



Support for implementing measures for the South East Europe
Core Regional Transport Network Multi Annual Plan 2008-2012
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DRAFT REGIONAL PLAN TO IMPROVE REGIONAL OPERATIONS

Final

Specific Project Result 6

November, 2009

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REGIONAL PLAN TO IMPROVE REGIONAL OPERATIONS

(Final)

Specific Project Result No. 6

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Acronyms

ALB	Albania
BC	Border Crossing
BCP	Border Crossing Point
BCA	Border Crossing Agreement
BPA	Border Police Agreement
BiH	Bosnia and Herzegovina
BG	Bulgaria
CUU/AVV	Standard usage contract (C.U.U.) of UIC/ERFA/UIP
EU	European Union
EC	European Commission
GR	Greece
H	Hungary
HeK/KR	Kosovo Railways
HR	Croatia
HSB	Albanian Railways
HZ/CR	Croatian Railways
IM	Infrastructure Manager
KOS	Kosovo (under UNSCR 1244/1999) - as mentioned in the TOR
MK	former Yugoslav Republic of Macedonia
MAP	Multi–Annual Plan
MON	Montenegro
MoT	Ministry of Transport
MoTC	Ministry of Transport and Communications
MoF	Ministry of Finance
MoIA	Ministry of Internal Affairs
MoFA	Ministry of Foreign Affairs
MZ/MR	Macedonian Railways
NS	Network Statement (for Railways)
RU	Railway Undertaking
RWWG	Railway Working Group
SEE	South East Europe
SEETO	South East Europe Transport Observatory
SRB	Serbia
TEN-T	Trans European Networks (Transport)
WG	Working Group
ZCG/RM	Railways of Montenegro
ZFBH/BHR	Bosnia and Herzegovina Federal Railways
ZRS/RSR	Republic of Srpska Railways
ZS/SR	Serbian Railways

GLOSSARY OF TERMS

Border Control	Means application of all national regulations of the two States which are applied during the crossing of the border by persons and their luggage across and the import, export and transit of goods.
Border Station	Means the railway station which is identified by the Agreement as the station at which the border control and procedures take place. It is situated in the ZONE.
Contracting Parties	Means the two governments, signatories of the Agreement.
Infrastructure Manager	Shall mean any body or undertaking responsible in particular for establishing and maintaining railway infrastructure. This may also include the management of infrastructure control and safety systems. The functions of the infrastructure manager on a network or part of a network may be allocated to different bodies or undertakings (Art. 3 of 91/440/EEC).
Joint Border Station	Means the border station where joint border control and procedures and traffic exchange are carried out.
Neighbouring State Official Personnel	Means the State of the other Contracting Party. Means all personnel of the respective competent state border authorities of the Contracting Parties who perform the border control and procedures on their own territory and the territory of the neighbouring state and on moving trains in the ZONE.
Railway transport	Means an activity involving the carriage of passengers and goods and/or hauling the train.
Railway undertaking	Shall mean any public or private organisation licensed according to applicable Community and national legislation, the principal business of which is to provide services for the transport of goods and/or passengers by rail with a requirement that the undertaking must ensure traction; this also includes undertakings, which provide traction only. (Art. 3 of 91/440/EEC).
Railway Personnel	Means personnel who are employed by a railway undertaking and/or an infrastructure manager and who perform the border railway traffic between both States.
Zone	Means the part of the territory of one state or of both states, on which the officials and the railway personnel of both states are authorised to perform border control and procedures.

1. Objective of and Concept for the Regional Plan

1.1. Objective:

The objective of this Project Result is to prepare a draft Regional Plan which outlines the steps to be taken in order to implement the outputs and conclusions resulting from the following activities of the Project:

- Activity A.2.1.3: Review of bilateral agreements
- Activity A.2.1.4: Review procedures of technical acceptance
- Activity A.2.1.5: Analysis driver training
- Activity A.2.2: Border controls of passengers on moving trains

The outputs consist of the:

- Framework Border-Crossing Agreement (BCA)
- Framework Border Police Agreement (BPA)
- Agreement between Infrastructure Managers on the Interconnection of Networks
- Agreement among Railway Undertakings concerning the Transfer of Wagons
- Regional Agreement for the Mutual Recognition of Training Certificates

The agreements can be found in the **Annexes** to this report.

1.2. Concept:

The Regional plan shall be based on the following features:

- Market oriented approach, i.e. the Corridor approach, in order to take into consideration the main flow of transport.
- Implementation approach, i.e. implementation of the proposed agreements resulting from the activities of A2.
- Activity approach: the Regional Plan shall be sub-divided into 4 activity sections:
 - What to do? (Which steps are necessary to achieve implementation?)
 - Who is the stakeholder responsible for the initiative to implement?
 - With which other stakeholder(s) is the collaboration necessary in order to achieve implementation?
 - Till when? (Indicative time frame)

Project quest is to harmonise as much as possible international relationships among the SEETO Participants.

The draft Regional Plan will be presented in the 4th Railway Reform Workshop on border crossings in September 2009 for critical discussion and preparation of the ACTION PLAN.

2. Existing Situation of the Border Crossing in the Region

The following chapter gives a brief summary of the existing situation in the SEETO Participants concerning the railway border crossings. The details of the findings have already been presented in the 2nd Progress Report and will therefore not be repeated in this Project Result.

2.1 Existing situation of Regional Border-Crossing Agreements (BCA) and their compliance with EU legislation

Objective: Review the existing border crossing agreements in the Region.

Methodology:

In order to give a fair review of the existing situation it was necessary to develop evaluation criteria which define the compliance of existing agreements with EU criteria. Such 18 criteria and their legal basis can be found in **Annex No. 1**.

Their development was basic since there does not exist any EU Directive dealing explicitly with rail border crossing issues which could be relied on. Therefore, the Consultant developed the structure as presented in the **Annex No. 1**, giving the legal justification which was derived from the Treaty of Maastricht, as in force, and from the Treaty of Lisbon (not yet approved by all Member States). Wherever possible, EU Directives were used.

However, it can be said that the EU Directives only give the legal basis for some of the criteria. Other criteria were developed from a market-oriented approach assuming that a minimum of delay at any BCP would contribute to improving the competitiveness of international rail transport.

Based on the 18 criteria, the most important border crossings of the SEETO Participants have been analysed.

Results of the evaluation:

No border crossing agreement comes close to be in compliance with the EU legislation. The most modern border agreement, which fulfils more criteria than the others, is between Bulgaria and Serbia and "in its copy" between Serbia and Montenegro, however, the latter fulfils fewer criteria than its "model".

The Bulgarian-Serbian BCA comes close to an open access in a way that this border crossing agreement, signed in 2005 and operationally effective since 2007, at least allows an open access to the **Zone** by other than state railway undertakings. But this is already the end of the "open market" since there is no open access to the Serb railway network.

It is interesting to know that its successor agreement between Montenegro and Serbia is, to a certain extent, less open-access minded, since it leaves the definition of the Zone open to interpretation (see Art. 2 of the BCA between SRB and MNE).

For this reason, it was necessary for the Consultant to develop an entirely new framework contract agreement which complies with the EU legislation and fulfils the requirement of the Acquis Communautaire (see Annex No. 2).

This agreement was presented and intensively discussed at the 2nd and 4th railway Workshops and during the Task Force meetings.

The proposals of the attendants have been considered in the final version.

2.2 Existing situation of the procedures of technical acceptance of rolling stock

Objective: Review procedures of technical acceptance of traction and rolling stock from one country to the other in order to set out a common strategy.

The activity dealt with three elements:

- a. Traction
- b. Rolling stock
- c. Infrastructure

Methodology:

The following aspects were reviewed:

- Joint technical acceptance of rolling stock at one of the two border stations.
- Joint wagon list filled in at one border station or, even acceptance from the point of departure at least in form and outlay as minimum denomination.
- Mutual acceptance, at least by the railway undertakings involved in the network (so called agreements of confidence).
- Proposals for the introduction of CUU/AVV regime with the SEETO Participants.

Results of the evaluation:

Traction:

There does not exist any mutual acceptance of tractions with the SEETO Participants.

It is true that locomotives run on other networks between border stations but this cannot be considered as an open access for traction. It is simply a necessity to render an exchange of wagons possible.

The lack of mutual acceptance of traction can be considered as a "sad story" since it is the result of the breakup of the former Yugoslav Railways. At that time, it was no problem to run with the same traction from Ploce or Dobova to Dimitrovgrad, from Subotica to the border crossing between the former Yugoslav Republic of Macedonia and Greece (Idomeni).

With the creation of new political frontiers, the respective state railways created new operational barriers and abolished the through-traffic by traction.

Rolling stock:

The following Table shows the criteria used by railways for the technical acceptance of rolling stock in the SEETO Participants.

Table 2.1. Criteria for technical acceptance of rolling stock at BCPs

Type	Criteria
Type 1	Technical acceptance of rolling stock carried out by the Infrastructure Manager or the department in charge of technical inspection in a state owned integrated railway at each border station.
Type 2A	Joint technical acceptance of rolling stock at one of two border stations carried out by the Infrastructure Manager or the respective department in an integrated state railway on the territory followed by the same technical inspection by the Infrastructure Manager of the neighbouring territory.
Type 2B	Joint technical acceptance of rolling stock at one of two border stations carried out by at least one of the Railway Undertakings followed by the technical inspector of the other Railway Undertaking or the competent Infrastructure Manager.
Type 3A	Joint technical acceptance in one of two border stations, that is to say, the inspectors of the two Infrastructure Managers carry out jointly the technical inspections.
Type 3B	Joint technical acceptance in one of two border stations, that is to say, the technical inspector of at least one Railway Undertaking carries out jointly the technical inspection with the technical inspector of another RU or IM
Type 4	Mutual acceptance at least by the railway undertakings involved based on so-called agreements of confidence . There will be no other control once the train has arrived at the border.
Type 5	Mutual acceptance at least by the railway undertakings involved carried out at the latest hinterland terminal where the train is composed. No inspection at the border.

The analysis clearly shows that there is no mutual acceptance (Type 4 and 5) with the SEETO Participants.

Even those RUs of the SEETO Participants, which are members of the CUU/AVV, do not apply the agreement at the BCPs.

Wagon acceptance is still carried out under RIV rules with all the negative consequences of border delays and non-commercial handling of empty wagons of foreign railway undertakings which have to be handed back as quickly as possible in order to avoid RIV charges, even if return load would be available. Such return load would then be loaded in the wagons of the respective railway undertaking for its international destination. The same wagon will then be returned empty.

The Table below shows the members of CUU/AVV in the SEETO Participants:

Railways of Participants:	Existing (YES/NO)
Albanian Railways - Albania	NO
Railways of Federation of BiH – Bosnia and Herzegovina	NO
Railways of Republika Srpska – Bosnia and Herzegovina	NO
Croatian Railways Cargo - Croatia	YES
Serbian Railways - Serbia	YES
Montenegro Railways Freight Transport - Montenegro	YES
Macedonian Railways Transport - former Yugoslav Rep. of Macedonia	YES
Kosovo Railways – Kosovo (Under UNSCR 1244/1999)	NO

It is therefore necessary to accept two challenges:

- Introduce CUU/AVV at border crossing station level
- As a direct consequence of CUU/AVV, introduce mutual and uniform acceptance of wagons

For this reason the Consultant has developed a Framework Agreement which could be the first step to introduce a corridor-dependent mutual acceptance. It can be found in **Annex 3**.

2.3 Existing situation for infrastructure interconnection

So far there has not been any agreement between the IMs of the SEETO Participants concerning the interconnection between IMs at border crossings.

Some elements are included in the existing "Technologia" of border crossings but they are mixed up with other tasks which do not correspond any longer with the organisation structures of the SEETO Participants railway companies.

Some SEETO Participants have **integrated railways** where the IM is a department. (Albania, Bosnia and Herzegovina, Serbia, Kosovo (under UNSCR 1244/1999)).

Other SEETO Participants have the **holding structure** where the IM is an independent legal entity in the form of the subsidiary (Croatia).

Other SEETO Participants have a **complete separation of infrastructure and operations**. (the former Yugoslav Republic of Macedonia and Montenegro).

As a result, it is necessary to have new legal relationships among the IMs in order to ensure a transparent interconnection between the networks of two legally independent IMs.

Concerning the technical acceptance of rolling stock (traction, freight wagons and passenger cars), it is the IM that has the legal obligation to ensure safe operation of rolling stock on its infrastructure, although the RU is lastly responsible and liable.

In practical terms, it is the IMs who are responsible for the technical inspection of the rolling material and its final admission into the network.

Although it is the general rule that the technical inspection at the border is carried out by the IM, there is an exception in Croatia where technical inspection is carried out by HZ Cargo.

Nevertheless, it is necessary that the two IMs agree that those RUs which have licences on their networks are allowed to conclude agreements on mutual acceptance with the consequence that the IMs do not intervene at the border for technical inspection.

For this reason, the Consultant has proposed an agreement on the interconnection on rail infrastructure networks between IMs, which is in **Annex 4**.

2.4 Existing situation of driver training

Objective: Analysis of driver training in the SEETO Participants

The Consultant sees this activity as a step towards the application of the 2nd railway package which envisages a future international driver licence in compliance with existing EU Directives, in particular of the Directive 2007/59/EC.

The analysis comprises the existing institutional situation on driver training.

Methodology:

The Consultant chose some criteria which are presented in the below table.

Table 2.2: The present status of driver training in the SEETO Region

Num.	SEETO Participants	Albania	Croatia	Bosnia and Herzegovina	former Yugoslav Republic of Macedonia	Montenegro	Serbia	Kosovo (under UNSCR 1244/99)
1	Legislation							
1.1	National regulation	n.a.	✓	✓	✓	✓	✓	×
1.2	State railway regulation	✓	✓	✓	✓	✓	✓	✓
2	Training school							
2.1	Public Railway school	×	✓	✓	✓	✓	✓	×
2.2	Private school	×	×	×	×	×	×	×
3	Training programme							
3.1	National training programme	×	✓	✓	✓	✓	✓	×
3.2	International training programme (for neighbouring countries)	×	×	×	×	×	×	×
4	Duration of training	×	4 years	4 years	4 years	4 years	4 years	×

Evaluation:

The following situation exists with the SEETO Participants:

- All driver training and route familiarisation is national.
- Train driver training is carried out by the state railway which has an absolute monopoly.
- The present railway laws have no detailed stipulations concerning driver training. However, the respective national safety regulations set the stage for driver training.
- It is left to the state railways to decide on how to design and implement driver training.
- The driver training is more or less harmonised due to the rules and regulations due to the ex-Yugoslav Railways. In this respect, examination requirements, duration of driver training are the same.
- Albania does not dispose of any driver training facilities institutions. They rely on their drivers who used to be trained in the ex-Yugoslav Railways.
- Kosovo (under UNSCR 1244/1999) does not dispose of any driver training facilities. The Kosovo Railways rely on those train drivers that received their training in the ex-Yugoslav Railways.
- There is no training of train drivers for the purpose of using them in other than the national networks.
- The few train drivers that enter into other networks at the border stations do not receive any specific training with one exception at Dimitrovgrad. The private RU Bulmarket from Bulgaria was only allowed to enter when its drivers passed an examination for the up to 6 km driving on the Serb network in order to enter into the zone at Dimitrovgrad.
- All other train drivers who enter into the network of the neighbouring country are either accompanied by pilots, at least at the beginning or simply learn it by experience.

- Concerning the internal border crossings between the Republics of ex-Yugoslavia, the large majority of the train drivers have good familiarisation due to their former uniform training.

Finally:

- There does not exist any Regional train driver training.
- There are no activities to harmonise or integrate train driver training.
- There are no intentions so far to “internationalise” train driver training.
- There is a necessity to find solutions for train driver training for two SEETO Participants Albania and Kosovo (under UNSCR 1244/99).

As a consequence of the above, it is absolutely necessary:

- to initiate the mutual recognition of train driver training certificates in order to start introducing the issuance of a train driver licence at SEETO level
- to facilitate open and non-discriminatory train driver training facilities in the countries of the SEETO Participants

in order to gradually comply with the train driver training requirements of the EU in particular EU Directive 2007/59/EC (2nd railway package) with the overall objective as expressed in the explanatory note No.6 of 2007/59/EC:

“The aim of these common provisions should be above all to make it easier for train drivers to move from one Member State to another, but also to make it easier for them to move from one railway undertaking to another, and generally for licences and harmonised complementary certificates to be recognised by all railway sector stakeholders. To this end, it is essential that the provisions establish minimum requirements which applicants should meet to obtain a licence or harmonised complementary certificate.”

It would also be in compliance with Art. 11 2) of the draft “Agreement establishing the transport community”, in its version of June 2009. Art. 11 2) stipulates open access for train drivers of a South East European Party.

The Consultant has therefore proposed a Regional Agreement for driver training in **Annex 5**.

2.5 Summary of the existing situation

- Most of the existing bilateral agreements have been concluded before 1990 or, if new bilateral agreements have been reached after this period, their concept still relies on pre-1990 rules.
- The only exceptions are the BCAs between Serbia and Bulgaria and, most recently, between Serbia and Montenegro. This comes from the fact that in most agreements state railways are the dominant partner and factor.
- None of the existing bilateral agreements are in compliance with EU legislation. On the contrary, they contain serious discriminatory elements and prohibit any form of open access by third parties.
- With the exception of the borders between Hungary-Croatia and Serbia-Bulgaria, there does not exist any cooperation between the border authorities between any other two neighbouring states.
- This also applies to the control of passengers on moving trains.

- The transfer of wagons is carried out according to the RIV rules which have already been replaced by other rules in the remaining parts of Europe thus putting the international rail transports in the Region into a severe competitive disadvantage.
- No acceptance of traction and traction drivers exists, leading to serious delays at BCP due to the late or non-availability of traction and traction drivers.
- No mutual acceptance of train driver training and training certificates exists, thus impeding the seamless flow of transport in the Region.

As a result, the Consultant designed Regional agreements the aim of which is:

- to facilitate the rail border crossing and hence reduce the delays at BCPs,
- to improve the competitiveness of the international corridors running through the Region by ensuring a better fluidity of international transport,
- to be in compliance with EU legislation and hence facilitate present and future negotiations on the Acquis Communautaire.

The proposed agreements that are listed below are briefly described in Chapter 4:

- Framework Border-Crossing Agreement (BCA)
- Framework Border Police Agreement (BPA)
- Agreement between Infrastructure Managers on the Interconnection of Networks
- Agreement among Railway Undertakings concerning the Transfer of Wagons
- Regional Agreement for the Mutual Recognition of Training Certificates

In the following Chapter, the challenges and methods of implementing the proposed agreements will be briefly described.

3. The Challenges and Methods of Implementation of the Proposals

Since it is the intention of the SEETO Participants to become members of the European Union, at least in the long run - some of them are already in negotiations to fulfil the Acquis Communautaire-, the challenge in the realm of the international railway traffic is to establish bilateral and/or multilateral agreements which are in compliance with EU legislation.

It is therefore necessary to modify existing non-compliant agreements or propose new compliant agreements.

There are three practical ways of achieving it:

- the bottom-up approach (collecting information from the persons actively involved in dispatching trains at BCPs)
- implementation approach (presenting draft agreements to the decision-makers for critical comments)
- integration approach (discussing the proposed agreements at Regional meetings)

Bottom-up approach:

The target groups are the stakeholders such as competent departments of the border authorities on a level of border crossing points.

The Consultant analysed the situation at the major border crossings by entering into contact with the persons that actually carry out the border crossing.

The information received was the basis to critically review the existing agreements and design new agreements.

Based on this analysis the draft agreements were presented in the ministries to the competent departments as well as to top management of the infrastructure managers and railway undertakings.

The results of the meetings were integrated into draft agreements.

Implementation approach:

Once the draft agreements have been finalised, they were presented to the competent ministries, or in the case of technical acceptance, to the IMs and RUs, for "agreement in principle", with the intention that the competent authorities start opening negotiations with their neighbouring authorities.

Integration approach:

Since the SEETO Participants are surrounded by EU Member States and the large majority of traffic flows have their origin and destination in EU Member States (Corridors V and X in particular) it was necessary to integrate the neighbouring EU Member States into the dialog as far as it was possible. This took place in an intensive way with two neighbouring states: Hungary and Slovenia, the border crossing points of which are the main exits of international traffic flow into the SEETO Participants. Dialog took place on ministerial and railway levels. Delegates from the

two countries even participated in the Railway Reform Workshops. Unfortunately, delegates of other neighbouring countries such as Romania, Bulgaria and Greece, did not participate to discussions although they had been invited.

Moreover, the Consultant undertook an awareness campaign of the challenges and solutions in cross border traffic on the level of the European Commission (Meeting with the CEOs of the South East Europe) and on the South Eastern European level with meetings of Corridor X Steering Committee.

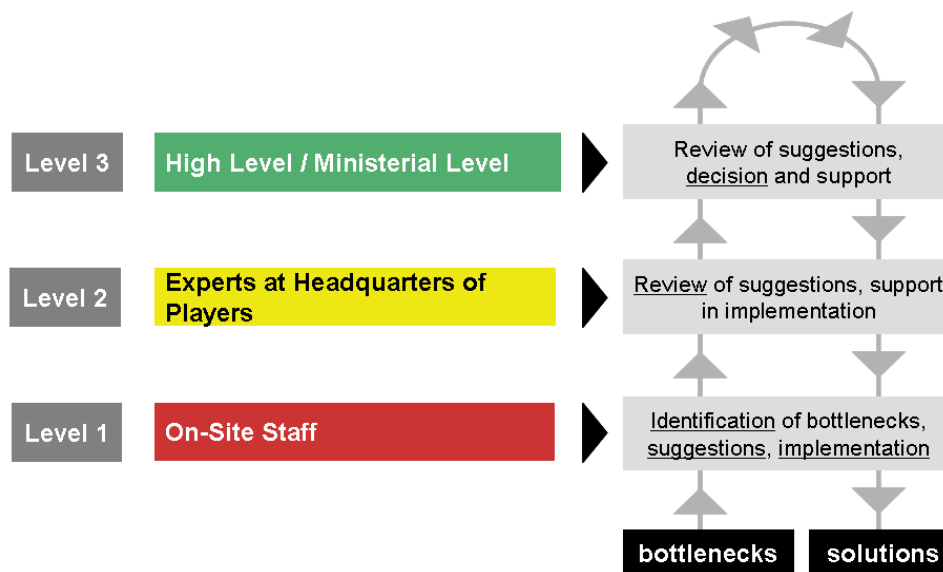
Application of the approaches: the phases of dialog

The phases of dialog, illustrated below, started very early in the project with first meetings in October 2008 before culminating into the 2nd Railway Reform Workshop in May 2009 in Zagreb.

During this Workshop, the attendants suggested final modifications which were a result of the dialog. The existing versions of the agreements are annexed to this report.

In the 4th Railway Reform Workshop in September in Montenegro, the attendants shall decide on the implementation by means of the present Regional plan and the ACTION PLAN resulting thereof.

Picture 1. Phases of dialog



4. Proposed New Agreements

4.1 Design method

In order to design agreements in compliance with EU legislation, legal criteria had to be derived from existing EU legislation.

Furthermore, it was necessary to have market oriented corridor approach since cross border agreements can be considered as hostile to the competitiveness of the railway sector.

Since borders are territorial barriers between sovereign states, BCAs are subject to international agreements of the highest level in the relationships between two states.

This also applies to SEETO Participants.

As a consequence, all subsequent agreements between the stakeholders in the widest sense of the word, can only find their legal justifications in the proper conclusion of an international border-crossing agreement.

It is therefore necessary to design an agreement which leaves sufficient space for the other stakeholders to define their relationships with each other.

Although most international agreements with the SEETO Participants have so far been of a bilateral nature, it was one of the objectives to design agreements in a way that they can also be used as multilateral (framework agreements) with the SEETO Participants in order to achieve a major goal of the SEETO Participants to re-harmonise their railway sector.

4.2 EU Compliance approach

The 18 criteria used for the analysis of the existing situation were also applied for the design of the agreements.

They are:

1. Scope of agreement: Bilateral or multilateral application
2. Objective of the Agreement: Increase in competitiveness of rail sector, EU compliance
3. Open access for licensed rail operators to cross the border
4. Open access in the ZONE
5. Free border dispatching in the ZONE
6. Open principles of the procedures of control for the border authorities, in particular border police and customs
7. Free movement of the employees of the border authorities
8. Definition of border dispatching points
9. Service principle in the ZONE: Single window, one-stop-shop
10. Acceptance of International Conventions (e.g. COTIF - CIM -/SMGS)

11. Freedom of the use of transport documents other than CIM/SMGS
12. Freedom of organising one's own rail border dispatching
13. Freedom of the border authorities to conclude separate bilateral agreements between each other
14. Rail Infrastructure managers establish non-discriminatory rules for the rail operations in the ZONE - the Border Crossing network statement –
15. Principle of transferring commercial and technical aspects to hinterland terminals
16. Independent authority (Border Crossing Commission) as regulator/arbitrator/quality commission
17. Freedom of choice of language
18. Agreement to publish all border crossing requirements by website

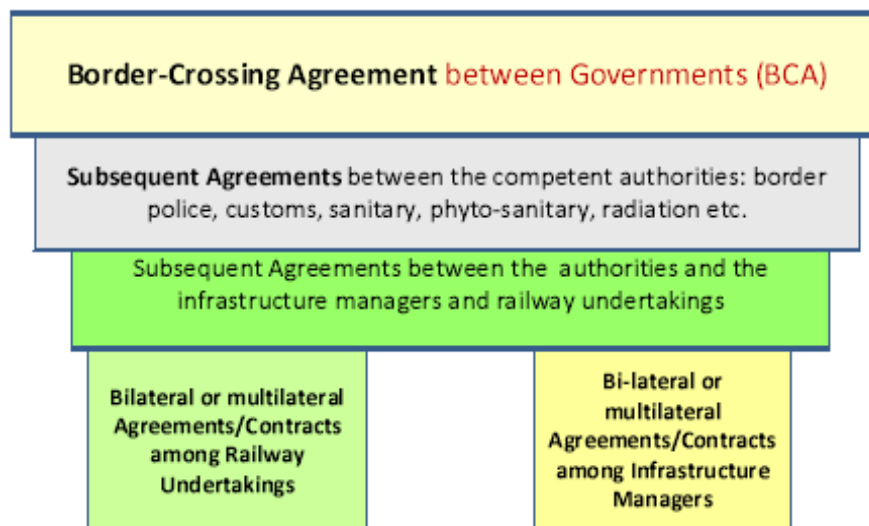
Based on the above 18 criteria, the agreements have been designed.

4.3. Logic of agreement design

The BCAs can be considered as the “highest-ranking” international agreements signed between sovereign states in the realm of border crossing. They are the point of departure for all subsequent agreements between border authorities and railway enterprises, which have to refer to it or find their legal justification in BCA.

This hierarchy of agreements holds true unless there are other international agreements that have been concluded by the signatory states of the BCA.

Picture 2: Hierarchy of the border crossing agreements

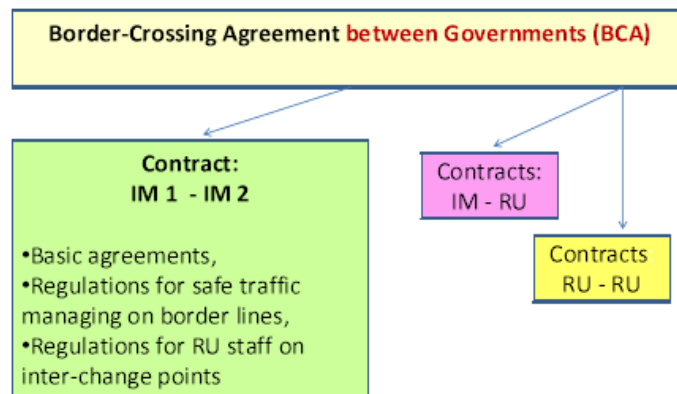


When it comes to the agreements between an infrastructure manager and railway undertakings, the BCA can be considered as a special international agreement which details international agreements such as the COTIF, and other agreements in the realm of private law such as the Standard Usage Contract for the transfer of wagons (CUU/AVV). However, the legal justification for such private agreements is again the BCA of particular border crossing points as long as there is no internal transport market.

Once the SEETO Participants become members of the EU and are integrated part of the internal common market, a BCA shall not be necessary any longer.

The same applies to subsequent agreements between other border authorities with two major exceptions: border policy which up to now remains a sovereign authority of each Member State and fiscal authorities which replace the customs authorities but have slightly different tasks.

Picture 3: Relationship between the BCA and private-law agreements/contracts with railway stakeholders



4.4 The Framework Border Crossing Agreement (BCA) (See Annex 2)

The proposed framework border crossing agreement has been structured in a way that it can easily be used in bilateral as well as multilateral agreements.

It has taken up the practical experiences from European cross-border agreements, in particular between Switzerland and Germany, Germany and Austria, Austria and Hungary and the most recent experiences from border crossing agreements between Bulgaria and Rumania (Rousse) and, of course, between Bulgaria and Serbia at Dimitrovgrad.

Its basic five pillars are:

- 1) Pillar No.1: Open access principles which are required by the EU Treaty and the EU Directives as in force, as can be seen in Article 2:
- 2) Pillar No.2: Concept of the Zone as stipulated in Article 3
- 3) Pillar No.3: The cooperation between border authorities in particular when one border authority is active on the territory of the neighbouring country as explained in Article 4:
- 4) Pillar No.4: The control on moving trains as formulated in Article 5
- 5) Pillar No.5: Border-Crossing Commission for open access border crossings

The constitution of a **Border Crossing Commission**, a relatively old concept, has been renewed by introducing regulatory authorities, in particular, the market regulator as a permanent member of the Border Crossing Commission in order to protect the new entrants against any discriminatory actions that could be caused by the state infrastructure managers and the incumbent state railway

undertakings acting in the Zone. This is even more important, when infrastructure managers and railway undertakings are integrated into one company or are subsidiaries of a holding company.

The Consultant believes that the proposed framework BCA has been well received among the SEETO Participants.

- It is known to the national coordinators and to a wide variety of competent experts in each Ministry of Transport of the SEETO Participants.
- It was presented, discussed and modified in the 2nd RWR WS on 13-14/5/09 in Zagreb
- It was presented and discussed in the two most recent Railway Working Groups of SEETO in February, 2009, in Belgrade and May, 2009, in Zagreb.
- It has also been presented to the EU member states Slovenia and Hungary.
- It has been discussed in individual meetings so far in Serbia, Albania, Croatia and Hungary.
- The thoughts and suggestions of the experts of the Ministries of Transport of these countries have already been integrated.
- It is the basis for the negotiations between the former Yugoslav Republic of Macedonia and Kosovo (under UNSCR 1244/1999), which started at the end of April 2009.
- The Albanian Ministry of Transport is circulating it to receive an agreement in principal by the Government

The discussion on the BCA will certainly continue till the end of the project.

4.5. Proposals for technical acceptance: traction-rolling stock

4.5.1 Proposal concerning traction

Desired result: Mutual acceptance of traction

Mutual acceptance and no-change of traction at border crossings still is one of the hotter issues in the EU.

The objective of the proposal is to ensure a smooth and seamless transfer of traction and traction drivers at border points of national territories and borders of infrastructure managers.

The Consultant proposes that **under the leadership of SEETO, the SEETO Participants shall employ a four-step policy.**

STEP 1:

Mutual acceptance of traction material, which is based on the technical specification of the ex-Yugoslav railways, and can be used in the network of the ex-Yugoslav railways.

This could apply for Diesel locomotives with no major problem.

In this way, at least all Diesel traction that is older than 17 – 18 years could be used in an interoperable way.

Concerning electric traction, the same conditions apply with the difference that such interoperability is limited to the SEETO Participants Croatia, Bosnia and Herzegovina, Kosovo (under UNSCR 1244/1999), former Yugoslav Republic of Macedonia, Montenegro and Serbia.

STEP 2:

Gradual mutual acceptance of Diesel and electric traction between Hungary, Bulgaria and the SEETO Participants since their electric traction systems and safety systems are the same.

STEP 3:

Mutual acceptance of the newer traction material, after 1992, in particular multifunctional and multi-current electric tractions as they have been used in the test run between Ljubljana and Halkali (Turkey) in March 2009.

STEP 4:

Total mutual acceptance of the electric and Diesel traction of the SEETO Participants with their neighbouring EU member states Bulgaria, Greece, Hungary and Slovenia.

It is the opinion of the Consultant that such acceptance; in particular, STEP 1 and STEP 2 could be achieved in a short period of time.

This proposal should be seen in connection with the harmonisation of train driver training and later with the mutual acceptance of train driver licences as required in the 2nd railway package of the EU.

Such measures therefore are first steps towards EU compliance and integration.

4.5.2 Proposals concerning the transfer of rolling stock (freight)

The CUU/AVV came into force on 1st July 2006. The CUU/AVV replaces:

- the RIV applicable for freight wagons mostly of state railways with its technical part and
- the UIC leaflet 433 and Annex 2 of CIM, the so called RIP, rules for private wagons

Its main pillars are:

- All **keeper of wagons** and all RUs can become members
- The members are free to conclude contracts on how to use the wagons in bilateral or multilateral transport
- Exclusion of members from such contracts if they do not fulfil the obligations

Technical principles are:

- Before being put into service, the wagon must be approved by the competent regulatory authority (homologation).
- The keeper is responsible for the maintenance of his wagons.
- The wagons must have the inscriptions and the signs to be easily identified.
- Only wagons in good technical status could be incorporate into trains and exchanged among Railway Undertakings (RU).
- Acceptance of wagons which endanger safety can be refused.

Operational principles are:

- The keeper of the wagon is the **exclusive master**
- The keeper is the only person that can give instructions about how to use his wagons

- The wagons must be hauled in the time frame agreed with the RU (the RU is not any longer master of the operation of the wagon!)
- Operational non-compliance leads to claims for compensation
- Empty wagons are returned with a wagon note (instruction similar to the CIM consignment note)
- The RU must supply the keeper with the necessary information concerning the operational status and maintenance status

Liability principles are:

- The **user RU** is responsible for any damage, loss or accident on the wagon unless it proves the contrary or proves that it is the responsibility of the keeper
- The keeper is responsible for any damage if the liability can be proved
- The keeper must take the civil liability insurance (insurance against damages caused by his wagon)
- A RU can propose to cover the keeper in his civil liability insurance

Based on the above principles of CUU/AVV, the Consultant proposes a framework contract for mutual acceptance based on CUU/AVV regulations which is presented in **Annex 3**.

Its principal two pillars are:

Pillar 1: General Contract for the use of wagons (GCU, CUU, AVV)

“Preamble

*The **Agreement** is based on the General Contract of the use for wagons - hereinafter CUU -, and the leaflet of the International Union of Railways, - hereinafter UIC Leaflet 471-2 VE - “Technical conditions governing the exchange of freight wagons between railway undertakings”*

Pillar 2: Transfer of wagons from one railway undertaking to the other without technical transfer inspection

“Scope of application and object

*The **Agreement** is valid for technical transfer inspections of freight wagons which are exchanged between two railway undertakings – herein after called RU - whenever the railway undertaking that formed the train hands over the train to the receiving railway undertaking and the receiving railway undertaking accepts the train with its wagons without carrying out the technical transfer inspection at the point of exchange. The **Agreement** is valid for all exchanged trains with the exception of the limitations according to **Point 3.4 and Point 3.7 (Paragraph 2).**”*

4.6. Infrastructure interconnection

The Consultant proposes an agreement on the interconnection on rail infrastructure networks between IMs, which is presented in **Annex 4**.

The agreement is a subsequent bi-lateral agreement resulting from the framework border crossing agreement on Border Dispatching for Rail Transport in the SEETO Participants and with the neighbouring countries of the European Union.

Its objective is to improve international rail transport between the railway networks of two neighbouring states.

The legal basis is European Directives 91/440 ECC, 2001/14/EC and 2001/16 EC as are in force.

The agreement contains the framework conditions for the interconnection of rail infrastructure between the contracting parties for their border crossings.

Whenever specific rules and regulations are required in order to regulate particular local and operational matters, the Parties shall conclude specific agreements.

The **legal pillar** of this agreement, concerning mutual acceptance of rolling material can be found in its Article 7.

“Article 7 – Mutual acceptance of rolling material

*7.1 The **Parties** agree to accept any technical inspections or checks on rolling material carried out by the other **Party** in the sense of mutual confidence in order to speed up the border dispatching procedures in the ZONE. Such mutual acceptance of rolling material may not be limited to the ZONE.*

7.2 The rolling material is meant to be any type of wagon, car, traction and other material on rail wheels.

7.3 The mutual acceptance shall, in particular, be applied to passenger trains, container trains and other trains the wagon and car composition of which does not change.

*7.4 One **Party** may also carry out the technical inspection of rolling material in one of its hinterland terminals. In this case, the other **Party** shall notify which rolling material or trains it accepts.*

*7.5 The **Parties** agree to accept agreements on mutual acceptance of technical inspections or checks on rolling material, concluded by railway undertakings after due and joint consideration, in a non-discriminatory and fairest manner. In case of disagreement on the acceptance of such an agreement, the **Parties** shall call upon the Border Commission or the competent regulatory authority for final decision.*

*7.6 If one **Party** does not deem it necessary to carry out the technical inspections or checks on rolling material in the ZONE, the **Party** shall notify the other **Party**. The **Parties** shall decide on how to proceed in the mutual acceptance of the rolling material and, if necessary, shall conclude the respective agreements of mutual acceptance with the railway undertakings.”*

Other important **pillars** are:

1. the maintenance of infrastructure in the zone (Article 9)
2. measures in case of incidents (Article 8)
3. use of deployment of personnel in the zone, in particular, on the territory of the neighbouring country

4. questions of liability and arbitration (Article 10 and 15)

4.7. Mutual acceptance of driver training and certificates

The Consultant proposes a “**Regional Agreement**” which can be found in **Annex 5**.

The Regional Agreement is based on the **EU Directive 2007/59/EC** when it comes to minimum requirements for training of train drivers and the examination.

It deals with the mutual acceptance of training methods, training programmes and training certificates of the SEETO participants.

Its basic pillar is the **mutual recognition of train driver training certificates**.

- As a consequence, a common procedure can be established for authorisation of train driver training and training certificates
- SEETO Participants could ensure that their RUs and those of their neighbouring countries have fair and non-discriminatory access to training facilities for train drivers.
- If the training facilities are available only through the services of one single RU, usually the incumbent state railway undertaking, SEETO Participants shall ensure that they are made available to other RUs, so-called new entrants and neighbouring railway industries that do not dispose of their own facilities, at a reasonable and non-discriminatory price, which is cost-related and may include a profit margin.
- The training offered must include training on necessary route knowledge, operating rules and procedures, the signalling and control command system and emergency procedures applied on the routes operated.
- If the offered training services do not include examinations and granting of certificates, SEETO Participants could ensure that RUs have access to such certification if it is a requirement of the safety certificate.
- In every case, each RU and each IM shall be responsible for the level of training and qualifications of its drivers carrying out safety-related work as set out in the national safety instructions of their original training.
- Since most of the SEETO Participants still rely on or base their safety instructions, to a large extent, on the ex-Yugoslav safety regulations or are about to gradually transpose EU rules, this might not be a major obstacle to a common training standard.

The most important components of the Regional Agreement for driver training are:

- the minimum age for train drivers,
- criteria related to the medical and psychological fitness of candidates,
- the professional experience and knowledge in a number of fields related to train driving, as well as their knowledge of the infrastructure on which they will have to operate,
- harmonised training programme.

The proposal concentrates on the following topics:

- mutual recognition of train driver programmes and certificates,
- free and non-discriminatory access of train drivers of the SEETO Participants to any train driver training facility of the SEETO Participants.

It is necessary that the SEETO Participants accept such minimum requirements and principals as a first step to harmonise their training programmes and in a second step to create a Regional train driver licence.

In this respect, there will be no major transposition challenges once the SEETO Participants become members of the EU since the Regional Agreement is already in compliance with EU Directives in its sections on train driver training.

4.8. Border Police Agreement (BPA)

The present agreement is a subsequent agreement to the BCA.

Members of the border police of the contracting parties are allowed to execute their national functions in the Zone.

The border police of the contracting parties are allowed, to transport in the Zone, persons that are under their custody as long as such persons are not:

- nationals of the neighbouring country or there is a likelihood that they could be nationals of the neighbouring country or there might be the likelihood that they might become nationals of the neighbouring country,
- persons that have committed a crime under the penal code of the country but their action is considered a political action or could be seen in this context as such a political action and are therefore persecuted whereby attempted crimes or executed crimes against humanity, murder, or the participation at such actions are not considered as such penal actions.

The details of the BPA can be found in the **Project Result 7** on "Passenger control on moving trains" and in **Annex 6**.

5. Implementation of Proposed Agreements with the Help of the Regional Plan

The following approaches have been used for implementing the proposed agreements with the support of the Regional plan.

5.1 Market oriented/corridor approach

Various approaches can be used in the Region.

The approach that comes first to one's mind is the "country approach" based on the principle of sovereignty of each SEETO participant. In this way, the agreements proposed in Chapter 4 could be implemented in a classical bilateral way between two SEETO participants.

However, the Consultant proposes the market-oriented or corridor-oriented approach which relies on the two main corridors V and X and the routes 2, 4 and 10.

With the corridor approach, the Consultant wishes to initiate a certain "pressure" which comes from the market requirements. The market requirements are quite clear in the Region. The major flows are concentrated on the five corridors/routes. Approximately 75% of the international, bi- or multi-lateral traffic flows take place on the Corridors V and X.



Picture 4: Major corridors in SEETO Participants

A further case for the corridor approach is the present **lobbying structure**. In the Region exists a corridor-oriented lobbying structure with various corridor working groups for Corridors V and X. It is usually led by stakeholders of EU member states.

Furthermore, international financial institutions such as the World Bank and the "state" banks of the European Union provide financial support on a corridor basis.

Finally, important international rail products are tested on the corridors, in particular, in freight, between Austria/Germany/Slovenia and Greece/Turkey.

Lastly the multi-annual plan of SEETO in the railway sector is also organised according to corridors and routes. The proposed activities of the MAP are based on the corridor concept.

5.2 Implementation approach

A major feature of Regional plan is the question of competence in the sense of: "who is responsible for the initiative".

Like in any international "game", it is necessary to have a "player" who volunteers to carry out the initiative.

In the draft Regional plan, the Consultant has taken the freedom to unilaterally propose an initiator of the activities as a point of departure. Since the draft Regional plan will be discussed in the 4th Railway Reform Workshop on border crossing at the end of September, the Participants are free to pass a final decision on the initiator. The decision by the attendants of the Workshop shall in turn be endorsed by the Railway Working Group, which will also meet in 4th week of September, before the draft Regional plan shall be presented to the Steering and other Committee Meeting at SEETO level.

5.3 Activity approach

The 4 sections of the activities have already been presented in Chapter 1.

The major challenge will be the time component. It is a fact that time schedules of most draft plans proposed by Consultants have rarely been implemented within the proposed time frame. Moreover, the time schedules have always been far too short.

To conclude the first "modern" border crossing agreement in the South-Eastern European Region, between Bulgaria and Serbia, took almost 4 years. It was initiated by the Bulgarian side in 2001 and finally signed on the 15.4.2005 by the two Ministers of Transport. The implementation phase after the signature took another two years.

However, the second "modern" border crossing agreement between Serbia and Montenegro only took 1 year since the contracting parties had learned from the experiences of the first negotiation between Bulgaria and Serbia.

Therefore, the Consultant refrains from making any detailed time schedules since they are rarely being followed.

However, there is a certain time limit which is imposed by the Ministers of Transport during the 4th Annual Meeting of ministers on the Development of the South East Europe Core Regional Transport Network on December 4th, 2008 at Becici (Montenegro) and with the accession to the European Union, at least for Croatia. The time frame set in that meeting is 2010.

For this reason, at least the border crossing agreements and the sub-subsequent agreements concerning border authorities such as police and customs might be under a certain time pressure since the situation will change with the entry into the European Union.

The **derogation period** for adaptation of the new member state to the EU rules might last between two and 10 years. In the past, this has been the case in the transport sector with Greece, Ireland, Channel Tunnel, Bulgaria and Romania in the field of railways.

Moreover, some SEETO participants might not become members of the European Union in the next five to ten years. For them time pressure might be less important.

Thanks to the market-oriented corridor approach, the Consultant thinks that for purely market-oriented and commercial reasons, even those candidates will keep in step with the SEETO participants that might accede earlier.

In order to facilitate the implementation of the proposed agreements, they have been designed in a way that they can be used:

- Bilaterally,
- Multilaterally, country specific or Corridor/Route specific,
- Regionally (multilateral form restricted to the SEETO Participants).

The design of the proposed agreements has been multifunctional since the SEETO Participants have different approaches towards bilateralism, multilateralism and Regionalism. This is true, in particular for those countries that are close to finalising the adherence negotiation to the European Union.

6. The Regional Plan to Improve Regional Operations

6.1 Bases of the Regional Plan

The Addendum to the Memorandum of Understanding on the Development of the South East Europe Core Regional Transport Network for a South East European Railway Transport Area, sets out the major objectives and measures concerning border crossing.

Objectives:

To establish and implement the legal and institutional framework for a gradual market-opening of rail transport in South East Europe, named South East European Railway Transport Area, based on gradual achievement on the following targets:

Target 5: Facilitate border crossing

To reduce delays at borders involving all actors (mainly the railways, but also the various public authorities); to revise bilateral border-crossing agreements, bringing them into line with Community legislation, and learning from good examples. To remove discriminatory practice with regard to foreign or new-entrant railway undertakings.

Measures to be implemented: 2.5 Border crossing

The existing bilateral border-crossing agreements will be brought into line with the requirements of Community law by applying best practice. To that effect, the Regional Participants are ready to establish bilateral groups involving the different experts from both sides of the border with a view to streamlining and shortening border-crossing procedures. They will encourage railways to streamline the handover of trains on borders based on mutual trust.

The 4th Annual Meeting of Ministers on the Development of the South East Europe Core Regional Transport Network on December 4, 2008, in Becici mentioned, for the first time, in the conclusions a "Summary Time Table". The "Summary Time Table" for Measure 2.5 has been taken as a guideline for the time schedule presented in the proposed Regional Plan.

Table. 1.1 Excerpt of the summary time table of Addendum Items to be implemented by SEETO Participants related to implementing the BC

Measures	Albania	Bosnia and Herzegovina	Croatia	the former Yugoslav Republic of Macedonia	Montenegro	Serbia	Kosovo (under UNSCR 1244/99)	Region
Addendum item 2.5: Border Crossing	NA	2009	-	Jun-09	Dec-08	2010	Jun-09	2010

Source: Annual Ministerial Meeting, December 4, 2008, Becici, Montenegro

6.2 Implementation steps of the Regional Plan

The components of the draft Regional plan centres on the proposed agreements presented in Chapter 4:

- Framework Border-Crossing Agreement (BCA)
- Framework Border Police Agreement (BPA)
- Agreement between Infrastructure Managers on the Interconnection of Networks
- Agreement among Railway Undertakings concerning the Transfer of Wagons
- Regional Agreement for the Mutual Recognition of Training Certificates

In order to implement the draft Regional activity plan, the Consultant proposes the following **implementation steps** which may be changed at the 4th Railway Reform Workshop in September 2009 or at any other official meeting in the realm of the SEETO activities:

- **Step 1:** To be initiated by the competent stakeholder or even stakeholders of at least 2 SEETO Participants.
- **Step 2:** First draft presented by the initiating party from Step 1
- **Step 3:** Negotiations opened either bilaterally or multilaterally, depending on the intentions of the initiating parties (and their joint commissions)
- **Step 4:** Negotiations finished, draft approved by the competent joint commission
- **Step 5:** Ready for signature. The last step might sometimes be a rather lengthy activity, since in some countries, it is the task of the parliaments to decide, in others the Prime Minister and/or the Governments.

The draft Regional activity plan is presented in a tabular form.

For easier reading, the Consultant has used the abbreviations that are listed in the acronyms.

Table 6.2. Regional Activity Plan for Corridor X

Action		Corridor X				Corridor Xb	Corridor Xc
		SLO – CRO	CRO – SER	SER – MK	MK – GRE	HU – SER	SER – BUL
Framework border agreement	Who is the initiator of the process?	CRO	CRO	MK	MK	HU initiated process	SER
	Collaboration with whom?	SLO	SER	SER	GRE	SER	BUL
Stakeholder s: MoT, MoF, MoIA, MoFA	Till when?	6/2010	6/2010	3/2010	6/2010	3/2010	6/2010
	First draft	9/2010	9/2010	6/2010	9/2010	6/2010	9/2010
	Negotiation opened	3/2011	3/2011	12/2010	3/2011	12/2010	3/2011
	Negotiation finished Ready for signature	6/2011	6/2011	3/2011	6/2011	3/2011	6/2011
Framework border police agreement	Which relevant ministry is the initiator?	CRO (MoIA)	CRO (MoIA)	MK (MoIA)	MK (MoIA)	SER (MoIA)	SER (MoIA)
	Collaboration with whom?	SLO	SER	SER	GRE	HU	BUL
Stakeholder s: MoIA	Till when?	6/2010	6/2010	3/2010	6/2010	3/2010	6/2010
	First draft	9/2010	9/2010	6/2010	9/2010	6/2010	9/2010
	Negotiation opened	3/2011	3/2011	12/2010	3/2011	12/2010	3/2011
	Negotiation finished Ready for signature	6/2011	6/2011	3/2011	6/2011	3/2011	6/2011

Table 6.3. Regional Activity Plan for Corridor V

Action		Corridor Vb	Corridor Vc		
		HU-CRO	HU-CRO	CRO-BIH	BIH-CRO
Framework border agreement	Who is the initiator of the process?	HU initiated process ¹	HU initiated process ²	CRO	CRO
	Collaboration with whom?	CRO	CRO	BIH	BIH
Stakeholders: MoT, MoF, MoIA, MoFA	Till when?				
	First draft	6/2010	6/2010	6/2010	6/2010
	Negotiation opened	9/2010	9/2010	9/2010	9/2010
	Negotiation finished	3/2011	3/2011	3/2011	3/2011
	Ready for signature	6/2011	6/2011	6/2011	6/2011
Framework border police agreement	Which relevant ministry is the initiator?	CRO (MoIA)	HU (MoIA)	BiH (MoIA)	BiH (MoIA)
	Collaboration with whom?	HU	CRO	CRO	CRO
Stakeholders: MoIA	Till when?				
	First draft	6/2010	6/2010	6/2010	6/2010
	Negotiation opened	9/2010	9/2010	9/2010	9/2010
	Negotiation finished	3/2011	3/2011	3/2011	3/2011
	Ready for signature	6/2011	6/2011	6/2011	6/2011

Table 6.4. Regional Activity Plan for Routes 2, 4, 10

Action		Route 2	Route 4	Route 10	
		MNE-ALB	SER-MNE	SER-KOS	KOS - MK
Framework border agreement	Who is the initiator of the process?	ALB	MNE	?	MK
	Collaboration with whom?	MNE	SER	?	KOS
Stakeholders: MoT, MoF, MoIA, MoFA	Till when?				
	First draft	3/2010	9/2010		1/2010
	Negotiation opened	6/2010	12/2010		2/2010
	Negotiation finished	12/2010	6/2011		3/2010
	Ready for signature	3/2011	9/2011		5/2010
Framework border police agreement	Which relevant ministry is the initiator?	ALB	MNE	?	MK
	Collaboration with whom?	MNE	SER	?	KOS
Stakeholders: MoIA	Till when?				
	First draft	3/2010	9/2010		1/2010
	Negotiation opened	6/2010	12/2010		2/2010
	Negotiation finished	12/2010	6/2011		3/2010
	Ready for signature	3/2011	9/2011		5/2010

¹ Information received from Hungarian Ministry of Transport, Telecommunication and Energy² Information received from Hungarian Ministry of Transport, Telecommunication and Energy

Table 6.5. Regional Activity Plan for Interconnection and Transfer of wagons- Corridor X

Action		Corridor X				Corridor Xb	Corridor Xc
		SLO – CRO	CRO – SER	SER – MK	MK - GRE	HU – SER	SER – BUL
Agreement between infrastructure managers on the interconnection of networks Stakeholders: IMs	Who is responsible?	HZ Infra	HZ Infra	ZS	MZ Infra	ZS	ZS
	Interested parties	SZ (ZS, MZ Infra)	ZS (MZ Infra, SZ)	MZ Infra (HZ Infra)	EDISY (ZS)	MAV Infra	NRIC
	Till when?	6 months after the signing of BCA	6 months after the signing of BCA	6 months after the signing of BCA	6 months after the signing of BCA	6 months after the signing of BCA	6 months after the signing of BCA
Agreement among RUs concerning the transfer of wagons Stakeholders: RUs	Who is responsible?	HZ Cargo	HZ Cargo	ZS	MZ Cargo	ZS	ZS
	Collaboration with whom?	SZ (ZS, MZ Operations)	ZS (MZ Operations)	MZ Operations	TRAINOSE (ZS)	MAV Operations	BDZ
	Till when?	6/2010	6/2010	6/2010	6/2010	6/2010	6/2010

Table 6.6. Regional Activity Plan for Interconnection and Transfer of wagons - Corridor V

Action		Corridor Vb	Corridor Vc		
		HU-CRO HZ Infra	HU-CRO HZ Infra	CRO-BIH HZ Infra	BIH-CRO HR Infra
Agreement between infrastructure managers on the interconnection of networks Stakeholders: IMs	Who is responsible?	HU-CRO HZ Infra	HU-CRO HZ Infra	CRO-BIH HZ Infra	BIH-CRO HR Infra
	Collaboration with whom?	MAV AG (ZFBiH, ZRS)	MAV AG (ZFBiH, ZRS)	ZFBiH, ZRS (MAV AG)	ZFBiH, ZRS (MAV AG)
	Till when?	6 months after the signing of BCA	6 months after the signing of BCA	6 months after the signing of BCA	6 months after the signing of BCA
Agreement among RUs concerning the transfer of wagons Stakeholders: RUs	Who is responsible?	HZ Cargo	HZ Cargo	HZ Cargo	HZ Cargo
	Collaboration with whom?	MAV Cargo (ZFBiH, ZRS)	MAV Cargo (ZFBiH, ZRS)	ZFBiH, ZRS (MAV Cargo)	ZFBiH, ZRS (MAV Cargo)
	Till when?	6/2010	6/2010	6/2010	6/2010

Table 6.7. Regional Activity Plan for Interconnection and Transfer of wagons - Routes 2, 4, 10

Action		Route 2	Route 4	Route 10	
		MNE-ALB	SER-MNE	SER-KOS	KOS -MK
Agreement between infrastructure managers on the interconnection of networks Stakeholders: IMs	Who is responsible?	MNE Infra	ZS	?	MZ Infra
	Collaboration with whom?	HSH	MNE Infra	?	KR (Infrakos)
	Till when?	6 months after the signing of BCA	6 months after the signing of BCA	6 months after the signing of BCA	6 months after the signing of BCA
Agreement among RUs concerning the transfer of wagons Stakeholders: RUs	Who is responsible?	MNE CARGO	ZS	ZS	MZ Operations
	Collaboration with whom?	HSH	MNE CARGO	KR (Trainkos)	KR (Trainkos)
	Till when?	6/2010	6/2010	6/2010	6/2010

Table 6.8. Regional Agreement for Train Driver Training

Action		ALB	BIH	CRO	MK	MNE	SER	KOS
Regional agreement for the mutual recognition of training certificates Stakeholders: RUs, IMs	Who is the initiator?	Steering Committee (SC)	SC	SC	SC	SC	SC	SC
	Collaboration with whom?	SEETO Participants	SEETO Participants	SEETO Participants	SEETO Participants	SEETO Participants	SEETO Participants	SEETO Participants
	Till when?	6/2010	6/2010	6/2010	6/2010	6/2010	6/2010	6/2010

7. Conclusions

7.1. Conclusions for the proposed border crossing agreements (BCA and BPA)

The Consultant believes that the proposed border crossing agreements are fundamental to the SEETO Participants if they wish to:

- improve the competitiveness of their international rail traffic,
- simplify border crossing for their citizens and shippers using rail
- join the European Union.

The most challenging part will be the joint border control of the border authorities, in particular, the border police and customs, when they are forced to execute their duties on the territory of the neighbouring state.

However, first attempts already exist that prove that it is possible and feasible in the SEETO Participants as can be seen on the Hungarian – Croatian and Serbian – Bulgarian border crossing points.

7.2. Conclusions for the proposed agreements on interconnection and wagon acceptance

The Consultant believes that the proposed agreements are a novelty for the SEETO Participants although they are the logical consequence from joining the CUU/AVV and separating infrastructure from operations.

Similar to already existing agreements on some important Western European corridors, they will have a market-oriented integration effect since such agreements:

- Reduce waiting times at the borders,
- Abolish the “empty wagon tourism” with the SEETO Participants,
- Force the wagon keepers to operate their rolling stock with the SEETO Participants in a customer-oriented way,
- Increase the return on capital of the wagons.

7.3. Conclusions for Regional agreement for driver training

Mutual recognition of driver training certificates is the first step towards harmonising the railway sector in SEETO Participants, since it opens the door for the free migration of highly qualified railway personnel in the SEETO Participants.

The Consultant proposes the SEETO Secretariat to initiate the negotiation on the Regional Agreement for driver training.

It shall be the starting point towards the harmonisation of SEETO train driver licence, which will ensure that train drivers of the Region will be able to operate traction and trains on the different networks of the SEETO Participants.

7.4. Conclusions for control on moving trains

With the application of the BCA and the subsequent BPA, it will, in the future, not be necessary to stop passenger trains simply for border control reasons since all formalities could be done on the moving trains.

This activity would be very customer-oriented and allow the RUs to have the following competitive advantages with the respect to their major competitors bus and air:

- No necessity to have controls in standing trains.
- No necessity to have controls before boarding as it is the case for air and bus.

7.5. Conclusion for the draft Regional Plan

First implementation results give hope for a successful implementation of the Regional Plan.

So far, the proposed agreements have been well received among the SEETO Participants:

- They are known to the national coordinators and to a wide variety of competent experts among the railway undertakings of the SEETO Participants.
- They have been presented and discussed in the 9th Railway Working Group of SEETO in May 2009.
- They have been intensively discussed in the 2nd Railway Reform Workshop in Zagreb in May 2009.
- They have also been presented to the EU member states Slovenia and Hungary.
- They have been discussed in individual meetings with the MoT and railway companies in SEETO Participants.
- The BCA have been taken as a negotiation basis for a new BCA between the former Yugoslav Republic of Macedonia and Kosovo (under UNSCR 1244/1999).
- The BCA and the BCP are under consideration in the competent Albanian ministries to reach an inter-ministerial "agreement in principle" in order to open negotiations with Montenegro,
- The BCA and BPA are under consideration with the Hungarian ministry for the on-going negotiations with Serbia,
- Croatian and Slovenian police are considering joint passenger control on moving trains as proposed in the Project Report No.7
- The Interconnection agreement between IMs has been considered by HZ Infrastruktura which, in turn, has sent it to ZS for consideration.

The proposed Regional Plan shall enforce the already existing implementation efforts of the SEETO Participants and provide them with a guideline which respects the time frame of the Conclusion of the Annual Ministerial Meeting held in December 2008 in Becici.

The proposed Regional Plan was intensively discussed in the:

- 4th Railway Reform Workshop in the 4th week of September 2009 and
- 10th Railway Working Group in the 4th week of September 2009.

Annex 1

Structure of a bilateral agreement for border crossing points

(including the legal bases of the European Union)

Final Version (Version 4)

Structure of the Framework Border Agreement (for all border crossings)

A: Structure, contents and legal basis of the European Union of the Border Crossing Agreement

Note No1: the legal bases are

- *the" Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Consolidated version of the Treaty on European Union - Consolidated version of the Treaty on the Functioning of the European Union - Protocols - Annexes - Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon. Official Journal (2008/C 115/01) – the Treaty of Lisbon and*
- *the "Consolidated Versions of the Treaty on European Union and of the Treaty establishing the European Community (Treaty of Nice)" as published in the Official Journal of the European Union C321 E/1, dated 29.12.2006.*

Note No.2: the legal basis in the paper refers to the articles of the Treaty of Lisbon only unless mentioned otherwise. The articles in parenthesis refer to the Treaty of Nice

1. Scope of agreement

- **valid for individual border crossings or for all border crossings between two states,**
- **Framework Border Crossing Agreement which can be adapted to special situations of each border crossing point.**

*Legal basis: Art. 3.2 Preamble (Art. 2 "Objectives" 1st and 4th hyphen, Preamble Nice)
"The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime."*

2. Objective of the Agreement

- **contribute to increasing the competitiveness of the two neighbouring states in the present and future markets of the European Union,**
- **contribute to increasing the competitiveness of the railway sector on the respective corridors (routes),**
- **comply with the EU Treaty:**

Most important legal bases concerning border crossing:

Art. 26.2 (Art. 14.2 TEC) = "The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties."

Art. 33 (Art. 135 TEC) "Within the scope of application of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall take measures in order to strengthen customs cooperation between Member States and between the latter and the Commission.

Art. 58.1 (Art.51.1 TEC) "Freedom to provide services in the field of transport shall be governed by the provisions of the Title relating to transport."

*Art. 90 (Art.70 TEC) "**Common transport policy**" and implemented by measures according to Art. 91.1 (Art. 71.1 TEC) in particular:*

"(a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;

(b) the conditions under which non-resident carriers may operate transport services within a Member State;

(c) measures to improve transport safety;

(d) any other appropriate provisions."

Art 97 (Art. 77 TEC) "Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account.

Member States shall endeavour to reduce these costs progressively.

The Commission may make recommendations to Member States for the application of this Article."

*Art. 101.1 (Art.81.1 TEC) "The following shall be prohibited as incompatible with the internal market: all agreements between **undertakings, decisions by associations of undertakings and concerted practices** which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:*

(c) share markets or sources of supply;

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts."

Art. 101.2 (Art. 81.2 TEC) Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

*Art. 170.2 (Art. 154.2 TEC) "**TRANS-EUROPEAN NETWORKS**" "Within the framework of a system of **open and competitive markets**, action by the Union shall aim at promoting the interconnection and interoperability of national networks as well as access to such networks."*

Art. 171.3 (Art. 155.3 TEC). The Union may decide to cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.

*Art. 10.3 of 2004/51/EC "**equitable conditions and access to the networks**".*

- **simplify the border procedures and reduce the waiting times at the Border Crossing Points (BCP) by:**
 - carrying out border dispatching activities of one state on the territory of the other state,

- establishing the rules for the border dispatching of one state on trains that are moving on the territory of the other state.
- **determine by means of agreement:**
 - in which stations of the one state border dispatching can be carried out by border authorities of the other state, so-called joint border stations,
 - on which sections of railway lines the border authorities of one state can carry out border dispatching on the territory of the other state, be it in stations facilities or moving trains,
 - in which zones the border authorities of one state can carry out border dispatching on the territory of the other state, be it in stations facilities or moving trains.

Legal basis, in particular, for actions of the border authorities:

Article 77.1 (Art. 66.1) "The Union shall develop a policy with a view to:

(b) carrying out checks on persons and efficient monitoring of the crossing of external borders;

(c) the gradual introduction of an integrated management system for external borders."

Art. 77.2 (Art. 66.2 TEC). "For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:

(d) any measure necessary for the gradual establishment of an integrated management system for external borders;

Art. 77.4 (Art. 62.4 TEC) "This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law."

Art. 82.1 (Art. 31.1 TEU) "Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article 83."

Art. 87.1 (Art. 30 TEU) "The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences."

Art. 87.3 (Art. 30 TEU) "The Council, acting in accordance with a special legislative procedure, may establish measures concerning operational cooperation between the authorities....."

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

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

Legal basis: Art. 1.2 of 2001/14/EC "applies to the use of railway infrastructure for domestic and international rail services² ; Art. 10.3 of 2004/51/EC "equitable conditions and access to the networks", Art. 10.5 of 2004/51/EC "Any railway undertaking shall conclude the necessary agreements on the basis of private or public law with the infrastructure managers of the infrastructure used in conformity with 2001/14/EC (allocation of infrastructure and charging).

4. The zone

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

- The zone can comprise the fixed installations (buildings etc.) where the border authorities of the other state can carry out their functions, the tracks and lines in the defined area (for example of a freight and passenger station, warehouses inside the zone, waiting facilities for passengers),
- The zone can comprise the trains moving between the defined sections or stations during which border authorities carry out their duties (passport control, customs control, search for illegal passengers and goods).
- The above-mentioned zones can be enlarged in subsequent agreements if the situation requires it, for example: large number of passengers who cannot be cleared in the existing zone; zone for sealed trains between two customs clearance points; zone for veterinary checks,

Legal basis: There does not exist a specific legal EU basis for the zone. The zone will be defined in the border-crossing agreement.

*A specific legal basis mentioning the term ZONE is 97/78/EC, laying down the principles governing the organisation of **veterinary checks** on products entering the Community from third countries. Art.6.1 (a) stipulates that "in case of rail transport, at the first station stop designated by the competent authority". Art. 12.1 allow the entry into free zones on certain conditions mentioned in EEC 2913/92.*

5. The border dispatching in the zone

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

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

Legal basis: Art. 77 (Art. 66 TEC) et alter as mentioned above.

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

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

Legal basis: Art. 77 (Art. 62 TEC) et alter as mentioned above.

7. Status of the employees of the border authorities

- **Free access into the zone of the other state, in uniforms and armed, in order to carry out their duties. (Note: railway employees are not considered to be employees of border authorities, they belong to private enterprises even if the capital is owned by the state).**
- **In the zone are valid the laws and regulations of the other state concerning its employees.**
- **The employees of the other state need special identification cards to act in the zone.**

- **If an employee of the other state is killed or injured, loses goods which he carries with him (arms, uniforms etc.) during the execution of his functions, the laws and regulations of the other state apply.**

Legal basis: Free movement of persons as mentioned above.

8. Border dispatching points

- **On trains, the rail undertakings offer reserved compartments free of charge for the employees of the border authorities while they are carrying out their functions.**
- **Concerning the space and rooms assigned to the border authorities of the other state, the respective border authorities conclude the respective agreement detailing the rent and compensation for other services (means of communication such as telephone, mail, internet etc.).**
- **No customs formalities for the employees**

9. Service principles in the Zone

- **Single window principle (Guichet unique) for freight customs**
- **Passenger Control on the moving trains**
- **The one-stop-shop for the use of rail infrastructure in the zone is based on a separate agreement between the Infrastructure Managers (the border crossing network statement). (Legal basis: Art. 4.3 3rd + 4th sentences of 2001/14/EC)**

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

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

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

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

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

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

Legal basis: Art. 10.5 of 2004/51/EC

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

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

Legal basis: Art. 77 (Art. 62 TEC) et alter as mentioned above.

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

- **network admission procedures of the two infrastructure managers for railway undertakings,**
- **one-stop-shop procedures,**
- **path allocation,**
- **infrastructure fee and invoicing.**

Legal Basis: 2001/14/EC, Art. 4.3, infrastructure charges: 1st sentence “.....cooperate to achieve efficient operation of train services which cross more than one infrastructure network”; third + fourth sentences “ establish such joint organisations as are appropriate....”; Art. 14.1 3rd sentence “non-discriminatory allocation”; Art. 15.1. 1st sentence “cooperate to enable efficient creation and allocation of infrastructure capacity which crosses more than one network”; Art. 15.3 + 15.4 are the legal basis for one-stop-shop; Art. 3 is the basis for Network Statements.

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

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

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

- non-discriminatory access for rail undertakings. (Note: The task should rather be carried out by the national railway regulator),
- arbitration between infrastructure managers and rail undertakings. (Note: The task should rather be carried out by the national railway regulator). *Legal basis: 2004/14/EC, Art. 30 for questions of discriminations and Art. 31 for cooperation among regulatory bodies,*
- arbitration between rail undertakings and the border authorities,
- problems arising from the cooperation of the border authorities in the zone,
- improvement of services,

17.Freedom of choice of language

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

Legal basis: Art. 3.3Preamble “It shall respect its rich cultural and linguistic diversity”.

18.Agreement to publish all border crossing requirements by website

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

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

B: Definition of the Terms included in the Border Agreement in accordance with EU Directives, in particular, 91/440/EEC as in force and 2001/14/EC as in force:

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

- Border Station
- C: Further border agreements to be signed (= subsequent agreements)**
- Border Network Statement agreed between the neighbouring infrastructure managers, which will be a common Annex to the Network Statement of the two neighbouring infrastructure managers
 - Bilateral Customs Agreements in particular, activities on the neighbouring country's territory
 - **Bilateral Border Police Agreements, in particular, activities on the neighbouring country's territory (see separate proposal)**
 - Bilateral Phyto-sanitary Agreements
 - Bilateral Sanitary Agreements
 - Other bilateral agreements between border authorities, if necessary
 - **Agreement between the Infrastructure Managers on the interconnection of networks(see separate proposal)**
 - **Agreement among Railway Undertakings on the mutual acceptance of wagon control in the realm of CUU (see separate proposal)**

Annex 2

FRAMEWORK AGREEMENT

Final Version (Version 10)

between

the Government of

and

the Government of

.....

On

Border Dispatching for Rail Transport in the SEETO Region and with the neighbouring countries of the European Union

The Government of the Republic of and the Republic of, (hereinafter referred to as Contracting Parties), having the intention to establish a Framework Agreement setting out the principles of an open access border crossing among themselves and with the neighbouring member states of the European Union by adapting their existing Border Crossing Agreements to the new market requirements with the aim of increasing the competitiveness of the rail services in the Region, have adopted the following Framework Agreement which shall be the basis, in structure and contents of all bilateral border crossing agreements, hereinafter called "Agreement" or "Agreements":

Article 1 Definitions

For the purpose of the Agreements the following definitions are applied:

1. **"Border dispatching"** the implementation of all rules and regulations of the Contracting Parties and the railway bodies which are applied for the border crossing of persons as well as the import, export and transit of goods;
2. **"Border Network Statement"** means the statement which sets out in detail the general rules, deadlines, procedures and criteria concerning the charging and capacity allocation schemes of the infrastructure in the **ZONE**. It shall also contain such other information as is required to enable application for infrastructure capacity. It may be part of the Network Statements of the infrastructure managers of the Contracting Parties
3. **"Border Railway Line"** border line between the infrastructure networks of the Contracting Parties
4. **"Border Section"** the part of the network between the border station and the border railway line of the Contracting Parties.
5. **"Border Station"** a railway station in the **ZONE**,
6. **"Domestic State"** the territory of the State of the Contracting Party, where the border dispatching shall be performed by the official personnel of the other Contracting party.
7. **"Goods"** parcels, luggage, other consignments and the means of transport.
8. **"Infrastructure Manager"** any body or undertaking responsible in particular for establishing and maintaining railway infrastructure. This may also include the management of infrastructure control and safety systems. The functions of the infrastructure manager on a network or part of a network may be allocated to different bodies or undertakings. (Art. 3 of 91/440/EEC)

9. **"International Rail Service"** any freight and passenger transport service where the train crosses the border of a Contracting Parties; the train may be joined and/or split and the different sections may have different origins and destinations, provided that all wagons or cars cross the border";
10. **"Joint Border Station"** the border station in the **ZONE** where joint border dispatching is carried out
11. **"Neighbouring State"** the territory of the State of the other Contracting Party."
12. **"Network"** means the entire railway infrastructure owned and/or managed by an infrastructure manager; (Art. 3 of 2001/14/EC)
13. **"Official Personnel"** all personnel who perform, on behalf of the competent state border authorities of the Contracting Parties, the obligatory border dispatching on the territory of the domestic and neighbouring states as well as on the moving trains.
14. **"One-stop-shop (OSS)"** the joint network statement of the infrastructure managers of the Contracting Parties, who manage the infrastructure in the **ZONE**;
15. **"Railway Personnel"** all personnel who participate, on behalf of a railway undertaking or a rail infrastructure manager, in the rail border dispatching.
16. **"Railway undertaking"** any public or private organisation licensed according to applicable Community legislation, the principal business of which is to provide services for the transport of goods and/or passengers by rail with a requirement that the undertaking must ensure traction; this also includes undertakings, which provide traction only. (Art. 3 of 91/440/EEC)
17. **"Single Window"** all customs services carried out by the customs authorities of the Contracting Parties at one and the same location in the **ZONE** in order to allow to lodge customs documents;
18. **"Zone"** the part of the territory of the Domestic State, on which the official personnel of the neighbouring state is authorised to perform border dispatching.

Article 2

General Provisions, Objectives and Principles

1. It is the objective of the Agreement to simplify the border dispatching and reduce the waiting times at the Border Crossing Points by:
 - carrying out border dispatching activities of one state on the territory of the other state
 - establishing the rules for the border dispatching of one state on trains that are moving on the territory of the other state
 - by determining;
 - in which stations of the domestic state the neighbouring state can establish border dispatching points
 - in which Zones the border authorities of the neighbouring state can carry out border dispatching in stations and on the trains in both directions on the territory of the domestic state
 - the Zones
 2. The Contracting Parties guarantee the:
 - open access for rail undertakings which wish to enter into the Zone with the aim of crossing the border by means of a simplified procedure of mutual acceptance of licences, safety certificates, traction, rolling stock and driving licences for locomotive drivers,
 - non-discrimination and fair competition in respect to the open access
- ❖ acceptance of International Conventions (e.g. COTIF - CIM -/SMGS) as freight and passenger documents,

- acceptance of other internationally accepted transport documents
 - freedom of rail undertakings to organise their own rail border dispatching procedures by making agreements with the respective border authorities
 - freedom of the border authorities to conclude subsequent bilateral agreements with each other, in particular,
 - right of the border police of the neighbouring state to carry out controls on the territory of the domestic state,
 - right of the customs authorities to establish a single window service in the Zone,
 - right of phyto-sanitary, sanitary and health and any other authority appointed by either contracting party to carry out controls on the territory of the domestic state and to mutually accept the respective certificates and controls.
3. The Contracting Parties undertake steps to transfer border dispatching to hinterland terminals as far as the laws and regulations render it possible. Such border dispatching will be accepted by the same border authority at the border.
 4. The Contracting Parties agree to publish on the website all documents and procedures required by the border authorities and the infrastructure managers for a smooth border crossing.
 5. The Contracting Parties agree that their rail infrastructure managers establish a joint network statement containing ensuring:
 - non-discriminatory network admission procedures for the rail undertakings to enter the Zone,
 - one-stop-shop procedures to render easy purchasing of infrastructure services possible,
 - path allocation procedures
 - procedures on infrastructure fee and invoicing that are non-discriminatory, ensure fair competition and render easy payments possible by the rail undertakings.

Article 3

The Zone

1. The Zone is defined for each border crossing point.
2. The Zone comprises:
 - a) the premises where the border authorities of the neighbouring state can carry out their functions, the tracks and lines, freight and passenger stations, warehouses, waiting facilities for passengers, other buildings and facilities,
 - b) the trains moving between the defined sections or stations during which border authorities carry out their duties.
3. The general provisions, objectives and principles enumerated in **Article 2** are valid in the Zone
4. The following service principles are valid in the Zone:
 - the single window principle for freight customs
 - the one-stop-shop for the use of rail infrastructure in the Zone
 - passenger control on moving trains
5. In the Agreement, the Zone comprises
 - a) the border stations and,
 - b) the border sections between the two border stations,
 - c) the sections between.....and.....for passenger control on moving trains
 - d) the sections between.....and.....for moving freight trains
6. The joint border stations shall be
 -
 -

-
- 7. Each border authority of the contracting party is free to extend the Zone for their own purposes in agreement with the general provisions, objectives and principles stipulated in **Article 2**, by concluding subsequent bilateral agreements or protocols.

Article 4

Border Dispatching in the Zone

1. In the Zone, the laws and regulations of the neighbouring state are valid concerning the border crossing of persons, of goods (import, export and transit) with the following principles:
 - Persons and goods are treated with the same procedures and with the same legal consequences as if they were in the territory of the neighbouring state.
 - Actions such as police, customs or other interventions and the putting into custody of persons and goods have to be agreed in subsequent agreements between the respective authorities of the Contracting Parties.
2. In such subsequent agreements, the border authorities can also transfer their border dispatching powers to each other in order to achieve the objectives and principles stipulated in **Article 2**.
3. As long as the border authorities of the neighbouring state have not transferred border dispatching powers to each other, the border authorities of the domestic state carry out the procedures before the border authorities of the neighbouring state carry out their procedures. The same shall be valid if the official personnel of the exit state refuses performance of border control and procedures
4. Once the border dispatching procedure of the neighbouring state has started, the authorities of the domestic state have terminated their functions unless they have judicial reasons to intervene but only with agreement of the respective authorities of the neighbouring state.
5. The rights concerning political asylum and the human rights of the domestic state remain valid.
6. The personnel of the border authorities of the neighbouring state carrying out their functions shall be liable solely to their own authorities.
7. The personnel of the border authorities of the neighbouring state shall be entitled of performing arrests in the territory of the domestic state. Persons arrested shall be, without any delay, handed over to the respective authorities of the domestic state for clarification of the action. The domestic state shall then notify immediately the personnel of the respective border authority of the neighbouring state of its decision.
8. In order to facilitate a faster border control, the official personnel may negotiate the ceding of its turn of discharging duties, following the stipulations of **Article 4 Paragraph 7**. In such case the personnel of the respective authority of the entry state shall have the right to arrest a person or confiscate commodities, only when the border dispatching has been terminated. If considered appropriate by the personnel of the respective authority of the entry state, the personnel of the exit state shall be obliged to hand over the persons or the goods to the respective personnel the exit state, before the termination of the border dispatching.
9. The personnel of the Contracting Parties shall co-operate with each other.
10. The official personnel of the neighbouring state shall have the right of free transfer of financial resources and the commodities detained and confiscated in the territory of the domestic state Zone.

11. Commodities detained and confiscated during the checks performed at the exit and returned to the neighbouring country by its official personnel, shall not be subject of border inspection by the personnel of the domestic state.

Article 5

Border Dispatching on Board of Passenger Trains

1. Border dispatching shall be jointly carried out either in trains running in the Zone or stopping in the border stations by the personnel of the border authorities of the Contracting Parties.
2. External security at the border stations shall be ensured by the respective border authorities of the domestic state.

Article 6

Border Dispatching and Checking of Freight Trains

1. Border dispatching shall be performed in the Zone by the border authorities of the Contracting Parties.
2. External security in the Zone shall be ensured by the respective border authorities of the domestic state.
3. Any person found by the border authorities of the contracting parities in illegal border crossing, on board of freight trains, shall be subject to the laws of the state on the territory of which the person was found.
4. Border checking of freight trains may also be done outside the Zone in hinterland terminals in the sense of **Article 2, Paragraph 3**. In this case, the customs of the Contracting Parties shall conclude the relevant agreements or protocols which define the terminals and the respective dispatching and checking procedures.
5. **Article 14** (Border Crossing Commission) shall be applied accordingly).

Article 7

Exchange of Information

While on duty, the personnel may exchange only non-classified information. Information exchange shall be carried out on the basis of subsequent agreements concluded between the respective border authorities of the Contracting Parties.

Article 8

Status of the Official Personnel

The personnel of the border authorities have, while on duty, free access into the Zone of the neighbouring state, in uniforms and armed. The personnel of the neighbouring state receive the same protection and support as the personnel of the domestic state.

For its personnel, the laws and regulations of the neighbouring state are valid in the Zone.

Its personnel need special identification cards to act in the Zone. The issuing procedure is defined in **Article 10**.

If one of its personnel is killed or injured, loses goods which he carries with him (arms, uniforms etc.), while on duty, the laws and regulations of the neighbouring state apply.

Further details concerning duration, prolongation, withdrawal, questions on liability and insurance as well as other issues for the personnel are regulated in subsequent agreements between the respective border authorities.

Criminal acts or violations directed against the official or railway personnel of the neighbouring state on duty shall be treated in accordance with the legislation of the domestic state, under the same conditions as if occurred to the personnel of the domestic state. Further details shall be concluded in subsequent agreements.

1. Based upon an inquiry for bearing the responsibility for the activities performed by the personnel of the neighbouring state in the Zone, a subsequent Agreement shall detail the legal assistance. Upon such inquiries the official personnel, citizens of the domestic state and the neighbouring state, shall be entitled to equal rights.
2. The official and the railway personnel of the neighbouring state on duty in the Zone must wear official uniform or visible official insignia.

Article 9 Border Dispatching Facilities

1. On trains, the rail undertakings offer reserved compartments, free of charge, for the official personnel on duty.
2. Concerning the space and rooms in the Zone assigned to the border authorities of the neighbouring state, the border authorities conclude the respective agreements detailing the rent, compensation for services rendered as well as issue of liability for damage.
3. Space and rooms are to be identified by inscription and the national coat-of-arms. The inscriptions on office premises shall be written in the official languages of the Contracting Parties and any other languages, with the official language of the neighbouring state inscribed first.
4. No customs formalities for the personnel on duty are required. Material, including motor vehicles of the border authorities and of its personnel used for the execution of the duties is not subject to customs declaration and excise duties or other duties.
5. The border authorities are free to conclude the respective agreements concerning the issues mentioned in this Article in accordance with **Article 2** of this Agreement.

Article 10 Identification Card for the official and railway personnel

1. In accordance with **Article 8, Paragraph 3**, official identification cards shall be issued by the competent authorities of the Contracting Parties for the length of one year. Its term of validity and must be legalised by the competent authorities of both Contracting Parties.
2. The issuing authority shall be obliged to immediately invalidate the identification card if the respective person does not carry out any longer his duties in the Zone.
3. The issuing authority shall immediately notify the competent authority of the neighbouring state of the invalidation.
4. In order to facilitate the rail dispatching operations, the railway personnel without identification card must be registered in the Staff List. The model is shown in the **Attachment No. 1**

The persons mentioned on the Staff List shall have the right to cross the state border inside the ZONE while on duty and to stay in the territory of the state of the other Contracting Party during the performance of their duties. All the persons, whose names are on the Staff List, must possess identification cards with passport photos.

Article 11 Communication Devices

The domestic state shall grant the permission of installing communication devices for the border authorities of the neighbouring state on its territory. The installation, maintenance and operation of communication devices shall be subject of supplementary agreements between the respective institutions.

Article 12 Language

The Contracting Parties guarantee that the border authorities are free to choose which language to use, in subsequent agreements or protocols.

Article 13

Management Funds of Railway Personnel

The railway personnel shall have the right to carry the amounts collected for the rail services across the border in both directions.

Article 14

Border Crossing Commission

The Contracting Parties agree to establish an independent commission - Border Crossing Commission - the objectives of which are to ensure:

- non-discriminatory access for rail undertakings into the Zone
- an environment fostering fair competition
- arbitration between infrastructure managers and railway undertakings concerning the border network statement
- arbitration between railway undertakings using rail border facilities
- solutions of problems arising from the cooperation of the border authorities in the Zone
- improvement of border services
- solution of any other differences between the Contracting Parties resulting from the present Agreement

The activities of the Border Crossing Commission do not exclude any diplomatic intervention or solution between the Contracting Partners.

The Border Crossing Commission shall include representatives of the border authorities. They are free to invite to their meetings rail undertakings and infrastructure managers that are involved in the border dispatching.

The representatives of the Railway authorities of the Contracting Parties shall be permanent members of the Border Crossing Commission.

The Border Crossing Commission shall meet at least once a year

The rules and regulations of the work of the Border Crossing Commission shall be decided at its first meeting.

Article 15

Validity

1. This Agreement is concluded for an indefinite period. Any Contracting Party has the right to terminate it.
2. This Agreement shall be terminated 6 (six) months after the receipt of the diplomatic note by which the other Contracting Party notifies its intention to terminate the Agreement.
3. With the Agreement entering into force, the following Agreement(s)

-

shall cease its (their) validity.

Article 16

Modification of the Agreement

1. The Agreement may be subject to modification upon receipt of a formal request by one of the contracting parties.
2. Within **XX** days upon receipt, the contracting parties shall convene for the first time to deal with the request.
3. The result of the negotiations shall be reported to the Governments which shall decide upon the modification proposal.

**Article 17
Mandate**

The contracting Parties may give mandate to their competent rail bodies to conclude subsequent agreements, protocols or contracts for the purpose of improving the border crossing in the sense of Article 2.

**Article 18
Concluding Provisions**

The Agreement shall be subject to ratification and shall enter into forcedays after the Contracting Parties have informed each other by diplomatic notes that the ratification has been performed in compliance with the provisions of their national legislation.

All subsequent agreements mentioned in the present Agreement must be signed not later than **XX** days after the present Agreement has come into power.

IN WITNESS WHEREOF, the undersigned, duly authorised by their Governments, have signed this Agreement.

Signed in..... on 200X in two (2) original copies in and languages, all texts being equally authentic.

FOR THE GOVERNMENT OF

FOR THE GOVERNMENT OF

Annex 3

**Agreement
between the following railway undertakings**
RU 1
RU 2
RU 3
RU 4
RU 5
on the technical transfer inspection at borders for freight wagons
Final Version (Version 4),

Modification of the Agreement			
Number	Date	Document of notification	Article/Appendix of the Article concerned

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Attachment 0 Definitions

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Attachment 5 Communication data of the contact persons

Attachment 6 Allocation of costs resulting from damage to wagons according to Art. 22. 1 and 22.4 CUU and Appendix 12 CUU, which cannot be directly attributed to the RU or more than one RUs

Preamble

In order to speed up the international freight traffic, the railway undertakings..... have signed the following **Agreement**.

The **Agreement** is based on the General Contract of the use for wagons - hereinafter CUU - , and the leaflet of the International Union of Railways, - hereinafter UIC Leaflet 471-2 VE - "Technical conditions governing the exchange of freight wagons between railway undertakings"

Scope of application and object

The **Agreement** is valid for technical transfer inspections of freight wagons which are exchanged between two railway undertakings – herein after called RU - whenever the railway undertaking that formed the train hands over the train to the receiving railway undertaking and the receiving railway undertaking accepts the train with its wagons without carrying out the technical transfer inspection at the point of exchange. The **Agreement** is valid for all exchanged trains with the exception of the limitations according to **Point 3.4 and Point 3.7 (Paragraph 2)**.

Basic obligations

The freight wagons handed over in the technical status stipulated in:

- Appendix 9 of CUU “Conditions for the technical transfer inspection of wagons” as in force
- Appendix 11 of CUU “Inscriptions and signs on wagons” as in force
- The respective UIC regulations for shipment (the former RIV Appendix II)
- The RIV Appendices, in particular Appendix XII as in force in the respective networks of the railway undertakings **whenever the railway undertakings are not signatory to the CUU.**
- The respective RIV regulations as in force and applied by the respective railway undertakings

The **Contracting Parties** shall be obliged to carry out the technical transfer inspection with care and due diligence.

The **Contracting Parties** are obliged to carry out the maintenance of wagons and the re-arrangement of the loading in a manner that it is not necessary for the receiving RU to take the wagon out of the train in order to repair and reload it.

The technical transfer inspection shall be carried out by qualified employees of the **Contracting Parties** according to Appendix 9 CUU.

Rules for the organisation of the technical transfer acceptance

The RU which has formed the train is **Contracting Party**.

The RU forming the train carries out the technical transfer inspection for every train destined to be exchanged according to the rules of Appendix 9 CUU and the respective UIC loading guidelines.

The dispatching RU or the RU forming the train has a contract with a RU which is **Contracting Partner** but the dispatching RU is no **Contracting Partner**.

In this case, the receiving RU what is **Contracting Partner** shall carry out the technical transfer inspection according to the rules outlined in Appendix 9 CUU and the competent UIC rules on loading.

The dispatching RU is not a RU of this **Agreement** and has no agreement with a RU which is **Contracting Party**.

In this case, the receiving RU what is **Contracting Party** shall carry out the wagon inspection at the exchange point according to the rules outlined in Appendix 9 CUU and the competent UIC rules on loading.

The **Agreement** is not valid for trains among RUs which are **Contracting Parties**, if the train contains

- extraordinary consignments
- has wagons with specific consignments which have been excluded from the mutual acceptance of transfer inspection

Such consignments or wagons shall be hauled in trains according to Appendix 1A which are trains that are subject to technical transfer inspection at the point of exchange.

Whenever trains mentioned in Appendix 1A do not contain extraordinary consignment or wagons with specific consignments, a special agreement shall be concluded between the RUs.

Trains of the combined traffic which contain extraordinary consignments the **Agreement** may be applied whenever the published international timetables contain the necessary information extraordinary consignments and the specific profiles for combined traffic have been clearly marked and the trains for combined traffic fulfill these conditions.

In trains with single wagons, combined transport consignments can only be integrated if the trains run according to the conditions for combined traffic i.e. in the published international timetable, inscriptions and signs on wagons or containers.

The **Contracting Parties** may conclude subsequent agreements for extraordinary consignments which can be transported in the trains.

The **Contracting Parties** apply the quality management system as stipulated in Appendix 9 CUU. They may agree to attain the cumulative defect value (CDV) as mentioned in Point 4.8 of Appendix 9 CUU.

Trains running under this **Agreement** which require an additional technical transfer inspection at the exchange point in order to ensure safe operations or avoid high quality losses shall be mentioned in **Attachment 1A**.

Particularities with respect to conditions required by **Contracting Parties** or specific relations are mentioned in **Attachment 2**.

If the RU that is the **first Contracting Party** to take over a transport from another RU that is **not a Contracting Party** and carries out technical transfer inspections at the exchange points according to the rules of Appendix 9 CUU and the respective UIC "Loading guidelines" or has agreed with another RU mutual acceptance, such RU which is the first **Contracting Party** to take over the train, **may not** carry out technical transfer inspection at the exchange point.

Such RUs **which are not Contracting Party** are enumerated in **Attachment 1B**.

In case that one **Contracting Party** refuses to accept trains, the **first Contracting Party** is obliged to carry out the technical transfer inspection with reference to **Point 3.3**.

In the case of **Point 3.9**, the technical transfer inspection of the first RU which is **Contracting Party** and has received the train shall be considered as if it is the RU that has

formed the train. Such first RU shall take over the liability which is linked to the technical transfer inspection.

Supplementary rules

The rules of UIC Leaflet 471-3 remain unchanged.

The trains which have received technical transfer inspections at the exchange points shall not be subject to shunting. If shunting after a technical transfer inspection at the exchange point is necessary, the trains must be checked after shunting for possible damage of wagons and consignment that might have occurred during the shunting, on the basis of Appendix 9 CUU.

Treatment of irregularities

The receiving RU shall not refuse any wagons which contrary to **Point 2.1** have been received with defects of the wagon or the consignment.

The receiving RU shall treat such wagons by applying the respective rules and agreements.

Whenever the receiving RU discovers severe damage/defects or an accumulation of damages/defects it shall make a report according to **Attachment 4** to be sent to the train forming RU, if possible with photographic documentation. The receiving RU may demand that certain wagons or wagons with certain consignments shall be taken out of a train.

Severe is meant to be all damages/defects which lead to the separation of the wagon from the train for safety reasons.

In case that such gross damages/defects appear frequently, the receiving RUs shall decide upon respective measures.

Each **Contracting Party** is free to invite the respective RUs in question.

In case that wagons which should be taken out of the train according to **Point 3.4** shall remain in the respective train, the RU forming the train shall be liable and shall indemnify the receiving RU.

The contact persons are mentioned in **Attachment 5**.

Assessment and treatment of damages, liability

The rules of the CUU as in force are valid unless differing stipulations have been agreed in the **Agreement**.

The costs resulting from damages shall be allocated in Attachment 6, which according to Art. 22.1 and 22.4 CUU "Liability of the user RU" in connection with Appendix 12 CUU "Catalogue of damage to wagons" have occurred and cannot be attributed to any of the participating RUs.

The **Contracting Parties** shall not lay any claim against the personnel of the other contracting Party.

Investigation treatment of damages

Incidents caused by wagons and their consignment occurring to the receiving RU shall be investigated by the receiving RU. The RU that has formed the train shall be entitled to

participate in the investigation as long as such participation does not cause significant delays. The RU which has formed the train receives a copy of the investigation report.

The liability for damages which are caused by one wagon is regulated in Article 27 CUU "Principle of liability".

Validity and termination of the Agreement

The **Agreement** shall come into force on XX.XX.XXXX for an indefinite validity.

The **Agreement** can be terminated within 3 month. The termination shall become effective with the next change of timetable. The right to immediately terminate the **Agreement** for important reasons remains.

The admission of a further RU requires the majority of the **Contracting Parties**. An important reason for refusing the admission is that the candidate does not fulfill the requirements defined in the **Agreement**.

Concluding Stipulations

Modifications and supplements of the Agreement shall be made in writing only. They shall get into force after agreement with the majority of the **Contracting Parties**.

The **appendices** shall be part of the **Agreement**.

In case that a paragraph or point of the **Agreement** shall not become effective for legal or other reasons, the remaining part of the **Agreement** shall remain effective.

This contract is drawn up in English,, and, each of the versions being equally binding.

Unless otherwise agreed between the **Contracting Parties**, the competent jurisdiction shall be that in which the defendant is established.

The Euro (ISO Code: EUR) shall be used as the sole monetary unit for all accounts and payments.

Attachment 0**Definitions**

Technical transfer inspection (TTI)	Shall refer to a technical inspection carried out when a vehicle is handed over and/or accepted in accordance with UIC leaflet 471-2
Irregularity	Defined as any deviation from the quality criteria defined in the CUU catalogue, Annex 9 CUU, if as a consequence of this deviation the equipment or train in question does not conform to the said requirements. Equipment on which irregularities have been noted must be dealt with in accordance with the catalogue of irregularities outlined in Annex 9, CUU, Annex 1
Cumulative defect value	Is used as a means of measuring the defective nature or the inspection patches, is calculated as a percentage of irregularities per hundred unit controls as mentioned in Point 4.8 Cumulative Defect Value (CDV) in Annex 9, CUU
Wagon note:	Forwarding and deployment document accompanying a wagon making an empty run as specified in Annex 3, CUU "Wagon note"
Wagon keeper	Means the person who exploits a wagon economically in a permanent manner as a means of transport. The keeper is the entity the company's name of which is inscribed on the wagon itself and/or in the official register. The keeper can be the keeper himself or another party authorised by him.

Attachment 1 A
Relating to Points 3. 4 and 3.7

Trains of the **Contracting Parties** which:

- require a technical transfer inspection at the exchange point

Status: Timetable period			
Train Number	Days	Itinery	Remarks

Attachment 1 B
Relating to Point 3.10

Trains which require the agreement of another Contracting Party for a technical transfer inspection

Status: Timetable period			
Train Number	Itinery	Remarks	Name of RU

Attachment 2
Relating to Point 3.8

Particularities with respect of specific RUs and specific relations

Example

The **Agreement** is only valid for freight trains of the following RUs:
RU1, RU2, RU3 which are exchanged at the border crossing point Dimitrovgrad, Dobova, etc.

Attachment 3

Subsequent agreements

Attachment 4
Relating to Point 5,2

Damage report

Wagon number		Type of wagon	
<input type="text"/>		<input type="text"/>	
Date	Incorporated in train no.:	In the station	Track no.:
Dispatching station:		Receiving station:	
Dispatching RU/UIC code number:		Receiving RU/UIC code number:	
Good	Sender		

Technical defaults	Code according to Annex 9, CUU, Annex 1	<input type="text"/>
Loading irregularities	Loading guidelines	<input type="text"/>
Remarks		<input type="text"/>
<hr/>		
<hr/>		
<hr/>		

Station/city, Date	telephone number	Name, function
<hr/>	<hr/>	<hr/>

Attachment 5
Relating to Point 5.4

Communication data of the contact persons

RU	Organisation unit and person responsible for contractual matters	Organisation unit and persons responsible for irregularities	Organisation unit and persons responsible for liability
RU 1			
RU 2			
RU 3			

Attachment 6
Relating to Point 6.2

**Allocation of costs resulting from damage to wagons according to Art. 22. 1 and 22.4
CUU and Appendix 12 CUU, which cannot be directly attributed to the RU or more than
one RUs**

Contents

Preamble

The **Contracting Parties** take note that the **Agreement** is based on mutual confidence and requires solidarity of the **Contracting Parties** as to costs implications in case of damage to wagons, which have been reported and evaluated and for which damage the costs cannot be clearly attributed to one or more **Contracting Parties**. The rules established in the present Attachment shall not modify the rules established in the "General contract of use for wagons" – CUU. The Agreement is not applicable to damages which have been caused by wagons according to Chapter 4 CUU "Ascertainment and handling of damaged wagons in the custody of an RU".

Definitions applicable to the present Attachment

User RU

The user RU is the RU which has custody of a wagon and which has found the damage and written the default report and shall have to handle the damage with the wagon keeper.

Object

In **this** Attachment are stated the conditions for a common solidary coverage of costs of the RU which have signed the Agreement in case of damage of wagons.

Scope of application

The present Attachment shall only be applied for cases in which the liability for damage cannot be attributed to the keeper of the wagon or his authorised person.

This Attachment shall not be applied for the following liability cases the handling of which has been regulated in the CUU:

- Damages which are the fault of a third party (Art. 22.2 CCU "Principles of liability")
- Damages for which the previous users are liable (Art. 24 "Liability of previous users")
- Damages for which the keeper is liable (Art. 22 CUU)
- Damages for which the user RU is liable (Art. 22.1 CUU)

Handling of damage in respect of the keeper of the wagon

The stipulations of the CUU shall be applied by the user RU in respect of the wagon keeper without implying that the user RU that is handling the damage is the liable RU in respect of all other RUs.

Ascertainment of liability of the RU

Determination of liability by the user RU

The RU which has ascertained the damage to the wagon and which has been notified by the wagon keeper about the damage and which writes the default report shall definitively determine the liability caused by a RU: The determination is binding for all involved.

Loss or damage to a wagon of removable accessories according to Art. 20.2 CUU: “a piece of removable accessories mentioned on the wagon shall be considered lost if it is not returned with the vehicle” during the time period from the acceptance of the wagon, its carriage and transfer to the other receiving RU or while the wagon is in the custody of the user RU.

The decision on the liability shall be documented in a mandatory manner.

Extent of compensation for liability

The extent of compensation for liability shall be determined according to Art. 23 and 13.3 CUU.

Upper of compensation

The user RU shall not ask a higher compensation from the other RUs as the amount of indemnification paid to the keeper or the costs of repair occurred to it.

Solidary bearing of costs

The request for solidary costs settlement shall only be made after termination of the handling of damage. The costs occurred to the user RU including the indemnification shall be dealt with as follows:

Conditions for the allocation of costs

If it cannot be determined which RU has caused the damage, the user RU can request the solidly cost settlement from the last RU in the chain of use (loaded or empty run).

A RU shall not participate in the solidary cost settlement if

- a) It has neither accepted the loaded wagon nor the respective CIM consignment note
- b) it has neither accepted the empty wagon nor the CUV wagon document

Amount of cost borne by the RUs participating in the solidary cost settlement

The cost shall be allocated which include the total cost of repair of damaged wagon including all general and auxiliary costs as well as other costs.

The participating RUs shall not be liable as co-debtor.

Claim for compensation by the user RU

- a) Dispatching RU

- Is a Contracting Party

The claim of the user RU in respect of the participating RU is calculated by dividing the compensation amount according to the kilometres between the dispatching RU and the

location where the damage has been ascertained. The basis for the calculation of kilometres is the DIUM (“Uniform distance table for international freight traffic”)

b) Receiving RU

- Is Contracting Party (RU A)
- Is not Contracting Party

Point 3.2 of the **Agreement** is applied. If damages are ascertained in the chain of use the user RU has a claim in respect of participating RUs according to the calculation outlined under a).

c) Receiving RU

- Is Contracting Party (RU A)
- Is not Contracting Party

Point 3.3 of the **Agreement** is applied. If damages are ascertained in the chain of use the user RU has a claim over participating RUs according to the calculation outlined under a).

Invoicing

A claim for solidary settlement of damages can only be made if the total cost of repair including the transport costs to the site of repair and is higher than € 250 per wagon.

For the participating RU the claim can only be made if the amount is higher than € 50.

The claim for compensation shall be calculated according to Annex 1 of this Attachment. The user RU shall document the claim with the traceable invoices and other documentation.

The participating RU which does not acknowledged all or part of the costs is entitled to inform the claiming RU within 30 days after receipt of the claim. It must justify the non-acknowledgement. 30 days past, the claim shall be considered to be accepted.

The payment modalities shall be mentioned on the invoice.

A claim by the user RU shall expire 3 months after the settlement of the damage over the keeper.

Logo

Allocation of Cost

No.

To be returned to

01 Wagon No.:

02 Dispatching Data

Number of Train

from

to

Itinerary

03 Ascertainment

the

04 Repaired

the

05 Remarks

06 Allocation of Cost

Repair cost

Transport cost

Loss of use

Miscellaneous

Total

0,00 €

07 Share

RU

Kilometre

Shares

Shares acknowledged

Date

DIV/0!

Yes

No

DIV/0!

Yes

No

DIV/0!

Yes

No

DIV/0!

Yes

No

DIV/0!

Yes

No

Total

0

08 Made

Name

Annex 4

**Agreement on the interconnection of
rail infrastructure networks
between
infrastructure manager A and infrastructure manager B
concerning the border crossing
between
..... and**

Final Version (Version 5)

Preamble

Pursuant to the bilateral border crossing agreement between and, datedon Border Dispatching for Rail Transport in the SEETO Region and with the neighbouring countries of the European Union - hereinafter called the **Border Crossing Agreement** - and

in order to improve international rail transport between the railway networks of and the present agreement shall be concluded between the two infrastructure managers, hereinafter called the **Party** or **Parties**.

The present Agreement – hereinafter called the **Agreement** - is based on the European Directives 91/440 ECC, 2001/14/EC and 2001/16 EC as in force.

Article 1 – Scope of the Agreement

1.1 The **Agreement** contains the framework conditions for the interconnection of rail infrastructure between the contracting parties – hereinafter called the **Parties** – for the border crossing between and ...

1.2 Whenever specific rules and regulations are required in order to regulate particular local and operational matters, the Parties shall conclude specific agreements.

***Note for the reader:** Special agreements might be necessary whenever there are different electrification systems which require specific operational matters such as speed, catenary without current or catenaries with double current.*

Article 2 – Definitions

For the purpose of the Agreement the definitions of Art.1 of the **Border Crossing Agreement** are applied.

Article 3 – Principles for the provision of services

3.1 The **Parties** shall make separate agreements for any kind of services that will be provided in the realm of the **Agreement**, in particular concerning

- a) the detailed scope and form of the services provided
- b) the remuneration for the services
- c) the payment procedures for the services rendered

- 3.2 Unless agreed separately, the payments shall be made on a monthly basis immediately after the provision of services.
- 3.3 The **Parties** shall not invoice each other for the following services:
- a) installation and continuance on the site of signals, other operational signposts, cables, installations for electrification including catenary, on the territory of the other Party;
 - b) technological testing operations on the infrastructure of the other Party;
 - c) operation on the infrastructure of the other Party for maintenance and repair of installations and the infrastructure.

Article 4 - Personnel

- 4.1 Each Party is responsible for its personnel operating in the ZONE.
- 4.2 The **Parties** support each other in the training and further education of their respective personnel working in the ZONE. The costs for training and further education shall be borne by the **Party** who assigns its personnel.
- 4.3 In case of prosecution subject to penal, civil or police action concerning the assigned personnel working in the ZONE, the dispositions and procedures of the **Border Crossing Agreement** shall be applied. Each **Party** shall be obliged to provide the necessary information required by the other **Party** and by the respective border authorities.
- 4.4 Whenever the personnel of one **Party** shall be injured or become ill during the execution of its duties on the territory of the other **Party**, the other **Party** shall be obliged to supply the necessary aid to help the personnel concerned. The **Party** the personnel of which are affected shall bear the cost for such aid.
- 4.5 Each **Party** shall be entitled to supervise its personnel on the territory of the other **Party**.
- 4.6 In accordance with the **Border Crossing Agreement**, the language shall be

Article 5 – Laws, rules and regulations

- 5.1 The laws of the country are valid, on which the territory the railway infrastructure is situated. The same applies for all safety and operational rules and regulations of the **Party** on the territory of which the infrastructure is situated.
- 5.2 The **Parties** exchange, free of charge, all rules and regulations concerning the infrastructure and the operation of the infrastructure in the ZONE.
- 5.3 In case that the signaling and operational rules and regulations of both **Parties** differ, the **Parties** shall agree to develop specific safety and operational rules for the ZONE in a separate agreement.
- 5.4 The personnel of both **Parties** are obliged to know the respective safety and operational rules and regulations which are valid in the ZONE. If specific training is required for the personnel of one **Party**, such party shall train, and if required, examine and certify the personnel of the other **Party** free of charge.

Article 6 – Mutual acceptance of licenses, certifications, authorisations and permits

The **Parties** agree to mutually accept any licenses, safety certificates, safety authorisations and other permits dealing with safety and interoperability issued by the competent Regulatory Authority of the neighbouring country.

Article 7 – Mutual acceptance of rolling stock

- 7.1 The **Parties** agree to accept any technical inspections or checks on rolling stock carried out by railway undertakings with agreements of mutual confidence with other railway undertakings or the other **Party** in the sense of mutual confidence in order to speed up the border dispatching procedures in the ZONE. Such mutual acceptance of rolling stock may not be limited to the ZONE.

- 7.2 The rolling stock is meant to be any type of wagon, car, traction and other material on rail wheels.
- 7.3 The mutual acceptance shall, in particular, be applied to passenger trains, container trains and other trains the wagon and car composition of which does not change.
- 7.4 One **Party** may also carry out the technical inspection of rolling stock in one of its hinterland terminals. In this case, the other Party shall notify which rolling stock or trains it accepts.
- 7.5 The **Parties** agree to accept agreements on mutual acceptance of technical inspections or checks on rolling stock, concluded by railway undertakings after due and joint consideration, in a non-discriminatory and fairest manner. In case of disagreement on the acceptance of such an agreement, the **Parties** shall call upon the Border Commission or the competent regulatory authority for final decision.
- 7.6 If one **Party** does not deem it necessary to carry out the technical inspections or checks on rolling stock in the ZONE, **the Party** shall notify the other **Party**. The **Parties** shall decide on how to proceed in the mutual acceptance of the rolling stock and, if necessary, shall conclude the respective agreements of mutual acceptance with the railway undertakings.

Article 8– Measures in case of incidents, accident, operational irregularities or dangerous events

- 8.1 In case of incident, accident, operational irregularities or dangerous events the **Party** on the territory of which it has occurred shall report immediately to the other **Party**. The **Parties** shall agree on the procedure on how to communicate.
- 8.2 The **Party** on the territory of which the incident, accident, operational irregularity or dangerous event has occurred, shall be responsible for its removal. The **Party** shall also be in charge of supervising the event. The **Party** is obliged to reinstall the operations as quickly as possible. The **Party** may ask the other **Party** for support. Any support in personnel and material shall be compensated by the other **Party**. The compensation shall be based on the purchasing costs or the cost occurred to the other **Party**.
- 8.3 The accident and incident investigation shall be carried out according to the rules and regulations in force on the territory of which the event occurred. The Party shall invite representatives of the competent body of the neighbouring state to participate in the investigation.
- 8.4 The results of the investigation shall be communicated to the other **Party** as soon as possible.
- 8.5 In case of dangerous events which must be reported to the competent regulatory authority, the **Party** on the territory of which the event occurred, must carry out such communication as soon as possible in order to receive instructions on how to proceed with the investigation. Until reception of instructions from the competent regulatory authority, no activity for the removal of the dangerous event shall be undertaken.

Article 9 - Maintenance in the ZONE

- 9.1 Each **Party** is responsible for the maintenance of its section of infrastructure in the ZONE.
- 9.2 The **Parties** may agree upon joint maintenance measures.
- 9.3 The **Parties** shall jointly plan the maintenance measures in the ZONE before commencing any maintenance works.
- 9.4 Unless agreed separately, the costs of maintenance shall be borne by each **Party** for its own infrastructure in the ZONE.
- 9.5 Any major construction and maintenance work which requires to be planned ahead shall be communicated not later than 9 months before its commencement to the other **Party** in order to ensure a harmonised planning.

- 9.6 Smaller works which require to be planned ahead shall be communicated to the other **Party** not later than 3 months before their commencement in order to ensure a harmonised planning.
- 9.7 All works carried out by one **Party** in the ZONE which has repercussions on the costs of the other **Party** shall be borne by the **Party** that carries out the works unless agreed differently. Cost sharing may be possible for the purpose of ensuring a harmonious maintenance programme in the ZONE.

Article 10 – Liability

- 10.1 Each **Party** is liable for any damage occurred on its section of the infrastructure in the ZONE.
- a) The liability covers damage caused by 3rd parties including railway undertakings according to the liability clauses stipulated in the respective network statements.
- b) The **Parties** may agree to define the liability for damages occurring inside the ZONE in separate agreements or joint network statements. Such agreements and joint network statements must be published.
- 10.2 In case of any damage caused by any infrastructure installation, the **Party** is liable that is in charge of such infrastructure installation unless the **Party** can prove that the damage has been caused by the 3rd party.
- 10.3 In case that the both **Parties** are liable for the damage occurred; each **Party** shall be liable for its share of the damage.
- 10.5 The same applies for damages occurred by the respective personnel of the **Parties**.
- 10.6 The **Parties** may make out joint civil liability insurances for the infrastructure in the ZONE.
- 10.7 The **Parties** agree to relieve themselves from any mutual claims. This applies in particular whenever one **Party** shall receive a claim from a 3rd party which should have been directed to the other **Party**.
- 10.8 In case that one **Party** shall have to indemnify the other **Party** its personnel, independent or dependent contractors against all actions, claims, costs (including costs and expenses in defending such matter and the proper compromise of), losses (including without limitation) consequential losses and loss of profits or demands for personal injury or death or for loss of or damage to property arising directly or indirectly out of or incidental to or in connection with damage hereunder.
- 10.9 The **Parties** shall wholly relieve each other of liability and indemnity occurring from the following risks: War, invasion of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, mutiny, riot, civil commotion, military or other usurpation, a group of persons acting on behalf of or in connection with any political organisation, conspiracy, confiscation, commandeering, requisition, destruction or damage by order of any government de iure or de facto or by any public authority, or radioactive contamination, or pressure waves (such as Tsunami), other pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speed.
- 10.10 Each **Party** shall inform its insurers and the other **Party** in writing of any legal disputes, claims or proceedings brought or instituted against it. Each **Party** shall render all reasonable assistance to the other in its defence or other action in respect of all such claims, disputes or proceedings made by Passengers or their representatives.

Article 11 – Force majeure

- 11.1 "Force majeure" means an event beyond the control of either **Party** which by its nature could not have been foreseen by such party or if it could have been foreseen was unavoidable

and includes but shall not be limited to acts of beyond the force of mankind (Acts of God), storms or flood, fires, riots, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) and failure of energy sources.

11.2 Neither **Party** shall be under any liability for failure to fulfil any obligation under the Agreement so long as and to the extent to which the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of force majeure.

11.3 Promptly on becoming aware of force majeure causing a delay in performance or preventing performance of any of the obligations imposed or matters contemplated by this Agreement (and termination of such delay), either **Party** effected by force majeure shall notify the other **Party** of the force majeure on its nature without delay and not later than twelve hours from the occurrence of the force majeure.

Article 12 – Exchange of data

12.1 The exchange of data shall have as its basis the European Directive 95/46/EC dated 24.10.1995.

12.2 The **Parties** agree not to communicate any data to third parties without the agreement of those that have made available the data, except for those data which must be communicated to the respective national regulatory authorities. In case that one **Party** is an integrated railway company, such **Party** in its function as infrastructure manager, be it a department or an independent legal entity of the integrated railway, is not allowed to communicate the exchange data to other departments or entities of the integrated railway company.

12.3 The exchange of data shall be free of charge.

Article 13 – Validity

13.1 The **Agreement** is concluded for an indefinite period. Each **Party** has the right to terminate it.

13.2 The **Agreement** shall be terminated 6 (six) months after the receipt of the written notification by which the other **Party** notifies its intention to terminate the **Agreement**.

13.3 With the **Agreement** entering into force, the following agreement(s)

-

shall cease its (their) validity.

Article 14 – Applicable law

The **Agreement** shall be subject to the law of the respective state in which each **Party** is registered for the section of the infrastructure in the ZONE that belongs to the respective state. The EU Directive 44/2001/EC shall be applied in an analogous manner.

Article 15 – Arbitration

15.1 Any differences resulting from the **Agreement** shall be dealt with in the Border Commission as stipulated in the **Border Crossing Agreement**.

15.2 In case that the Border Commission does not arrive at a decision acceptable to the **Parties**, the **Parties** are free to use an international arbitration commission upon mutual agreement.

15.3 In case that the **Parties** cannot agree on the international arbitration commission, the **Parties** are free to appeal to the competent International Court of Justice.

Article 16 – Concluding Provisions

The Agreement shall enter into forcedays after the Parties have signed it.

IN WITNESS WHEREOF, the undersigned, duly authorised, have signed the **Agreement**.

Signed in..... on 200X in two (2) original copies in and languages, all texts being equally authentic.

For the Infrastructure Manager A

For the Infrastructure Manager B

Annex 5

**Proposal for a Regional Agreement
among the SEETO Participants
laying down
the conditions and procedures for the harmonised training of train drivers
operating locomotives and trains on SEETO'S rail network
and
the non-discriminatory access to the training facilities
of the SEETO Participants.**

Final Version (Version 2)

Article 1

Subject matter

This Regional Agreement, hereinafter RA, lays down the conditions and procedures for the harmonised training of train drivers operating locomotives and trains on SEETO's rail networks and the non-discriminatory access to the training facilities of the SEETO Participants.

Article 2

Definitions

For the purposes of this RA

- 1 "train driver" means a person capable of driving shunting locomotives, work trains or trains for the carriage of passengers or goods by rail in an autonomous, responsible and safe manner.
- 2 "training certificate" means a certificate issued by the competent examination board of a train driver training facility in the SEETO Participant
- 3 "harmonised complementary training certificate" means a certificate issued by the competent board of examination, for specific features to be considered when operating on the other SEETO Participant's network, based on training requirements laid down in the RA.

Article 3

Mutual recognition of train driver training certificates

1. The training certificate issued by a SEETO Participant in accordance with this RA shall be recognised by the other SEETO Participants.
2. Once a driver has received the training certificate, he shall be entitled to apply for the train driver licence to drive on the network, for which he has received the training.
3. He shall also be entitled to apply for a harmonised complementary training certificate in any other SEETO Participant for the purpose of applying for a complementary driver licence to drive trains on the network of the other SEETO Participants.

Article 4

Minimum requirements for training and harmonised complementary certificate

1. To obtain the training certificate, applicants shall satisfy the minimum requirements set out in this RA and its Annexes..
2. To obtain the harmonised complementary certificate, applicants shall hold a training certificate and satisfy the minimum requirements set out in this RA.

*Article 5**Minimum age*

Applicants shall be at least 18 years of age.

*Article 6**Basic skills and training*

1. Applicants shall satisfy the basic requirements laid down in **Annex I**.
2. Applicants shall provide confirmation of their physical and mental fitness by passing a medical examination conducted by a medical doctor recognised by the competent authority. The examination must cover at least the criteria indicated in **Annex I**, points 2.1 and 3.
3. Applicants shall demonstrate their psychological fitness by passing an examination conducted by a psychologist recognised by the competent authority. The examination shall cover at least the criteria indicated in **Annex I**, point 2.2.
4. The basic linguistic knowledge criterion referred to in **Annex I**, point 4, shall be met and checked.

*Article 7**Professional qualifications after attending the training programme*

1. Applicants shall have undergone a full programme of training as described in **Annexes II to V**. The training method shall satisfy such criteria.
2. Applicants shall have passed an examination testing their general knowledge of their profession. This examination could cover at least the general subjects listed in **Annex III**.
3. Applicants shall have passed an examination testing their professional knowledge relating to the rolling stock. This examination shall include at least the general subjects listed in **Annex IV**.
4. Applicants shall have passed an examination testing their professional knowledge relating to the infrastructures for which the harmonised certificate is being applied. This examination shall cover at least the general subjects listed in **Annex V**.
Where appropriate, the examination shall also cover linguistic knowledge.

*Article 8**Application for the certificate*

1. The competent authority shall publish the procedure to be followed for obtaining a training certificate, together with the necessary forms.
2. All training certificate applications can be lodged with the competent authority by the candidate driver's employer or by the candidate driver.

*Article 9**Granting of the training certificate*

The competent authority shall issue the training certificate not later than three weeks after receiving all the necessary documents that prove the successful passing of the examinations.. The training certificate shall be in the official languages of the SEETO Participants.

*Article 10**Tasks of the competent training authority*

1. The competent training authority shall fulfil its tasks in a transparent and non-discriminatory manner.
2. The competent training authority may delegate or subcontract the tasks to third parties provided that such tasks can be carried out by the authorised representative or subcontractor without any conflict of interest.

Tasks shall be delegated in a transparent and non-discriminatory manner.

3. When the competent training authority delegates or subcontracts tasks to a railway undertaking, the railway undertaking shall not enjoy exclusivity on the network concerned for any of the delegated or subcontracted tasks.
4. The tasks may be delegated subject to the following conditions in order to avoid any discrimination or unfair practices:
 - (a) the testing of physical and mental fitness could be carried out by medical doctors or occupational health institutes accredited by the competent training authority;
 - (b) the testing of psychological fitness could be carried out by psychologists or occupational psychology institutes accredited by the competent training authority;
 - (c) the testing of general professional knowledge could be carried out by institutes or examiners accredited by the competent training authority;

Article 11

Training

1. The objectives of the train driver training are defined in **Annexes II to V**.
2. The procedure to be followed to obtain the harmonised training certificate is specific to each railway undertaking. The objectives of the training programme are set out in **Annexes II to V**.

Article 12

Examinations

The examinations and examiners intended for the purpose of checking the requisite professional qualifications shall be determined when laying down the procedure to be followed to obtain the training certificate and the harmonised complementary certificate. The examinations shall be overseen by selection boards made up of competent examiners accredited by the competent authority; they shall be organised in such a way as to avoid any conflict of interest. The choice of examiners and examinations shall be agreed between those SEETO Participants who participate in common SEETO train driver training.

Article 13

Concluding Provisions

The RA shall enter into forcedays after the SEETO Participants have signed it.
 All subsequent agreements mentioned in the present RA must be signed not later than **XX** days after the present RA has come into force.

IN WITNESS WHEREOF, the undersigned, duly authorised by their Governments, have signed this RA.

Signed in..... on 20XX in two (2) original copies in and languages, all texts being equally authentic.

FOR THE GOVERNMENT OF

FOR THE GOVERNMENT OF

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ANNEX I

BASIC REQUIREMENTS

1. QUALIFICATIONS

- at least nine years' secondary education, followed by two to three years' postsecondary education in technical professions or in an apprenticeship or in commercial professions.
- or: at least 12 years' education.

2. MINIMUM CONTENT OF THE EXAMINATION BEFORE APPOINTMENT

2.1 Medical examinations

- a general medical examination;
- examinations of sensory functions (vision, hearing, colour perception);
- blood or urine tests to detect diabetes mellitus and other conditions as indicated by the clinical examination;
- an ECG at rest;
- tests for illegal drugs.

2.2 Psychological examinations

The purpose of the psychological examinations is to assist the railway undertaking in the appointment and management of drivers who have the cognitive, psychomotor, behavioural and personality skills to perform their duties safely.

In determining the content of the psychological examination, the psychologist must, as a minimum, take into account the following criteria which are relevant to the requirements of each safety function:

- Cognitive: attention and concentration; memory; perception; reasoning; communication;
- Psychomotor: reaction time, hand coordination;
- Behavioural and personality: emotional self-control, behavioural reliability, autonomy, conscientiousness.

If the psychologist omits any of the above criteria, this decision must be justified and documented.

3. MEDICAL REQUIREMENTS

3.1 General requirements

Drivers must not be suffering from any medical conditions or be taking any medication which is likely to cause:

- a sudden loss of consciousness;
- a reduction in attention or concentration;
- sudden incapacity;
- a loss of balance or coordination;
- significant limitation of mobility.

3.2 Vision

The following requirements as regards vision must be complied with:

- aided or unaided distance visual acuity: 0.8; minimum of 0.3 for the worst eye;

- maximum corrective contact lenses: hypermetropia +5 / myopia –8. Derogations are authorised in exceptional cases and after having obtained the opinion of an eye specialist. The occupational physician then takes the decision;
- near and intermediate vision: sufficient, whether aided or unaided;
- contact lenses are authorised;
- normal colour vision: use of a recognised test, such as Ishihara, as well as another recognised test if required;
- field of vision: full;
- vision for both eyes: effective;
- binocular vision: effective;
- sensitivity to contrasts: good;
- no progressive eye diseases;
- lens implants, keratotomies and keratectomies are allowed only on condition that they are checked on a yearly basis or at intervals set by the occupational physician.

3.3 Hearing requirements

Sufficient hearing confirmed by an audiogram, i.e.:

- hearing good enough to hold a phone conversation and to be able to hear warning sounds and radio messages.

The following values could be taken as guidelines:

- the hearing deficiency must not be higher than 40 dB at 500 and 1 000 Hz;
- the hearing deficiency must not be higher than 45 dB at 2 000 Hz for the ear with the worst air conduction of sound.

3.4 Pregnancy

In the event of poor tolerance or a pathological condition, pregnancy must be considered to be a reason for the temporary exclusion of drivers. The occupational physician (as defined above) must ensure that the legal provisions protecting pregnant workers are applied.

3.5 Special health criteria for drivers

3.5.1 Vision

- aided or unaided distance visual acuity: 1.2; at least 0.5 for the worst eye;
- ability to withstand dazzle;
- coloured contact lenses and photochromatic lenses are not allowed. UV filter lenses are allowed.

3.5.2 Hearing and speaking requirements

- no anomaly of the vestibular system.
- no chronic speech disorder (given the necessity to exchange messages loudly and clearly);
- no use of hearing aids.

3.5.3 Anthropometrics

The anthropometric measures of drivers must be suitable for the safe use of the rolling stock.

Drivers must not be required or allowed to operate particular types of rolling stock if their height, weight or other characteristics would make this unsafe.

4. LANGUAGE TESTS

Drivers responsible for controlling rail traffic must be able to use the messages and communication method described in the "Operations" TSI.

Drivers and other drivers of railway undertakings who have to communicate with the infrastructure manager on critical safety issues must have language skills in the language indicated by the infrastructure manager concerned. Their language skills must be such that they can communicate actively and effectively in routine, adverse and emergency situations.

ANNEX II

PROFESSIONAL QUALIFICATIONS

General programme and training method

1. INTRODUCTION

The content and organisation of the training courses must cover:

- an introduction to the railway undertaking and the post concerned, including first aid and health and safety at work;
- operational rules, traffic safety regulations;
- engineering (railway infrastructure and rolling stock) with emphasis on signalling, braking systems and train control systems, train preparation and fault detection and repairs. Decision-making about the fitness for service of the locomotive;
- communication; training in loudspeaker usage as part of customer service;
- acquisition of driving skills: accompanying an experienced driver, driving under supervision, simulator, independent driving;
- local conditions and route knowledge acquisition; this training may take place after qualifying when the train driver is assigned to a particular area of duty;
- incidents and abnormal situations: coping under stress and in conflict situations;
- fire-fighting.

The skills required are divided into three parts:

- The 'general' part, details of which are given in **Annex III**;
- The part relating to rolling stock, details of which are given in **Annex IV**;
- The part relating to infrastructure, details of which are given in **Annex V**.

2. TRAINING METHOD

There shall be a good balance between theoretical training (classroom and demonstrations) and practical training (on-the-job experience, driving with and without supervision).

Computer-aided training is accepted for individual learning of the operational rules, signalling situations, etc. However, simulators of the latest generation could be used.

The use of simulators may be useful for the effective training of drivers; they are particularly useful for reducing the driving time on the infrastructure, training to deal with abnormal situations and further training on new types of locomotives.

Concerning the acquisition of route knowledge, the approach to be favoured is where the train driver accompanies another driver for a number of journeys along the route, both in daylight and at night. Videos of the routes as seen from the driver's cab can be used as an alternative training method.

3. EXAMINATION

There must be theoretical and practical examinations at the end of the training course.

Assessment of driving ability is normally made in driving tests on the network.

Simulators may also be used for examining the application of operational rules and the driver's performance in particularly difficult situations.

ANNEX III

EXAMINATION ON GENERAL PROFESSIONAL KNOWLEDGE

General matters

The general training has the following objectives:

- acquiring the knowledge and procedures regarding of railway technologies, including safety and operational regulations;
- acquiring knowledge and procedures regarding the risks related to railway operation and the various means to be used to combat them;
- acquiring knowledge and procedures regarding one or more railway operating modes;
- acquiring knowledge and procedures regarding one or more types of rolling stock.

In particular, drivers must be able to:

- understand the specific requirements for working in the profession of driver, its importance, and the professional and personal demands (long periods of work, being away from home, etc),
- apply drivers safety rules,
- identify traction units,
- know and apply a working method in a precise manner;
- identify the reference and applications documents (manual of procedures and manual of lines as defined in the 'Operations' TSI, driver's manual, breakdown manual, etc);
- adopt a lifestyle which is compatible with the profession of a safety operative,
- identify the procedures applicable to accidents involving persons,
- distinguish the hazards involved in railway operations in general,
- know the principles governing traffic safety,
- apply the principles of electrotechnology.

ANNEX IV

EXAMINATION OF PROFESSIONAL KNOWLEDGE OF ROLLING STOCK

After completing specific training on rolling stock, drivers must be able to carry out the following tasks.

1. TESTS AND CHECKS PRIOR TO DEPARTURE

Drivers must be able to:

- perform a route check and consult the relevant documents,
- collect the documentation and the necessary equipment,
- check the capacities of the traction unit,
- check the information entered in the documents on board the traction unit,
- ensure, by performing the checks and tests specified, that the traction unit is capable of providing the required traction power, and that the safety equipment is operating,
- perform any routine preventive maintenance operations.

2. KNOWLEDGE OF ROLLING STOCK

To operate a locomotive, drivers must be familiar with all the controls and indicators placed at their disposal, in particular those concerning:

- traction,
- braking,
- traffic safety-related elements.

In order to detect and locate anomalies in the rolling stock, report them and determine what is required to repair them, and in certain cases, to take action, drivers must be familiar with:

- the constituent parts of the rolling stock. their purpose, and the devices specific to the hauled stocks, in particular the system of stopping the train by venting the brake pipe,
- the meaning of markings on the inside and outside of the rolling stock, in particular the symbols used for the transportation of dangerous goods,
- the parts specific to traction units.

3. TESTING THE BRAKES

Drivers must be able to:

- check, before departure, that the train's actual braking power corresponds to the braking power required for the line as specified in the vehicle documents,
- check the functioning of the traction unit's brakes before departure, at start-up and during running.

4. OPERATING MODE AND MAXIMUM SPEED OF THE TRAIN IN RELATION TO THE LINE CHARACTERISTICS

Drivers must be able to:

- take note of information given to them before departure,
- determine the type of running and the maximum speed of the train on the basis of variables such as speed limits or any signalling changes.

5. DRIVING THE TRAIN IN A WAY WHICH DOES NOT DAMAGE INSTALLATIONS OR VEHICLES

Drivers must be able to, in particular:

- mechanical structures
- braking system
- suspension and attachment equipment
- running gear
- safety equipment.

In particular:

- collection of current and high-voltage systems
- fuel tanks, fuel supply system, exhaust equipment
- traction chain, motors and transmission
- communication equipment (ground-to-train radio, etc.).

- use all available control systems in accordance with the applicable rules,
- start the train taking account of adhesion and power constraints,
- know the train's position on the line at all times,
- apply the brakes for decelerations and stops, taking account of the rolling stock and installations.

6. ANOMALIES

Drivers must be able to:

- be attentive to unusual occurrences concerning the behaviour of the train,
- identify signs of anomalies, distinguish between them and react according to their relative importance, always giving priority to the safety of rail traffic and persons,
- know the available means of protection and communication,
- inspect the train to detect any minor anomalies,
- try to remedy such anomalies.

7. OPERATING INCIDENTS AND ACCIDENTS, FIRES AND ACCIDENTS INVOLVING PERSONS

Drivers must be able to:

- take steps to protect the train and summon assistance in the event of an accident involving persons on board the train,
- determine whether the train is transporting dangerous goods and identify them on the basis of train documents and wagon lists.

8. CONDITIONS FOR CONTINUING RUNNING AFTER AN ACCIDENT INVOLVING ROLLING STOCK

After an incident, drivers must be able to:

- decide if the vehicle can continue to run and under what conditions,
- inform the infrastructure manager of those conditions as soon as possible.

9. IMMOBILISATION OF THE TRAIN

Drivers must be able to take measures to ensure that the train does not start up unexpectedly, even in the most difficult conditions.

ANNEX V

EXAMINATION OF PROFESSIONAL KNOWLEDGE OF INFRASTRUCTURE

Matters relating to infrastructure

1. TESTING THE BRAKES

Drivers must be able to check, before departure, that the train's actual braking power corresponds to the braking power required for the line as specified in the vehicle documents.

2. TYPE OF OPERATION AND MAXIMUM TRAIN SPEED ACCORDING TO THE LINE CHARACTERISTICS

Drivers must be able to:

- take note of information given to them before departure, such as the speed limits or any signalling changes;
- determine the type of running and the maximum speed of the train on the basis of the characteristics of the line.

3. KNOWLEDGE OF THE LINE

Drivers must be able to anticipate problems and react appropriately in terms of safety and performance. They must therefore have a thorough knowledge of the railway lines and installations on their route and of any equivalent routes agreed on.

The following aspects are important:

- operational conditions (changes of track, one-way running, etc.),
- identification of tracks that can be used for a given type of running,
- the operations regime,
- the block system and associated regulations,
- station names and the position and distance-sighting of stations and signal boxes to adapt driving accordingly,
- transition signalling between different operating or power supply systems,
- speed limits for the different train categories driven,
- topographical profiles,
- particular braking conditions, for example on lines with a steep downward gradient,
- particular operating features: special signals, signs, departure conditions, etc.

4. SAFETY REGULATIONS

– Drivers must be able to:

- start the train only when all prescribed conditions are fulfilled (timetable, start order or signal, operation of signals if required, etc.), – observe track-side or in-cab signals, interpret them immediately and without error, and act as specified,
- run the train safely according to the specific modes of operation: apply special modes if instructed, temporary speed restrictions, running in opposite direction, permission to overrun signals at danger, switching operations, turns, running through construction sites, etc
- respect scheduled or supplementary stops, and if necessary perform supplementary operations for passengers during these stops, notably opening and closing the doors.

5. DRIVING THE TRAIN

– Drivers must:

- know the train's position on the line at all times,
- apply the brakes for decelerations and stops, taking account of the rolling stock and installations,
- adjust the running of the train in accordance with the timetable and any orders given on saving energy, taking account of the characteristics of the traction unit, the train, the line and the environment.

6. ANOMALIES

Drivers must be able to:

- be attentive, insofar as train operation permits, to unusual occurrences concerning the infrastructure and the environment: signals, tracks, energy supply, level crossings, track surrounding, other traffic,
- be attentive to unusual occurrences concerning the behaviour of the train,
- know particular distances to clear obstacles,
- inform the infrastructure manager as soon as possible of the place and nature of anomalies observed, making sure that the information has been understood,

- ensure or take measures to ensure the safety of traffic and persons, whenever necessary.

7. OPERATING INCIDENTS AND ACCIDENTS, FIRES AND ACCIDENTS INVOLVING PERSONS

Drivers must be able to:

- take steps to protect the train and summon assistance in the event of an accident involving persons,
- determine where to stop the train in the event of a fire and facilitate the evacuation of passengers, if necessary,
- provide useful information on the fire as soon as possible if the fire cannot be brought under control by the driver acting alone,
- after an incident, decide if the rolling stock can continue to run and under which conditions,
- inform the infrastructure manager of these conditions.

Annex 6

**Proposal for an Agreement
between
the (Ministry of the Interior or competent border police authority)
and
the (Ministry of the Interior or competent border police authority)
concerning
the mutual acceptance of border police fulfilling their functions on the neighbouring
state's territory**

Final Version (Version 6), 22.07.2009

Preamble

The present agreement is a subsequent agreement to the AGREEMENT between the Government of..... and the Government of..... on Border Dispatching for Rail Transport, hereinafter the **Border Agreement**.

Article 1

Members of the border police of the contracting parties are allowed to execute their national functions in the Zone, indicated in Article 3.

Article 2

The border police of the contracting parties are allowed, to transport in the Zone, defined in Article 3 persons that are under their custody as long as such persons are not:

- 2.1 nationals of the neighbouring state or there is a likelihood that they could be nationals of the neighbouring state or there might be the likelihood that they might become nationals of the neighbouring state
- 2.2 persons that have committed a crime under the penal code of the state but their action is considered a political action or could be seen in this context as such a political action and are therefore persecuted whereby attempted crimes or executed crimes against humanity, murder, or the participation at such actions are not considered as such penal actions.

Article 3 The Zone:

3.1 The Zone within which the border police of the contracting parties can carry out their functions is defined in the **Border Agreement**.

3.2 For the purpose of this Agreement, the zone comprises

- a) the border stations and,
- b) the border sections between the two border stations,
- c) the sections between.....and.....for passenger control on moving trains
- d) the sections between.....and.....for moving freight trains

Article 4 Possessions of the persons under custody

- 4.1 In carrying out the functions according to Articles 1 and 2, the member of the border police is allowed to carry with him the possessions of the person that has been put under the custody.
- 4.2 The possessions taken into custody by the respective border police shall not have to undergo the formal customs procedures.

Article 5 Persecution on the territory of the neighbouring state

- 5.1 Whenever the border police of one state takes into custody or persecutes one person on the territory of the neighbouring state, they have to immediately inform the border police of the neighbouring state indicating, if possible, the data of the person, in particular the nationality and the reason for the persecution or for taking person into custody.
- 5.2 The border police on the territory of which the action is taken by the neighbouring border police will immediately inform border police of the neighbouring state if Article 2 applies.
- 5.3 Contracting parties will officially inform each other about the competent authorities to be contacted.
- 5.4 For reasons of danger or medical emergency, the border police of both states are allowed to leave the Zone.
- 5.5 The border police in action will try to immediately inform the competent authority of such a situation.
- 5.6 If the number of border police acting in the neighbouring state territory is more than one person, the competent authority of the territory will be informed immediately according to Article 5.2

Article 6 Uniforms, Identity Cards, Use of Arms

- 6.1 The border police of the respective state are allowed to wear their uniforms while carrying out their duties on the neighbouring state territory.
- 6.2 The members of the border police have to carry the respective identity documents with them.
- 6.3 The members of the border police are also allowed to use their own vehicles, arms, munitions, communication material and dogs.
- 6.4 The members of the border police acting on the neighbouring state territory are not allowed to carry out any other action that is not directly linked with the persecution of and the taking into custody of the person.
- 6.5 The members of the border police are only allowed to use their weapons in case of self defence. They can also use the weapon if the person under persecution or under custody is armed or tries to flee.

Article 7 Transport of persons under custody

- 7.1 The transport of persons under custody by rail, by bus or other public transport is only allowed if the respective operator agrees to it.
- 7.2 In case of danger, it is not allowed to transport the person under custody in means of public transport.

Article 8 Escape of persons under custody

- 8.1 Whenever the person under custody succeeds in escaping, the respective border police are allowed to persecute him.
- 8.2 The border police must immediately inform the competent authority of the respective state.
- 8.3 The persecution by the member of the border police on the neighbouring state territory ends at the moment when the border police of the state where the persecution is taking place, takes over the persecution.
- 8.4.1 If the person has succeeded in evading it is only possible for the respective state to officially ask the neighbouring state to continue the search for the person and eventually bring

him back according to the respective bilateral agreements on mutual assistance in criminal matters in force.

8.4.2 The contracting parties agree to deliver the person under custody that has succeeded in evading to the competent authorities of the neighbouring state.

Article 9 Limits of actions

9.1 Each of the contracting parties is entitled to limit the actions of the border police of the other state for reasons of emergency, danger of the public security and in cases of important international tensions. In this case, the neighbouring state has to be informed immediately.

9.2 If the situation described in 9.1 only takes place in the Zone, such limitations can be carried out in the Zone. The respective authority has to immediately inform the neighbouring state.

Article 10 Penal action

10.1 Penal action undertaken against the border police of the neighbouring state territory shall be persecuted according to the force of the respective state.

10.2 In case of any penal action happening in the respective national territory of the two states, the law of the respective state shall be applied.

Article 11 Arbitration

11.1 Any differences in the interpretation of the present agreement shall be settled by the governments of the contracting parties.

11.2 If the two governments cannot reach such a settlement, they can select a bilateral or international arbitration committee to settle the differences.

11.3 The decision of such a committee shall be binding.

11.4 In case of an application of the bilateral arbitration the contracting parties agree to nominate as chairman a trusted member of a third state.

11.5 The arbitration committee has to be nominated within two months as soon as the two governments have formally agreed that they cannot settle the difference and shall ask for arbitration.

11.6 If the contracting parties do not agree to appoint an arbitration committee, each state has the right to appeal to the competent European Court for the settlement of the difference

11.7 If the president of the competent European Court is a citizen of one of the contracting parties, the vice president shall be the person to decide.

11.8 The decision of the European Court shall be binding.

11.9 The costs of the arbitration shall be borne by each contracting party at the same proposition.

Article 12 Border Police Commission

12.1 The Contracting Parties agree to establish an independent commission – Border Police Commission - the objectives of which are to ensure:

- the solution of problems arising from the cooperation of the border authorities in the Zone,
- the improvement of border police cooperation and border police services,
- the solution of any other differences between the Contracting Parties resulting from the present Agreement.

12.2 The Border Police Commission shall include representatives of the Contracting Parties.

Article 13 Modification of the Agreement

13.1 The Agreement may be subject to modification upon receipt of a formal request by one of the contracting parties.

13.2 Within **XX** days upon receipt, the contracting parties shall convene for the first time to deal with the request.

13.3 The result of the negotiations shall be reported to the Governments which shall decide upon the modification proposal.

Article 14 Validity

13.1 This Agreement is concluded for an indefinite period. Any Contracting Party has the right to terminate it.

13.2 This Agreement shall be terminated 6 (six) months after the receipt of the diplomatic note by which the other Contracting Party notifies its intention to terminate the Agreement.

13.3 With the Agreement entering into force, the following Agreement(s)

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shall cease its (their) validity.

Article 15 Concluding Provisions

The Agreement shall enter into forcedays in compliance with the provisions of their national legislation.

IN WITNESS WHEREOF, the undersigned, duly authorised by their Governments, have signed this Agreement.

Signed in..... on 200X in two (2) original copies in and languages, all texts being equally authentic.

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