAL)



Support for implementing measures for the South East Europe Core
Regional Transport Network Multi Annual Plan 2008-2012
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REGULATORY MANUAL
HARMONISATION
FOR INFRASTRUCTURE ACCESS REGIME
AND
FOR REGULATORY BODIES
(REVISED FINAL)

Specific Project Result 3

JULY, 2009

creative minds safe hands

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REGULATORY MANUAL FOR A HARMONISED ACCESS REGIME

Specific Project Result No. 3 (Final Revised Version)

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GLOSSARY OF TERMS

<i>Capacity allocation</i>	Means the allocation of railway infrastructure capacity by an infrastructure manager
<i>Congested infrastructure</i>	Means a section of infrastructure for which demand for infrastructure capacity cannot be fully satisfied during certain periods even after coordination of the different requests for capacity
<i>Fixed costs</i>	Costs which, for a given time period and infrastructure capacity are not dependent on the volume of traffic
<i>Maintenance</i>	Maintenance includes the detection and rectification of any faults. In accounting terms, infrastructure maintenance is an operating expense.
<i>Marginal costs</i>	A change in total cost incurred when the supplied services increase by one service unit
<i>Marginal costs plus (MC+)</i>	A departure from marginal cost pricing approach, which enables recovery of (some of) the fixed costs.
<i>Mark up</i>	„Mark up“ is the third component of the total infrastructure charge. It is based on a charge per scheduled train-km and gtkm and is applied for freight traffic where there is no risk of modal diversion and for open access passenger traffic based on “ability to pay” and traffic type.
<i>Minimum access package</i>	Type of services related to the use of infrastructure which are provided by the IM and defined in the methodology.
<i>Network</i>	Entire rail infrastructure owned and/or managed by the IM.
<i>Network Statement</i>	means the statement which sets out in detail the general rules, deadlines, procedures and criteria concerning the charging and capacity allocation schemes. It shall also contain such other information as is required to enable application for infrastructure capacity
<i>One Stop Shop</i>	a customer's contact point for requesting path allocation within the framework of RNE serving one or more infrastructure managers
<i>Path allocation</i>	Means the allocation of specific railway infrastructure capacity over a given time period
<i>Regulatory body</i>	The body responsible to regulate railway market for fair and non-discriminatory competition
<i>Regulatory period</i>	Time period during which the structure and level of charges remain constant. Changes to either may only occur as a consequence of the review of the access charging regime undertaken by the RB.
<i>Short-run marginal costs</i>	Changes in cost with each additional train run, so that they can be directly attributed to a particular operator and include the following components: (1) operating costs of personnel and signalling, (2) wear and tear costs for infrastructure maintenance and renewal of the infrastructure, (3) energy consumption costs (electricity or diesel), (4) administration costs and (5) timetable planning costs;
<i>Track access charge</i>	The fee charged by infrastructure managers to railway undertakings for using the railway infrastructure
<i>Traffic management costs</i>	Costs incurred by the regulation of traffic and the use of signalling equipment.
<i>Variable costs</i>	Costs which, for a given time period and infrastructure capacity. are dependent on the volume of traffic
<i>Wear and tear costs</i>	Costs incurred by trains operating on the infrastructure in terms of its physical utilisation

1. Introduction and the need for Regional Harmonisation

The requirement for a Regulatory Manual (RM) derives from Activity A.1.5 of Task 1 of the project. 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 in each Participant*
- *the concrete and coherent solutions for a charging system in each Participant, taking into account the existing institutional capacities and current fiscal scenarios*
- *a simplified formula for the calculation of access charges.*

In addition to the above, in his tender proposal, the Consultant suggested that the RM should act as “rulebook” for decision making in the field of regulatory questions in the railway (RW) 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 which fall under the responsibility of the Regulatory Body.

The RM, its purpose and objectives, its contents and its role for harmonised procedures concerning access charges and regulatory issues of the Market Regulator were presented in detail in the 1st Railway Reform (RWR) Workshop organised in Belgrade on February 25-26, 2009.

The purpose of the RM is:

To prepare a document that is agreed upon to act as guideline applicable by the Region and the SEETO Participants for access to infrastructure with harmonised procedures and with common understanding for the role of the Regulatory Body. .

The objectives of the RM are, to include:

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

The above objectives lead to the contents of the RM which are indicated in the Table of Contents of this report and will be implemented in the subsequent Chapters of this Manual.

The role of the RM for harmonised procedures concerning access charges and regulatory issues of the Market Regulator were discussed in detail in the Belgrade Workshop under the following topic headings:

- RW laws in SEETO Participants: Alignment of laws with EU Directives and SWOT analysis.

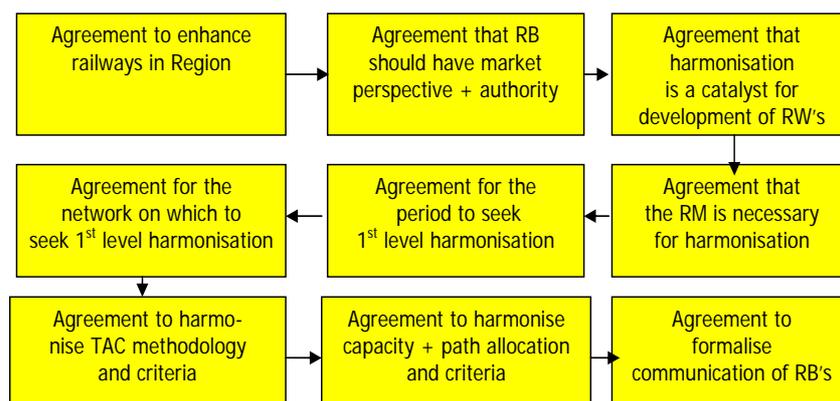
- Access to RW infrastructure in SEETO Participants: Calculation of access charges and their implementation. Capacity allocation and interest for access by local or foreign operators.
- Regulatory bodies in SEETO Participants: Is there a market regulator? Evaluation of his role?
- The role of regulatory body for access to the network and for access charges in Austria.
- Regulatory Manual (RM): What is it? Its contents? Methodological approach with focus on regional harmonization and compliance with EU Directives for fair and non-discriminatory access to network.

Following an extensive discussion on all topics, a Questionnaire was distributed to all attendants during the last session of the WS. The questions were addressing all issues presented during the WS and particularly during the last session that involved the RM. The replies were organised in a way allowing the attendants to reveal their preference for convergence concerning harmonisation related to railways, the development of railway market in the Region, implementation of access charges, the regulatory framework at regional scale and the role of Regulatory Bodies. 26 questionnaires were received from those present during the last session (the maximum number of official attendants was 28, i.e. 4 attendants per SEETO Participant).

The results of the Questionnaire are presented in detail in the Annex of this report.

The replies indicate a high degree of convergence for an agreement towards harmonisation related to RW, their development, implementation of access charges, the regulatory framework in the Region and the role of RM, with particular focus to a 1st level of harmonisation. The 1st level of harmonisation corresponds to what can be achieved in the short term, with a “common denominator” approach. Further harmonisation with more complicated procedures can be achieved later on in the future.

The process of harmonization followed by the Consultant is presented in the graph that follows:



The RM is recognised as a very good “instrument” to achieve harmonization concerning railway reform in SEETO Region. Therefore, this RM is prepared with this objective in mind, in order to attain harmonization at Regional level within the next 12 months. This period is slightly longer than the remaining lifetime of the project.

2. A Proposal for Harmonised Track Access Charge (TAC) Calculation

2.1. EU Requirements and costs to be recovered

Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification, states in Article 4 (Establishing, determining and collecting charges) that:

1. Member States shall establish a charging framework while respecting the management independence laid down in Article 4 of Directive 91/440/EEC.

Subject to the said condition of management independence, Member States shall also establish specific charging rules or delegate such powers to the infrastructure manager. The determination of the charge for the use of infrastructure and the collection of this charge shall be performed by the infrastructure manager.

2. Where the infrastructure manager, in its legal form, organisation or decision-making functions, is not independent of any railway undertaking, the functions, described in this chapter, other than collecting the charges shall be performed by a charging body that is independent in its legal form, organisation and decision-making from any railway undertaking.

3. Infrastructure managers shall cooperate to achieve the efficient operation of train services which cross more than one infrastructure network. They shall in particular aim to guarantee the optimum competitiveness of international rail freight and ensure the efficient utilisation of the Trans-European Rail Freight Network. They may establish such joint organisations as are appropriate to enable this to take place. Any cooperation or joint organisation shall be bound by the rules set out in this Directive.

4. Except where specific arrangements are made under Article 8(2), infrastructure managers shall ensure that the charging scheme in use is based on the same principles over the whole of their network.

5. Infrastructure managers shall ensure that the application of the charging scheme results in equivalent and non-discriminatory charges for different railway undertakings that perform services of equivalent nature in a similar part of the market and that the charges actually applied comply with the rules laid down in the network statement.

6. An infrastructure manager or charging body shall respect the commercial confidentiality of information provided to it by applicants.

In Article 5, the Directive specifies that:

1. Railway undertakings shall, on a non-discriminatory basis, be entitled to the minimum access package and track access to service facilities that are described in Annex II. The supply of services referred to in Annex II, point 2 shall be provided in a non-discriminatory manner and requests by railway undertakings may only be rejected if viable alternatives under market conditions exist. If the services are not offered by one infrastructure manager, the provider of the "main infrastructure" shall use all reasonable endeavours to facilitate the provision of these services.

2. Where the infrastructure manager offers any of the range of services described in Annex II, point 3 as additional services he shall supply them upon request to a railway undertaking.

3. Railway undertakings may request a further range of ancillary services, listed in Annex II, point 4 from the infrastructure manager or from other suppliers. The infrastructure manager is not obliged to supply these services.

According to Directive, access charges must be paid to the Infrastructure Managers (IM) and used to fund their business, should cover the costs directly incurred as a result of operating trains, may include a sum reflecting the scarcity of capacity and may be adjusted to take account of the cost of the environmental impact of operating the trains if similar costs are considered in competing modes too.

The Directive allows IM to levy mark-ups, if the market can bear this, on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimum competitiveness, especially of international rail freight. Subject to certain conditions, railway undertakings may be granted discounts on charges, a performance scheme and capacity reservation charges (for capacity booked but not used).

According to Annex II of the Directive, the services to be supplied to the railway undertakings (RU) are divided in four groups:

1. The minimum access package that shall comprise:
 - a) handling of requests for infrastructure capacity;
 - b) the right to utilise capacity which is granted;
 - c) use of running track points and junctions;
 - d) train control including signaling, regulation, dispatching and the communication and provision of information on train movement;
 - e) all other information required to implement or operate the service for which capacity has been granted.

2. Track access to services facilities and supply of services shall comprise:
 - a) use of electrical supply equipment for traction current, where available;
 - b) refueling facilities;
 - c) passenger stations, their buildings and other facilities;
 - d) freight terminals;
 - e) marshalling yards;
 - f) train formation facilities;
 - g) storage sidings;
 - h) maintenance and other technical facilities.

3. Additional services may comprise:
 - a) traction current;
 - b) pre-heating of passenger trains;
 - c) supply of fuel, shunting, and all other services provided at the access services facilities mentioned above;
 - d) tailor-made contracts for:
 - control of transport of dangerous goods,
 - assistance in running abnormal trains.

4. Ancillary services may comprise:
 - a) access to telecommunication network;
 - b) provision of supplementary information;
 - c) technical inspection of rolling stock.

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. The relevant usage costs include traffic management, maintenance and renewals since the assets must be maintained and renewed in order to sustain network serviceability and performance.

There are three principles for calculating infrastructure access charging:

- social marginal cost pricing as recommended by EC, with the State compensation for the difference between marginal cost and financial cost (SMC),
- applying mark-ups to short run marginal cost in order to reduce (or eliminate) State compensation and the gap between marginal cost and financial cost (MC+),
- setting access charges to collect the difference between State contribution and full financial cost (FC-).

The access charges regimes have been established either by using one-part charging method which depends directly on the use of the network – catering for variable costs- and using the unit of “gross tonne-km” and “trainkm” as the most common measures of infrastructure use. Alternatively, a two part charging method can be used, in which the first part is variable (as above) and the second part is fixed, using as unit of measurement the “scheduled train-paths” or “train path-km”.

The one-part charging method is easier to comprehend and less costly to implement. It is appropriate for less complex railway networks where the capacity is not an issue. Two part charging methods are more suitable in complex, mixed-use networks where more than marginal cost has to be charged and result to more efficient charging.

2.2. Criteria proposed for making of methodology

Proposed Criteria for access charges should be related to direct costs resulting from access to railway infrastructure, to capacity allocation and to path allocation. Additional criteria related to market conditions (competition) can be also applied.

Criteria related to track access costs¹:

- track wear and tear
- other infrastructure maintenance
- signalization, telecommand and other traditional communication for exclusive use by RW
- energy (traction current) consumption
- usage of facilities
- additional or ancillary special services offered
- sidings and technical facilities

Each IM in every SEETO Participant will have his own respective costs.

Criteria related to capacity allocation:

- organisation and regulation of rail traffic
- line category

¹ These are the costs incurred for using the railway line and all facilities along it

- train category
- train speed
- time and duration of infrastructure use
- type of railway vehicles used
- prioritisation of trains
- timetable preparation
- number of railway vehicles used
- train composition

Criteria related to path allocation:

- length of infrastructure used by train by section of path and its category
- train kilometer for passenger and freight trains
- train gross kilometers performed
- direction of transport
- train composition
- timetable preparation
- number of railway vehicles used
- type of railway vehicles used

The above criteria will be taken into consideration in the methodology to be proposed for the calculation of track access charges.

It is nevertheless in the discretion of the IM and in the scope of fair pricing and non-discrimination against any RU, that market related criteria can also be used such as:

- quantity discounts
- access charges for usage of infrastructure in other transport sectors, particularly road transport
- total transport costs in competitive transport modes, particularly road transport (monitoring of the market)

Since –according to what is mentioned in Chapter 4- the Regulatory Body is viewed mainly as market regulator, this criteria should be related to his findings related to the transport market.

In Chapter 3, the RM specifies the process for capacity and path allocation as well as the timing that has to be followed by the applicants and the conditions thereof that the applicants have to satisfy. The timing and the conditions should be agreed among Participants for harmonization.

2.3. Methodology proposed

The agreement to use a common methodology for track access charges derives from the decision of the 2006 Annual Ministerial Meeting of SEETO Participants for the usage of common Network Statement in the Region. The methodology which is proposed in this RM derives from the evaluation of international practices and of the respective track access charging methodologies proposed and/or being used in SEETO Participants.. This methodology was endorsed in the 1st RWR Workshop that took place in Belgrade, on Feb. 25-26, 2009 the results of which are presented in Annex 1.

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.

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+). The above approach is fundamental to the charging structure, because marginal costs are attributable to different operators, provide strong incentives to operators and are mentioned in EU legislation.

The network

According to the results of the Questionnaire (Annex 1) implementation of the harmonized charging system is preferred on the core network with a considerable percentage also suggesting implementation of the whole network. In addition application of harmonised charging is preferred on lines with international traffic. Therefore, the methodology should be applied on Corridors and other railway lines in the Region with international traffic.

SEETO railway network is in most use on Corridors (X and Vb and Vc) for freight trains. IM's and users of infrastructure -particularly international freight trains- would benefit greatly from MC+ infrastructure charging regimes using the MC+ principle in a consistent way, especially on above Corridors.

The period and phasing

The proposed methodology for access charges will be used at a first phase during 2 years, during which a harmonized simple formula -based just only on "train-km"- will be used taking into consideration same type of coefficients with similar multiplier values for the coefficients, if in the railway network the prevailing conditions are similar.

Simple formulae using only "trainkm" are easy to apply and easy to understand by existing RU's and applicant RU's and do not raise confusion. Simple formulae also address better the common case of lack of sufficient data for the railway infrastructure costs. Finally, simple formulae are better suited to support the initiation of track access charge applications in an open railway market that still has to be developed and supported. The formula proposed is based on simple factors (not two-part charges) and is consistent in structure.

In a second phase (after the first 2 years) a more comprehensive formula that takes into consideration "gross tonkm" in addition to trainkm can be developed and used by SEETO Participants.

In the more distant future, formulae using two-part charges (variable costs and fixed costs) could also be used.

The methodology

The methodology that is proposed is based on the development of an infrastructure access charging regime that needs to reflect two mandatory principles:

- 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 IM since the RU's should not be charged for his inefficiencies. That cost (that mostly concerns excessive personnel or outdated equipment and premises) should be borne by the Government as part of the railway restructuring cost².

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 weighting the types of railway lines and type of trains and number of train kilometre realised.

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

U	User charge for the allocated train path, in monetary units
$Q_{tkm(main)}$	The amount of trainkm realised on main railway track
$Q_{tkm(reg)}$	The amount of trainkm realised on regional railway track
C_{tkm}	The price of line per trainkm, in monetary units per trainkm
$P_{(main)}$	The weighting coefficient for running on main railway track
$P_{(reg)}$	The weighting coefficient for running on regional railway track
K	The coefficient for track wear
F	The coefficient which depends on timetable requests

The model of setting access charges for the minimal access service package is based on the formula presented above, which when calculated provides the price for the access charges for every train path on every railway line. This formula constitutes the common denominator of all similar formulae that have been approved or are in the process of approval/adoption in SEETO Participants.

Level of charges for the use of service premises and ancillary services is set based on costs incurred during the use of these premises. Level of charges for additional services offered is set based on costs incurred during the use of these premises. For each type of these services, separate contracts are to be signed between IM's and RU's or applicant RU's.

² By the same token that the Governments should take the responsibility to modernise railway tracks and employ properly trained personnel

2.4. Network on which to implement methodology

As already mentioned, the proposed track access calculation method during the 1st phase will be implemented on the RW network serving international traffic, which includes the core network³. During the 2nd phase, the more comprehensive access charge formula which in addition to trainkm uses also the gross tonkm unit, can be implemented on a network covering the whole of SEETO RW network.

2.5. Coefficients and their proposed values ⁴

The price for train kilometer C_{tkm} 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 $C_{tkm} = 3\text{Euro/trainkm}$ ⁵.

The applicable prices are proposed to be the same for passenger and freight train. The differentiation of track access charging between passenger and freight trains derives from the different values of the coefficient "K" for passenger and freight trains.

Track wear coefficient "K" is applied for differentiating trains according to their gross weight and their type:

- for cargo trains (more than 1100 ton gross): 1,00 – 1,50
- for cargo trains (less than 1100 ton gross): 0,50-0,80
- for cargo trains with empty wagons (less than 100 ton net⁶): 0,30-0,40
- for cargo trains (circular, collecting, locomotive): 0,10-0,20
- for passenger trains: 0,30-0,40

Weighting 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

In Annex 2, the calculation excel sheets for the above mathematical model are presented when calculating infrastructure access charge for a particular train using the infrastructure. The model incorporates a user-friendly input-output sheet to facilitate this function.

³ Data about the SEETO Core network can be found on SEETO web site: www.seetoint.org

⁴ The relevant proposals are made on the basis of existing (approved or in the process of preparation) Network Statements, the comments received to the 1st Draft Regulatory Manual during the 2nd RW Task Force meeting and the discussions during the 3rd RWR Workshop held between July 9-10, 2009 in Sarajevo.

⁵ At present, the unit prices that have been calculated or suggested per railway line in the SEETO Region, range between 2 and 4Euro per trainkm, when the MC+ principle is used. Only Montenegro has so far adopted such a unit price.

⁶ A train with empty wagons, which « carry » up to 100net ton of any cargo, is considered as empty train

In order to determine the track access charges, the following input related to a specific train should be provided:

- The number of trainkm realised on main railway line
- The number of trainkm realised on regional railway line
- The price of line per trainkm
- The weighting coefficient for running on main railway line
- The weighting coefficient for running on regional railway line
- The coefficient for track wear
- The coefficient which depends on timetable

2.6. Charge for the use of electric energy

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.

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

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 according to the time period of consumption⁷)

⁷ The unit tariff of electricity depends on the time period of consumption, which can be peak period, normal period or off peak period

3. A Proposal for Harmonised Capacity and Path Allocation

3.1. EU Requirements

Directive 2001/14 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification, states the following for the capacity and path allocation process:

1. *The working timetable shall be established once per calendar year.*
2. *The change of working timetable shall take place at midnight on the second Saturday in December. Where a change or adjustment is carried out after the summer it shall take place at midnight on the last Saturday in September each year and at such other intervals between these dates as are required⁸. Infrastructure managers may agree on different dates and in this case they shall inform the Commission thereof.*
3. *The final date for receipt of requests for capacity to be incorporated into the working timetable shall be no more than 12 months in advance of the entry into force of the working timetable.*
4. *No later than 11 months before the working timetable comes into force, the infrastructure managers shall ensure that provisional international train paths have been established in cooperation with other relevant allocation bodies as set out in Article 15. Infrastructure managers shall ensure that as far as possible these are adhered to during the subsequent processes.*
5. *No later than four months after the deadline for submission of bids by applicants, the infrastructure manager shall prepare a draft timetable.*

Individual train paths may be requested on an ad hoc basis to the IM as stated in Article 23. The IM should respond within 5 days. Information available on spare capacity should be made available to all applicants.

The IM shall where necessary evaluate the need for reserve capacity to be maintained within the final scheduled working timetable to enable rapid response to ad hoc requested for capacity. This applies to congested infrastructure too.

The importance of freight services and in particular international freight services shall be given adequate consideration in determining priority criteria.

In case of congested sections, the IM will carry out a capacity analysis in order to identify the suitable measures that need to be taken to resolve the problem of capacity scarcity. A capacity analysis should be carried out 6 months after the congested section has been identified. Within 6 months from the completion of this analysis, the IM will produce a capacity enhancement plan, which should be developed after consultation with the users of the congested infrastructure.

3.2. Criteria for capacity and path allocation

Infrastructure capacity allocation is done through the following 2 procedures:

⁸ This option is already exercised in some EU member States, but it is not practised in the SEETO Region where timetables are changed only at midnight of the second Saturday in December

- 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).

As agreed on the 1st RWR Workshop, harmonization of SEETO Participants applications for infrastructure capacity allocation, path allocation procedures and criteria should be harmonised at least for the Core network, and be applied for international traffic.

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.

Since during the 1st RWR Workshop, there was a strong convergence (see Annex 1) to establish regional cooperation of IM's as "one stop shop-OSS", it is proposed that SEETO Participants take the following actions:

- All regional IM's should establish as soon as possible their own "OSS" offices.
- All regional IM's should convene periodically to discuss common problems and common solutions related to the work of "OSS" offices and the results achieved
- If problems of coordination or of collaboration persist, the regional IM's, can create a Regional "OSS" office to coordinate the above activities⁹.

This Regional "OSS" office can be located anywhere in the Region and is almost virtual. It employs 2-3 persons who act as the focal point of communication among each "OSS" office. In their activities that concern international trains they will exploit RNE tools (PATHFINDER, EICIS etc). For Regional trains, communication between Regional IM's and other tools will be used.

3.3. Suggested procedures

Every year, IM's compile the plan for the submission of requests for capacity allocation which is used in the procedure of annual time-table planning of trains and in the procedure for capacity allocation, out of the procedure for the compilation of the annual train time-table (by adding ad-hoc requests as well) which will be published in the Network Statement.

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 the respective OSS.

The Harmonized major deadlines within the regional and international timetabling process are as follows:

A. Deadline for path ordering for the annual timetable:

- Every year on the second Monday in April

⁹ In the 3rd RWR Workshop, the representative of RNE mentioned that after several years of experience, the results of collaboration and cooperation of national « OSS » are not satisfactory

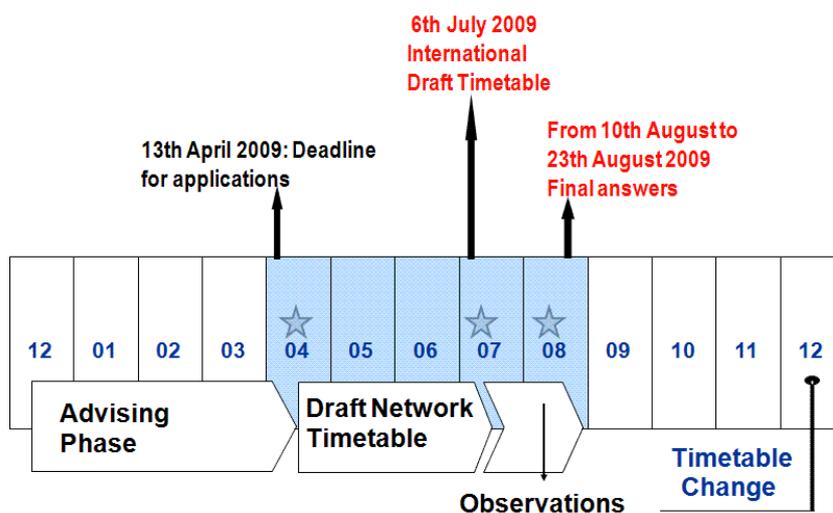
B. Deadlines for drafting the international timetable:

- Every year on Monday, at the beginning of the 13th week after the path request date

C. 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

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



Graph 1. Deadlines for the timetabling process for 2010 time-table¹⁰

IM's decide on capacity allocation based on all requests and according to the laws in power in every SEETO Participant. Procedures and deadlines in the procedure of capacity allocation have to be set by IM's or the respective OSS. The Rail Net Europe organisation has prepared Manual on procedures of train path allocation for international traffic which can be applied.¹¹

RU's have to state the following information in the Application form for international train path:

- Name of Applicant,
- Type of train (passenger, freight, empty train, loco-train, etc.),
- Planned time for departure/arrival,
- Necessary stops and minimal time of settlement,
- Running periods,
- Type and number of wagons,
- Length and weight of train (metres, tons),
- Type and serial number of locomotive,
- Additional locomotives,
- Maximal train speed,

¹⁰ Source: RNE http://www.railneteuropa.com/cont/products_timetabling.aspx

¹¹ Source: RNE http://www.railneteuropa.com/cont/rnetools_contracts.aspx

- Type of braking,
- Detailed information, such as manoeuvring, modification of train formation, change of personnel, dangerous goods, means of handover, etc.

For the information that is missing, RU's are obliged to send it to the requesting IM within 5 days after the request is received from IM. Otherwise, it will be considered that the application form for capacity allocation has not been submitted.

Congested infrastructure; definition, process and priority criteria

If the infrastructure is congested¹² and IM's during coordination procedure cannot accommodate all requests of RU's, the railway capacities have to be declared as "congested" and the respective RB should be informed about this matter.

In cases when an IM declares the infrastructure "congested", it should analyze congested infrastructure capacities and it shall define limitations which give cause to the inability to meet the requests of RU's for capacity allocation. The IM should also propose a plan for improving certain capacities.

If the number of requests for the same capacity exceeds the allowed capacity of that certain railway segment (i.e. the infrastructure is congested), then the IMs shall use rules of priority according to the following order¹³:

- 1) international passenger trains
- 2) suburban trains
- 3) international freight trains (including international combined transport trains)
- 4) domestic passenger trains
- 5) domestic combined transport services
- 6) other freight transport services

While 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, except for suburban trains.

¹² The definition of congested infrastructure can be found in the Glossary

¹³ These priorities are proposed on the basis of priorities used in the NS of SEETO Participants, but also taking into consideration the proposal for a new Regulation of the European Parliament and of the Council concerning European Rail Network for Competitive Freight and the discussions held during the 1st RWR Workshop held in Belgrade on February 25-26, 2009, in the 9th RW WG meeting held in Zagreb on May 15, 2009 and in the 3rd RWR Workshop held in Sarajevo, on July 9-10, 2009

4. The Regulatory Body as Market Regulator¹⁴

4.1. EU Requirements and Provisions

According to EU Directives 2001/12 and 2001/14 all Member States shall establish a Regulatory Body (RB). *This body, which can be the Ministry responsible for transport matters or any other body. It will be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or RU applicant*¹⁵. *The body will function according to the principles outlined in Article 30 of the Directive 2001/14. Appeal and regulatory functions may be attributed to separate bodies.*

The main tasks of the RB are as follows:

1. The Regulatory Body shall be an **appeal body** in relation to decisions taken by an IM or a RU regarding discriminatory access conditions.
2. The Regulatory Body shall **ensure** that the charges set by the IM are non-discriminatory. It shall supervise any negotiation between an applicant RU and an IM on the level of the charges and intervene if necessary.
3. 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.

According to Directive 2001/14, an applicant RU has the right to appeal to the RB if it believes that it has been unfairly treated, discriminated against or is in any other way aggrieved, and in particular against decisions adopted by the IM or where appropriate by the RU concerning:

- 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 Chapter 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.

¹⁴ This RM concerns the RB as market regulator. But the inclusion of other responsibilities, like licensing body, safety authority or accident investigation body may not be excluded, particularly for small entities like the SEETO Participants in the Region.

¹⁵ Independent typically means that the RB is not related to Ministries or Governments and does not take instructions from them. The BOD and managers are appointed through an open public procedure and are accountable to the Parliament. Their appointment is approved by the Parliament and they can not be dismissed before the end of their term.

The RB has the power to request relevant information from the IM, RU applicants and any third party involved within the Member State 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 two 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 directions specified by the RB.

At European level, the Regulatory Bodies exchange information about their work and decision-making principles and practices with the aim to develop a common approach in order to avoid conflicting decisions. The EC assists this process. The same is proposed for SEETO Region (see Chapter 5).

According to Directive 2001/12, the Commission shall make the necessary arrangements to monitor *'technical and economic conditions and market developments of European rail transport'*. Monitoring the railway markets will provide an essential input to the Commission's report on the impact of the implementation in the Member States of the Infrastructure Package.

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. The Communication focuses on:

- a. 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 mode of transport;
- b. development of the rail market in terms of freight and passenger transport performance, intermodal comparison and market-opening indicators;
- c. 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 also confirmed by the vast majority of the attendants in the 1st RWR Workshop (see Annex 1).

4.2. Regulatory Bodies in SEETO Participants¹⁶

¹⁶ According to reports by Participants, during the 9th RW WG meeting, on May 14-15 in Zagreb.

At present there are the following RB's in SEETO Region:

- Croatia: the Agency for Railway Services Market Regulation: It has been recently created and manned following appropriate public announcement for the management positions. The nominated persons have been very recently adopted by the Parliament. The Agency is an autonomous and independent public entity performing public work. It will start its activities in the near future.
- former Yugoslav Republic of Macedonia: the Agency for Regulating Railway Services. It has been recently established. The Steering Board of the RB has appointed an acting director until issuing a public call. The Steering Board filed an application to the MF for two more persons to be employed in the Agency, and is waiting for their approval. The funds for performing the activities of the Agency are provided from the Budget of the state for a period of one year. Activities are expected to be initiated in summer 2009.
- Montenegro: In December 2008 the Government of Montenegro adopted a Decree, according to which the Railway Directorate is to be established and assume the responsibilities of Regulatory Body which today belong to the Traffic Directorate – Railway Department. This institution will start working in the following few months. The Railway Directorate overtakes the role of Licensing body, Regulatory body and the previous responsibilities of Railway Department of Traffic Directorate.
- Albania: No RB exists. According to the NS of Albania that is being currently prepared, the National Competition Authority may assume the role and responsibilities of RB in this country, at least for complaints against orders on train path allocation issued by the IM.
- Bosnia & Herzegovina: the Regulatory Board for Railways is the RB. It has been established since quite some time ago (according to relevant Law of 2005). Not in total operative due to lack of employees. It has not issued so far any license or certificate, for which it is responsible. It does not still have real enforcement power. No market regulation role.
- Serbia: the Directorate of Railways was created in 2005. According to railway law it has a long list of responsibilities including licensing and safety certification. It is only recently (July 2009) that the first licenses have been issued for local operators. The role as Regulatory Body is not clear among the listed responsibilities. No market regulation role.
- Kosovo (under UNSCR1244/99): No RB exists. A TA project is on going for its creation with the name "the Railway Regulatory Authority". Licensing and Safety Certification responsibilities will be given to separate independent bodies.

As it can be concluded from the above, none of the RB are still playing in full the role envisaged for them by relevant Laws and foreseen in EU Directive.s This can be attributed to the fact that railway market is still closed in all SEETO Participants. In the sections below, the specific roles of the RB and the procedures to be followed by them in a harmonised way among SEETO Participants are presented in detail.

4.3. Appeals receiving at RB and their evaluation

Any party with vested interest in railway operations and infrastructure management can appeal or complain to the RB using a suitable application form, on the basis of actual facts or on the basis of rumors or suspected conditions for the violation of competition, for unfair competition or for discriminatory practices on railway network.

The complaint should include as much information as possible in order to be substantiated. Therefore any written, oral or recorded evidence will be useful. In submitting any such evidence,

the parties involved should be ascertained with full confidentiality. But since the information may be divulged for the reasons of investigation, any such information is subject to particular coverage of its confidentiality or that it can harm any other party, should be clearly marked and identified for careful treatment.

The identity of the complainant should not be disclosed without his consent. There are circumstances that the identity of the complainant should be protected from the undertaking being investigated. Any concern for the non-disclosure of the identity should be raised as early as possible.

The RB should initiate the investigation of allegations and complaints as soon as all requested material has been collected and give its decision within a maximum of two months following the collection of above. In carrying out its investigation, the RB will review all provided evidence, carry out its own investigations and interrogations against the party for whom the complaint has been filed, collect market information from actors involved and stakeholders and evaluate all the above by implementing the principles of *Good Regulation*. According to the new Proposed Regulation, in case that a complaint concerns a network located in another country, the RB should request relevant data and information by the RB of the other country. RB's in SEETO Region are expected to cooperate for this purpose and may request the assistance of EC for this purpose.

The principles of *Good Regulator* can be briefly described by the following terms which have to be observed by the RB:

- I. proportionality (scale of problem), i.e. the investigation and the level of actions to be taken should be proportional to the magnitude of the complaint and problem;
- II. accountability (to stakeholders and public), i.e. the RB should exercise its authority by considering itself accountable to all stakeholders in railway transport and to the public in general, whose interests should be protected by a fair and non-discriminatory railway market;
- III. consistency (no surprises), i.e. the decisions of the RB should be consistent between them and should not create surprises to the stakeholders and the market;
- IV. transparency (clear reasoning), i.e. the decision making process should be fair and transparent, the stake should be able to identify the criteria and the procedure followed and the reasoning behind the outcome of evaluation, and,
- V. targeting (to meet desired end result), i.e. the decision should not be general but rather targeted, addressing the essence of the complaint and guaranteeing that it constitutes an example set for the future rather than a general recommendation that produces more confusion than the problem it is intended to solve.

It should be noted that while the decisions of the RB are final and supported of full power of enforcement, the relevant EU Directives foresee and all Railway Laws should abide with, the requirement for being subject to judicial review through appeals of interested parties to Courts of Justice.

In the Sections below, the specific authorities and obligations of the Regulatory Body are presented in detail and its role is clarified.

4.3.1. Activities of RB concerning Network Statement and criteria for NS

The Network Statement (NS) should be prepared according to Rail Net Europe standard. The appeals that can be received and evaluated by RB concern the following issues:

- proper preparation of NS: The RB will evaluate that the NS states clearly the extent of the liability of the IM for information contained in the NS and should include any legal disclaimers. The procedure for RUs to appeal against any action or decision taken by the IM including the content of the NS should be clearly stated in the NS.

The RB will evaluate that the NS states which organisation is responsible for publication of the rules (e.g. the IM, the Regulatory Authority, the Ministry of Transport, etc.) and which are the various authorities responsible for licensing, safety certification and accident investigation.

If any of the facilities mentioned in Chapter 3 of the NS are owned or operated by another body, then the RB will evaluate that the IM who provides the 'main infrastructure' has provided this information or referred to where it can be obtained.

- proper and timely publication on internet: The RB will evaluate that the NS has been properly published on the internet site of the IM, at least 4 months before the deadline for requests of infrastructure capacity. The duration of validity of the NS should be clearly stated in the NS, in relation to the relevant timetable. The option of purchasing a hard copy and the relevant price should be clearly stated for all interested parties. The NS should describe how it is updated, with special reference to the situations where consultation with RUs is mandatory.

The RB will evaluate that the NS states the general validity of the information provided, especially referring to possible changes of infrastructure characteristics or constraints.

- ad hoc evaluation of NS on the field: The RB will, if requested or in its own capacity (ex-officio), evaluate that the NS states the geographic limits of the IM's infrastructure and indicates any lines not available for normal railway traffic operations. The RB will evaluate that the NS refers to neighbouring IMs, including other national networks, and list all international border crossings. It should also state the details of private sidings of freight terminals. The technical and operational characteristics of the whole network should be clearly stated.

Where the IM has more than one gauge, it should indicate the extent of track of each gauge. The RB will evaluate that the NS lists the stations and nodes and describe their main characteristics. Key characteristics can include distances between nodes and the length of station tracks. As a minimum, the maximum length limit for trains using each station should be stated.

The RB will evaluate that the NS indicates the extent of the network that is electrified and describe the electrification system, including the voltage and frequency used. Optionally, additional information such as contact wire height, contact pressure, etc. can be supplied

The RB will evaluate that the NS indicates the extent of any specialised infrastructure and describe the traffic restrictions that apply. The information on restrictions, for example imposed by the IM due to his own needs for managing the infrastructure

should be clearly stated. These can include restrictions on route opening hours and times of possessions for maintenance, renewal and enhancement works.

- criteria used in NS and consistency of application related to network segments: if various criteria are used in the NS (e.g. priority for different types of trains, particularly for congested segments), the RB should be in a position -in case of appeal- to evaluate that these criteria are implemented in a consistent and proportional way for similar type of segments in the network. For the SEETO Region, as already mentioned common criteria of priority should be provided to international passenger and freight trains.

4.3.2. Activities of RB concerning access charges

Access charges will be levied on the railway network according to the provisions of Chapters 2 of this Manual. The appeals that can be received and evaluated concern the following issues:

- access charge calculation method and level of track access charges: The RB should be able to evaluate the principle, criteria, methodology and coefficients used to determine track access charges, to evaluate the robustness of the calculation so that all applicants can implement it if necessary and to evaluate the respective results. The RB should be in a position with its own means or suitable support to review the current track access charging method implemented by each SEETO Participant and assess the degree to which the track access regime meets the market objectives for the sector.

The procedure that is presented in the NS (Chapter 6) should clearly satisfy the minimum access package of Annex II of Directive 2001/14 and should specify which other of the 3 remaining groups of services listed in Annex II are offered by the IM or who else provides them. For services offered by the IM, the conditions and the fee at which these services are provided should be specified and the calculation should be transparent.

The RB may request from the IM to provide all necessary information and evidence on the charges imposed.

- application of similar track access charges to similar type of operations: The track access charges should be established on all parts of the network with the same methodology, be fair and non-discriminatory. In case of differences and in particular in case of discounts, the IM should be in a position to justify them, if requested by the RB, on the demand of any applicant who feels discriminated against. Discounts can be granted to encourage the development of rail service or to encourage underutilised lines. Other than these, discounts shall be limited to savings of the administrative costs of the IM. Discounts should not take into account cost savings already internalised in the track access charge levied. In case of discounts, they should be similar, for similar services on similar lines for any RU.
- track access charges and relevant contracts: Any operation on the railway infrastructure should be covered by a contract. The RB will evaluate that the NS states which contracts are necessary for the use of infrastructure capacity, for example: track access (i.e. regarding the right of using the railway line for performing train operations); access to passenger terminals, freight terminals, train depots etc. It should also state whether an access contract is required before applying for a train path and/or

before actual operation, and if separate contracts are required for station/depot access and/or any other services.

The RB will evaluate that the NS states which contracts are required to deliver the minimum access package as set out in Directive 2001/14 and for any other type of services set at Annex II. In case that any independent approval of access contracts is needed (e.g. by Regulatory Body or by Government) this should also be stated clearly in the NS. A standard form of access contract should preferably exist and the compulsory character of its usage should be stated. The contract formats should be included in an Annex to the NS and/or published on the IM's homepage.

The RB will evaluate –if asked or in its own capacity- the contracts to be signed between the IM and any RU. The relevance of such contracts -in particular compared to “framework contracts”- should be clear and any undue differences should be properly justified by the IM. In evaluating contracts, the RB should respect the commercial confidentiality that is inherent to any contract.

Services not specified in the NS can be offered in the scope of a separate contract. The RB may be asked by applicants to evaluate such contracts too.

Negotiation between the IM and any RU concerning the level of access charges should be carried out only in the presence and supervision of the RB. The RB intervenes in case the provisions of the Directive 2001/14 are violated or in the case that terms and conditions which are not similar to other existing contracts are introduced in negotiation.

Related to all contracts, the RB has the power to request any relevant information from the IM, the RU or any applicant or any 3rd party involved, which should be provided to him without undue delay.

- track access charges in the scope of international operations: For increased harmonization in the Region and according to Directive 2001/14 and a forthcoming EU Regulation which is in discussion since December 2008¹⁷, priority is given to international and in particular to freight trains but with due consideration to passenger trains. The new Regulation includes in its considerations third countries, in addition to Member States. The RB's are required to collaborate. Their authority –through the RB of a neighbouring country- is almost “extended” to the territory of that country. Therefore on all above issues, the RB can in case of international operators request from the neighbouring RB the same information and the carrying out of similar evaluations and consultations as in its own country. With the same token, the RB involved shall ensure that the activities of the one-stop shop (OSS) who coordinates international paths and operations are carried out under transparent and non-discriminatory conditions.

RB's can evaluate the establishment and the results of the cooperation of IM for train services that cross more than one infrastructure network. The charging system should be similar and therefore the provisions of Chapters 2 and 3 should be adhered by IM and RB's should make every effort to assure that.

¹⁷ Regulation of the European Parliament and of the COUNCIL concerning a European rail network for competitive freight (for EEA)

- level of track access charges in comparison to competition (road) in the scope of market monitoring exercised by RB: in the scope of its role as monitoring body of the market, concerning railway transport and its competition with other modes of transport, the RB should monitor the level of track access charges with respective charges in road transport, namely tolls, in order to evaluate the competitiveness of railway transport, any violations of fair competition rules and the activation of any appeals or complaints toward the overall “Competition Board” in every country and toward international fora and even toward the DG Competition of EC. In this direction, RB’s should establish a market monitoring mechanism whereby similar information is routinely collected, elaborated and evaluated rendering to necessary useful conclusions

4.3.3. Activities of RB concerning capacity and path allocation process and its results

Capacity and path allocation will be organized according to the provisions of Chapter 3 of this Manual. The appeals that can be received and evaluated concern the following issues:

- time to place a request for capacity and path allocation and satisfaction of requests: According to Directive 2001/14, Annex III 3, the final date for receipt of requests for capacity to be incorporated into the working timetable shall be no more than 12 months in advance of the entry into force of the working timetable. In addition no later than 11 months before the working timetable comes into force, the infrastructure managers shall ensure that provisional international train paths have been established in cooperation with other relevant allocation bodies as set out in Article 15. No later than 4 months after the deadline for submission of the bids from the applicants, the IM must prepare the draft timetable. Then one month of consultation should be foreseen with the RU’s for them to express any concerns or different opinion.

The RB will ensure that the above provisions are clearly stated in the NS and that the IM ensures that as far as possible these are adhered to during the subsequent processes of the application process. The RB will consider any complaints referring to possible violations of the above by the IM or any discrimination against a particular applicant and will resolve it preferably within 2 weeks, given the commercial interest of the applicant.

The RB will evaluate if the NS states, whether or not an entity applying for a train path needs to be a RU at the time it makes its path application and whether a third party (e.g. OSS) may apply for train paths on behalf of a RU. Also the NS should state which kind of RU’s (domestic and/or foreign) or other organisations are permitted to perform train operations (freight and/or passenger).

The RB will evaluate that the NS describes the application process for capacity allocation (which forms to be used), how is capacity allocation decided and the responsible bodies involved and whose responsibilities should be. In this case the contact names and addresses of these bodies should be provided for every SEETO Participant. Reference can be made to RNE document “Process for international path requests”.

The RB will evaluate that the NS describes in detail the information the RU must give to the IM in case of a dispute. In case of dispute, the resolution process can take up to 2

weeks by the IM and in case of no resolution the RB will resolve the complaint in another 2 weeks. In case of disputes, the capacity allocation process will be delayed accordingly.

The RB will evaluate that the NS refers to documents setting out the capacity allocated for maintenance, renewals and enhancements in the current timetable and any future timetables for which the process is complete or in progress. It should state whether the IM is permitted to enter into bi-lateral agreements with RU's to develop infrastructure enhancements and refer to any standard regulations or state which other body is responsible for infrastructure enhancement.

- ad hoc evaluation of capacity consumed and relevance to access charge implemented: The RB can exercise ex-officio its right to control ad hoc if the capacity consumption of the network is as was foreseen by the IM and if the track access charge implemented creates market distortion at the level of capacity usage. The TAC regime being implemented may render some segments congested while others remain under utilized. It will then prepare its report for the most effective utilization of capacity on the railway network in view of the next timetable period.
- ad hoc evaluation that allocated path is being used by RU: The RB can exercise ex-officio its right to control ad hoc if the path allocated by the IM to specific RU's is properly utilized in order to achieve the optimum possible effectiveness in the usage of the railway network. The RB will evaluate if the degree of usage of the path is related to the track access cost that is being implemented by the IM or to other factors and will prepare its evaluation report for remedial actions for the next timetable period. In case that the allocated path is not properly utilised, the IM has the right to effect penalties or appropriate "incentives" for its utilization. Such penalties should be fair, should be quoted in the contract signed between the IM and the RU and should be considered as "incentives" rather than penalties. Describe the deadlines for cancellation of planned train services. The NS should describe the limits for non-usage of allocated capacity which trigger loss of access or other penalties. The RB should be in a position to evaluate the charges imposed when cancellations are advised too late or not at all.
- non-transfer of assigned capacity or path to third party (in the context of Article 13 of Directive 2001/14): the RB will evaluate disputes related to likely transfer of allocated capacity or path to a third party and to actions taken by the IM to remedy this.
- evaluate the context of framework agreements to avoid exclusive use of infrastructure or even prior approval of such agreements, which typically extend beyond the duration of one timetable year: Framework agreements specify the characteristics of the infrastructure capacity required by and offered to the applicant over a period exceeding the timetable period. This agreement should not specify a train path in detail but should be such as to seek to meet the legitimate commercial needs of the applicant. A Member State may require the prior approval of such an agreement by the RB. These agreements should not evolve against the interests of other applicants and should not extend beyond 5 years and only in exceptional cases beyond 10 years (e.g. need for significant investment made by RU, long term contracts available for goods to be carried etc.). A framework agreement shall be made available to any interested party, while respecting commercial confidentiality.

- evaluate conditions for re-allocation of path that has not been used: The RB should upon request or ex-officio evaluate the steps to be taken by the IM to reallocate unused path to other RU, without any intent for discrimination, but in the scope of increasing railway efficiency.
- evaluate conditions and priorities for path allocation: in case of congested networks or network segments, the IM is allowed to propose and implement priorities for the allocation of paths. The priorities should take into account the importance of the service to society. In determining priority criteria, the importance of freight services and in particular of international (including combined) freight services shall be given adequate consideration. Such criteria should be stated clearly at the NS and should be transparent. The RB should evaluate the criteria themselves and the way of their implementation by the IM during capacity and path allocation, in order to secure that no infringement of equal treatment of RU's is at stake.
- establishing collaboration between IM's for proper handling of international train paths: The RB will make sure through ex-post or ex-officio actions that IM's are sufficiently collaborating in the handling of international train paths and their assignment to RU's and that no request of any RU or of their grouping has not received due attention. The provisions of Article 15 of the Directive should be applied. In fact IM's should make every effort to allow that international paths are established 11 months prior to the initiation of the subsequent timetable period.
- 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: The RB will make sure through ex-post or ex-officio actions that IM's have initiated the procedure of coordination foreseen in Article 21 of the Directive to satisfy the request for path allocation by various RU's on congested networks or segments. In case of disputes relating to the allocation of infrastructure capacity, a dispute resolution system should be made available by the RB to resolve such disputes within 2 weeks or 10 working days. The principles governing the coordination process shall be defined in the NS and they should reflect the difficulties of arranging international train paths and the effect that modification may have on other IM's.

4.3.4. Activities of RB concerning safety certificate enforcement and monitoring safety standard and rules

Safety certificate enforcement and monitoring safety standard and rules will be organized according to the provisions of Article 32 of the Directive 2001/14. The appeals that can be received and evaluated concern the following issues:

- evaluate the monitoring of safety standards and rules in relation to NS, if requested: for this purpose the RB should make sure that the NS names the body responsible for issuing safety certificates in every SEETO Participant. The contact name and address of this authority should be given. If the IM issues safety certificates itself, the certification process should be clearly described or referred to.
- 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. The RU has to prove that the rolling stock making up its trains has been approved by the public authority or by the IM and checked in accordance

with the operating rules applicable to the infrastructure used. In addition, it shall provide proof that the staff whom it employs to operate and accompany the trains has the necessary training to comply with the traffic rules applied by the IM and to meet the safety requirements imposed on it in the interests of train movement. Likewise, its organisation should be suitable to operate trains safely on the infrastructure provided.

4.4. Data requesting procedures from national stakeholders or from other RB's

The RB as provided in the Directive 2001/14 should be in a position to make its evaluation on a placed complaint within 2 months from the receipt of all information regarding the case. Since many of the complaints and appeals involve commercial interest, it is important to receive all data in a very timely manner. The RB should have the power to request any relevant data by the IM, the incumbent RU, any applicant RU, any third party and from authorities in as short period of time as possible and without undue delay.

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. Where necessary, the RB receiving the complaint or having initiated the routine enquiry shall transfer the file to the RB responsible in order to take measures regarding the parties concerned. In this case the contacted RB should make its own investigation and report within the 2 months or even earlier to the RB requesting the information.

Data requesting procedures should be properly organized at national level. But for the cases involving two RB's from two different SEETO Participants and in order to avoid the creation of ambiguities, it is proposed to create a three-lingual procedure, whereby one of the languages is English and the other two are the prevailing languages of the two intervening SEETO Participants or of the one SEETO Participant and of its Member State neighbour.

Another effective way to reduce the time for decision making, is for the RB to initiate its own ex-officio investigations, on the basis of rumours or other advanced information it may have for any forthcoming issue and request the relevant data from involved stakeholders, without waiting for the complete file of complaint to be submitted by the party appealing.

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 after sufficient explanations are given, without the filing of an official complaint. This method in Austria has proved very successful, it is followed by Schienen-control (the Austrian market regulator) and is popularly called "the coffee house procedure"¹⁸.

4.5. Market monitoring

As it was mentioned in Chapter 4.1, 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. The Communication focuses on:

¹⁸ In Austria, the most common cases of appeals concern the following issues: Price (fee) system is not transparent; Price discriminates against new entrant railways; The same for electricity, fuel or the use of the electricity supply line; Path allocation, in particular during the transport (changing priorities); Closing of lines, tracks, sidings only in agreement with the state RU; IM informs the state RU about the movement of its competitors.

- a. 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 mode of transport;
- b. development of the rail market in terms of freight and passenger transport performance, intermodal comparison and market-opening indicators;
- c. 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.

Of the above three focuses, the second and third are the most relevant for the purposes of railway and overall transport market monitoring. Each RB should develop appropriate skills and methods to achieve this objective within each SEETO Participant and be able to share it with the RB's of other SEETO Participants as well as with RB's of other neighbouring countries'. This will result to an overall market monitoring in SEETO Region concerning the role and operational position of railways as well as their position vis-à-vis the competition: mainly with road transport and to a second level with inland waterway and short sea shipping or other competitive marine transportation. The role of SEETO will be focal in this case, since it constitutes the official Transport Observatory for the South Eastern Europe and could provide relevant data to RB's.

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

- active and idle rolling stock by type,
- train kilometres, gross and net ton kilometres, passenger kilometres by different types of trains,
- type and quantity of cargo carried by international, transit, national and local trains,
- track access charges on the network and its segments,
- technical characteristics of the network, leading to a regional Network Statement,
- transport costs for typical categories of goods and loading type, between origins and destinations,
- travel times for typical categories of goods and loading type, between origins and destinations,
- border delays in international transports,
- wagon turnaround time,
- services on the network and at stations,
- services at ports and at multimodal transport terminals,
- etc.
- similar items for other modes of transport.

To achieve the widely accepted role as market regulator, the RB's should be sufficiently equipped with suitable human and technical resources which would allow them to research and better understand the transport environment in which they operate. This includes the hiring of suitable experts (economists, accountants, lawyers, engineers, planners) and their proper training by similar RB's that have been successfully implemented in EU Member States. In case of lack of suitable experts or deliberate small size for the RB, the objectives of market monitoring can be attained by suitable outsourcing of similar activities to third parties (consultants, universities, research institutes etc.).

4.6. Can the RB be responsible for other “regulatory” activities as well?

In the same way that there is no common practice in Member States as to which authority plays the role of the Regulatory Body as market regulator, in the same way there is no common approach about the other “regulatory” activities foreseen in the EU Directives for railways.

It is well known that these authorities, in addition to the market regulator, foresee:

- the safety authority
- the licensing authority
- the accident investigation authority
- the notifying body.

In many countries these authorities, including the RB, are confined in the Ministry of Transport although remaining independent. It should also be noticed, that in many countries, the RB's are installed or operated from within the National Competition Boards, which monitor overall the market.

With the exception of the Notifying Body, which constitutes a technical body involved in standards and metrology related to equipments and other technological means used in railways, which can be located within the National Standardisation bodies, the other authorities may indeed be included in the same organisation as the RB. This may well be the case in most SEETO Participants, where –due to limited population and/or skills- the identification of suitable personnel to “man” these authorities is difficult and can prove highly ineffective¹⁹,

On the other hand, if all authorities are concentrated within the same Body, conflicts are expected to 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. 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.

¹⁹ Such an experience is lived in Croatia, where despite the relevant efforts, it has been impossible to find suitable candidates applying for the various positions foreseen for the Independent Accident Investigation Body, which therefore remain inoperative to-date.

5. Regional Approach for Regulatory Bodies

In the 1st Railway Reform Workshop held in Belgrade on Feb 25-26, 2009, the following important conclusions were reached almost unanimously (for details please see Annex 1):

- Harmonisation is a catalyst for railway development in SEETO Region;
- The Regulatory Manual is a suitable instrument on achieving harmonisation in railways in the Region;
- The RB's should have market perspective and enforcement authority in every SEETO Participant;

In addition it was agreed that the communication of the RB's in SEETO Region, should be formalised by regular meetings of the RB's even if for a few attendants, a joint RB should not be outruled. This position is very positive in view of the requirements of the EU Directives and of the new Regulation concerning the European rail network for competitive freight for the establishment of communication and collaboration between the RB's particularly for the enhancement of international and particularly freight transport. Other such formalised initiatives also exists in Europe.²⁰

In the Sections below, this prospect will be formalised with specific proposals.

5.1. How to set up collaboration at Regional level?

This Manual proposes 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 one, maximum two days.

The meetings shall take place in a revolving way in the capitals of SEETO Participants or in the location of a permanent Secretariat that may be decided to be set up for this reason in a specific geographic location. The permanent Secretariat assists the nominated coordinator or chairman of the meetings to set –at least one month before the meeting- the Agenda with the topics to be discussed, the preparation of the “mandate” of the members of the RB's representatives in each meeting, the objectives and tasks ruling the meetings as well as the decision making process. The Secretariat organises the meetings, assists in keeping the minutes with the discussions and the decisions, circulates them to all attendants from each SEETO Participant, and monitors their implementation. The working language of the meetings shall be English, or if otherwise decided to be Serbo-Croatian and/or Albanian. SEETO Secretariat is best fit to act as permanent Secretariat, even if the meetings do not take place always in Belgrade.

²⁰ In their letter on January 2005 to EC, the RB's of the four countries located along the Rotterdam-Milano-Genova railway corridor line suggested the following: a) The role of RB is crucial to develop competition in RW market and increase modal share of RW's; b) EU RB's should have common strategies for action on:

- Establishing a transnational cooperative network by sharing procedures + practices
- Being proactive for full implementation of liberalisation policies in respective countries with the goal to maximise RW traffic even if every country's RB has different organisation and the countries implement the EC Directives in different ways

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 also 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.

If the topics to be discussed are excessive, additional ad hoc meetings may be decided. Alternatively technical committees may be created to meet at different period and intervals in order to discuss particular topics (as the ones suggested below) on which the Directors agree. The technical committees have their own topic specific secretariat which reports to the permanent Secretariat and to the RB Directors meeting and the Directors themselves.

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, within a time framework that will be specified.

The meetings should be attended by the representatives of international organisations (such as RailNet Europe, CER, EIM, UIC or of European Commission and possibly IFI’s) which should be regularly invited, depending on the topic that is being discussed. In addition the representatives of the “OSS” established by regional IM will be invited to participate to these meetings, at their discretion.

In the case that the topics to be discussed involve countries neighbouring to SEETO Region or even countries that are not neighbours (e.g. Austria, Italy, Turkey), the Directors of the RB’s of these countries shall be invited to attend. The agenda of the meeting should be sent to them beforehand.

5.2. What activities are important at Regional level?

The activities that are important at Regional level (SEETO Region) are among others, the following:

- sharing of market related information and setting up of a common strategy to enhance the performance of railways in SEETO Region;
- sharing of enforcement experiences of RB’s in the respective SEETO Participants and resolving problems of reduced enforcement capacity which hinder the role of RB in respective Participant;
- verify the principles set by the Regulatory Manual concerning its role in assisting the RB’s as market regulators;
- agree on the duration in which harmonisation should be reached and confirm the period for which the first stage of harmonisation (2 years) and the second stage of harmonisation should last;
- Agree on the need for a regional railway Network Statement and promote its implementation;
- Agree on the specifics of the railway network on which the proposed harmonised procedures apply;
- Agree that a regional license or that a common approach to approving licenses recognised in each SEETO Participant are possible; this issue is also covered by the Treaty agreement that is being prepared.

- Agree the a common approach to mutually or multilaterally approving/recognising safety certificates in SEETO Participants can be reached; this issue is also covered by the Treaty agreement that is being prepared.
- Verify that the simple TAC calculation method proposed in the present Manual, is implemented by all IM's in the same way and provides robust results. Establish a more comprehensive calculation method for the second phase of implementation;
- Verify that the capacity allocation method and path allocation method proposed in the present Manual, is implemented by all IM's in the same way and provides robust results;
- Monitor the activities of the regular meetings of IM's and the outcome of process followed and decisions taken concerning the effectiveness of capacity and path allocation method particularly for international trains;
- Cooperate and discuss the kind of appeals received and their processing in each SEETO Participant;
- Resolve situations where the cooperation between RB's has not been the anticipated one, rendering poor results for the evaluation and resolution of claims;
- Establish common priorities for international and transit trains, mainly for freight but also for passengers;
- Establish agreed guidelines for the level of discounts to be offered and the reason behind them; formulate a regional discount policy that promotes railway operations in the region;
- Encourage the IM's of the Region to properly cooperate in order to improve the effectiveness of railway operations at least on Trans-European Rail Freight Network and monitor the results of this cooperation;
- Verify that the coordination of decisions of national IM's concerning the enhancement of the infrastructure do not directly annul the impact of decisions taken by another IM's;
- Report to EC about the cooperation of RB's in SEETO Region and the results of this cooperation;
- Enhance and promote the exchange of information between RB's concerning their work and decision making principles and practice for the purpose of coordinating their decision-making principles with those of neighbouring countries, in particular across EC;
- Seek the assistance of EC whenever necessary, for the enhancement of the role of RB's in the Region and the respective SEETO Participants.

The above do not necessarily constitute and exhaustive list of activities that are important at Regional level, but a sufficient amount of topics and issues are covered. Additional topics and issues may be proposed by the RB's when they convene to meetings. Finally new topics and issues may come forward as time passes which will be added to this list, while some topics may not be considered at all.

Through their market monitoring authority, the RB's will be in a position to evaluate the impacts and results of their cooperation in the formalised meetings. They should evaluate in a quantitative way their contribution to the enhancement of the role of railways in the Region through the increased harmonisation that is sought. A draft evaluation of the anticipated impacts is presented in the Section that follows, in the format of a SWOT (strength, weaknesses, opportunities, threats) analysis.

5.3. Anticipated impacts of cooperation: SWOT analysis

The Table below presents in a summary way the anticipated impacts resulting from the cooperation of RB's of SEETO Participants. The presentation is made in the context of a SWOT analysis, since the impacts are expected to be both positive (strengths, opportunities) and negative (weaknesses, threats) and their occurrence can be both immediate (strength and weaknesses) and in the long term (opportunities and threats).

The table below reveals the obvious: the strengths and opportunities being created by the cooperation of RB's a lot more than whatever weaknesses and threats could be envisaged. In fact, the negative impacts (weaknesses and threats) are only qualitative compared to the quantitative impacts (strengths, opportunities) that are anticipated.

Table 2. SWOT analysis for anticipated impacts from the cooperation of RB's in SEETO Region

Strengths	Weaknesses
<ul style="list-style-type: none"> • Proposals of RM are endorsed • Common vision for international & transit trains • Follow procedures practiced in EU • Bring RB's and IM's together • 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 its implementation according to RM • Verify capacity and path allocation method according to RM • Encourage setting up of OSS by all IM's • Evaluate the types of appeals received and results of actions on them 	<ul style="list-style-type: none"> • 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
Opportunities	Threats
<ul style="list-style-type: none"> • Impacts of RM can be monitored • A regional strategy for RW 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's and RU's feel that they 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 OSS of IM's • Comparative market monitoring and regional market condition evaluation possible • Optimise capacity utilisation 	<ul style="list-style-type: none"> • 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

6. Conclusions

This Regulatory Manual constitutes a good instrument to enable a much desired harmonisation concerning the implementation of railway reform in SEETO Region. It is prepared using as basic reference material the relevant EU Directives for Railways (Directives 2001/12 and 2001/14), international experience and opinions of SEETO Participants including those expressed in the Railway Task Force..

In addition to recommending a track access charging methodology as required in the TOR, suitable and easily applicable to seven SEETO Participants, it presents in a prototype way a harmonised approach on the responsibilities and activities of the Regulatory Bodies that still have to be established and/or to become operational in the Region, in their scope as market regulators.

The impact of this Manual should be long reached, if all SEETO Participants will take the initiative to implement its recommendations in the next 12 months, with a horizon of 1st phase of harmonisation extending to 2 years.

The SEETO Participants are advised through this Manual not only how to make their RB's become effective and result producing (without being overly bureaucratic) but also how to cooperate at Regional level in order to enable the harmonisation.

The activities to be handled at Regional level are manifold and often complex. Therefore cooperation between RB's will only produce synergies and positive results. The latter is documented by the SWOT analysis that is presented at the end of the report. The reader of the Manual will easily understand that there are only strengths and opportunities created by the cooperation of RB's at Regional level.

The preparation of this Manual would not have been possible without the evaluation of existing conditions in each SEETO Participant that the study team carried out. But more importantly it would not have been possible without the 1st Railway Reform Workshop –where the initial approach for its preparation was presented- and without the replies received to the Questionnaire that was provided to attendants in order to investigate their aspirations for railways in the Region and the role of harmonisation.

This Manual constitutes a major effort in the direction of achieving harmonisation in railways in SEETO Region. The comments received by the members of the Railway Task Force have contributed to its improvement. In the future, when meeting at regular intervals –as it is proposed- the Regulatory Bodies will have the opportunity to improve it even more or to adjust it to their actual needs.

REFERENCES:

1. EU Directives 2001/12/13/14/EC
2. Regulation of the European Parliament and of the Council Concerning a European Rail Network for Competitive Freight, 11/12/2008, COM (2008) 852 (final)
3. Starting mainline rail operations: A guide to the regulatory framework, Office of Rail Regulator, UK, November 2008
4. Network code, Office of Rail Regulator, UK
5. Criteria procedures; Complaints on rail fares/car park charges; how to complaint; agreement and contract and other material from Office of Rail Regulator, UK, 2008
6. Designing an Infrastructure Access Regime and Network Statement for the Rail Sector in Serbia (Contract 714917), Outline Regulatory Manual (Final), Belgrade, Nov. 2007, Booz Allen Hamilton
7. Railway Reform and Charges for the Use of Infrastructure, ECMT, 2005
8. Network Statement, Common Structure and Implementation Guide, Rail Net Europe, March 2006
9. Charges of the use of Rail Infrastructure 2008, International Transport Forum, (OECD), Louis Thompson, December 2008
10. EEA Regulatory Bodies, National Transport Authority, NKH, updated 2008
11. Open Letter of the Railway Regulatory Bodies of CH, D, I and NL to the members of IQ-C Project, January 2005
12. Network Statements in SEETO Participants
13. Track Access Charge methodologies and studies in SEETO Participants
14. Network Statement of various EU Member States (UK, Netherlands, Greece, Finland)
15. Railway laws, by-laws and decrees in SEETO Participants

ANNEX 1

QUESTIONNAIRE CIRCULATED AND FILLED
DURING THE 1ST RAILWAY REFORM WORKSHOP
BELGRADE FEBRUARY 25-26, 2009
AND
RESULTS OBTAINED

The following questionnaire was distributed during the 1st RWR Workshop held in Belgrade in February 26-27, 2009 and was filled in by 26 attendants, in order to evaluate the potential of harmonisation. The distribution of received replies and the respective percentages are presented in the table below.

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.	20	71
	something else	5	18

The level of convergence among attendants for harmonisation, depends on the issues being considered.

The following groups of convergence are observed.

- ➔ Convergence level over 90% (more than 23 replies on 26) are observed for:
Q3. Do you agree that harmonisation is a catalyst for railways development?
- ➔ Convergence level over 80% (more than 20 replies on 26) are observed for:
Q2. Should Regulatory Body have market perspective and enforcement authority in every SEETO Participant?
Q4. Do you agree that regulatory manual is a suitable instrument for harmonization?
Q8. Do you agree to have harmonised capacity allocation, path allocation procedures and criteria in SEETO participants?
Q7. Do you agree to have harmonised TAC methodology (MC+) and criteria in SEETO Participants?
Q5. Duration of 1st period for Harmonisation (For how long should it apply? 2 years)
- ➔ Convergence level over 70% (more than 18 replies on 26) are observed for:
Q10. Do you agree to have regional cooperation of infrastructure managers as “one stop shop”?
Q1. Is there a need for an agreement to enhance railways in West Balkan Region?
Q9. Do you agree on giving priority to international and transit freight trains in all Participants?
Q11. What is your opinion for formalised communication of Regulatory Bodies?
- ➔ Only Q6 (*What network is acceptable on which to seek 1st level of harmonisation?*) received less than 70% convergence concerning implementation on the core network. 15% of replies would like to see 1st level of harmonisation to concern the whole railway network.

Also there is no convergence in the first part of Q5, concerning the period of time this 1st level of harmonisation should be reached. While 50% of the replies indicate 12 months, as preferable period, 21% of replies would like this to happen even earlier (in 6 months), while 29% would like this to happen in a period longer than 12 months. As a result of the above, the Consultant proposes the first level of harmonisation to last 2 years.

ANNEX 2

CALCULATION EXCEL TABLES FOR TRACK ACCESS CHARGES

(Executable Excel format tables are also attached to the report)

TABLE OF CALCULATION OF TRACK ACCESS CHARGES

			Value	
Main Railway Track	$Q_{tkm (main)}$	The amount of trainkm realised on main railway track	289	tkm
	$P_{(main)}$	The weighting coefficient for running on main railway track - fixed	1	
Regional Railway Track	$Q_{tkm (reg)}$	The amount of trainkm realised on regional railway track	875	tkm
	$P_{(reg)}$	The weighting coefficient for running on regional railway track $P = (0.60-0.80)$	0.7	
	K	The coefficient for track wear	1.2	
	C_{tkm}	The price of line per trainkm, in monetary units per trainkm-fixed	3	€
	F	The coefficient which depends on timetable requests Timetable: $F = 1$ Ad Hoc: $F = 1.2$	1	
	U	User charge for the allocated train path, in monetary units	3245	€

INSTRUCTIONS:

1. The number of trainkm (Q) are defined by the user depending on real path characteristics

2. Coefficients P , K and F will be selected by the user according to the margins below

coefficient K

- for cargo trains (more than 1100 ton gross): 1,00 – 1,50
- for cargo trains (less than 1100 ton gross): 0,50-0,80
- for cargo trains with empty wagons (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

coefficient P

- for main rail lines: 1,00
- for regional rail lines: 0,60-0,80

coefficient F

- for allocated train paths, which are requested prior to timetable enforcement: 1
- for allocated train paths, which are requested ad hoc: 1,2