

# COOPERATION AGREEMENT

Between the Regulatory Bodies situated in the countries  
of the North Sea Mediterranean Corridor

*London/Dunkerque/Lille/Liège/Paris/Amsterdam\_Rotterdam-Zeebrugge\_/Antwerpen-  
Luxembourg-Metz-Dijon-Lyon/[Basel]-Marseille*

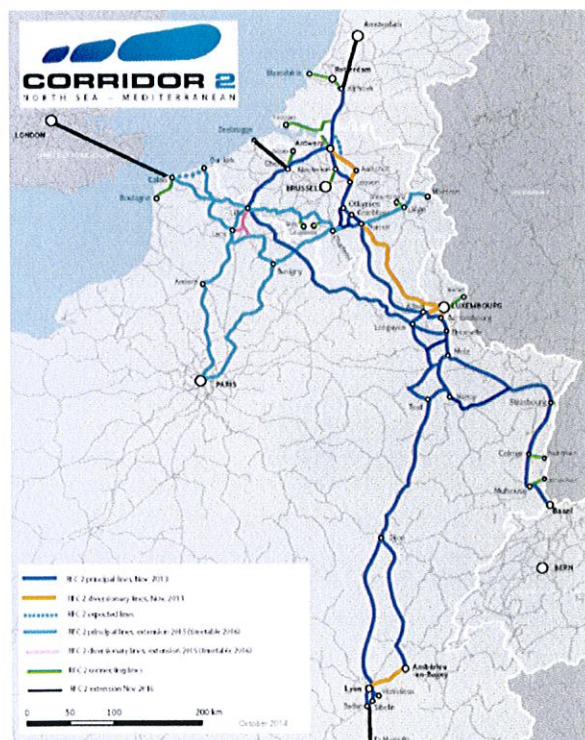
Belgium: Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles-National, Boulevard du jardin botanique 50 boîte 72, 1000 Bruxelles

France : Autorité de Régulation des Activités Ferroviaires et routières, 57 boulevard Demorieux CS81915, 72019 Le Mans Cedex 2

Luxembourg : Institut Luxembourgeois de Régulation, 17 rue du Fossé, 1536 Luxembourg

The Netherlands : Autoriteit Consument & Markt, P.O. Box 16326, 2500 BH Den Haag

The United Kingdom: Office of Rail and Road, One Kemble Street, London WC2B 4AN



## PREAMBLE

Article 20 of the Regulation n° 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight provides that the regulatory bodies shall cooperate in monitoring the competition in the rail freight corridors and shall in particular ensure non-discriminatory access to the corridor.

The scope of regulation under this agreement is the North Sea Mediterranean Corridor, formerly named Rail Freight Corridor No. 2, established on the basis of the Regulation 913/2010.

This agreement replaces the one signed in 2013 between the Autorité de Régulation des Activités Ferroviaires (ARAF)<sup>1</sup>, the Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles-National, the Institut Luxembourgeois de Régulation and the Autoriteit Consument & Markt.

For the time being Switzerland is negotiating the implementation of Regulation (EU) No 913/2010 in Swiss legislation; as long as Regulation (EU) n° 913/2010 has not been duly incorporated into Swiss law, the Railways Arbitration Commission will not sign this agreement but will cooperate based on a letter of intent. The signature of the present agreement expresses the consent of the signatory Regulatory Bodies to be bound by this agreement. Signatory Regulatory Bodies agree to review this agreement every two years or if at least one Regulatory Body considers it is necessary.

### **Article 1 – Principles of cooperation**

Article 20 of the Regulation (EU) No 913/2010, hereafter “the Regulation”, provides the legal basis for Regulatory Bodies to monitor the competition in the rail freight corridor to avoid discrimination.

In accordance with Article 20 of the Regulation, Regulatory Bodies are jointly responsible for monitoring the activities of the Corridor-One-Stop-Shop (hereafter the “C-OSS”) and for ensuring non-discriminatory access to the Corridor.

#### **1.1. Complaint regarding infrastructure managers and operators of service facilities**

As the territoriality principle applies, national Regulatory Bodies regulate the activity of infrastructure managers and operators of service facilities in accordance with their national provisions.

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<sup>1</sup> ARAF became Autorité de régulation des activités ferroviaires et routières (ARAFER) on 15 October 2015

The Regulatory Body concerned should inform other Regulatory Bodies involved in the Corridor upon receipt of a complaint on the Corridor.

## **1.2. Complaint regarding the C-OSS**

Owing to the multiple responsibilities for regulation the C-OSS, and in order to guarantee fast decision-making, the Regulatory Body responsible for taking a decision in the event of a complaint regarding the C-OSS will be identified as follows:

- 1) Should the Regulatory Bodies of the Corridor jointly come to the conclusion that the cause of the complaint is related to only one single country, the Regulatory Body responsible (hereafter “RespRB”) will be the competent Regulatory Body for that country.
- 2) For other cases, the Regulatory Body responsible for handling the complaint will be the Regulatory Body of the country where the representative structure of the C-OSS is legally seated (hereafter “RespRB”). The “RFC North Sea - Med”, in its capacity of representative structure of the C-OSS, is incorporated in Luxembourg<sup>2</sup>. Hence, the RespRB for the North Sea Mediterranean Corridor is the “Institut Luxembourgeois de Régulation”.

Depending on the circumstances, it is possible that more than one Regulatory Body could be involved in a matter concerning a complaint about the functioning of the Corridor. As all Regulatory Bodies concerned by a complaint must be consulted in the investigation process, in accordance with Article 20(3) of the Regulation, the process of cooperation is set out below in article 2 of this Cooperation agreement.

## **Article 2 – Process of cooperation**

### **2.1. Initial review**

Any Regulatory Body, hereafter referred to as “RB(a)”, on the Corridor can be solicited by a complainant. Upon receipt of a complaint related to the C-OSS, the RB(a) acknowledges receipt.

RB(a) conducts an initial review of the complainant’s information. When the information is incomplete or insufficient, RB(a) may request the complainant to provide further information without delay in accordance with its national rules.

RB(a) informs other Regulatory Bodies situated in countries on the Corridor. Regulatory Bodies determine jointly if the cause of the complaint is related to only one single country or not.

If the Regulatory Bodies jointly come to the conclusion that the cause of the complaint is related to one single country, the competent Regulatory Body of that single country will be the responsible Regulatory Body (“RespRB” in the process

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<sup>2</sup> Luxembourg Trade and Companies Register (Registre de Commerce et des Sociétés –RCS) no D 78

below) for handling the complaint and for taking measures regarding the parties concerned.

If the Regulatory Bodies determine that the complaint is not related to one single country, the complaint shall then be handled by the competent Regulatory body of the Member state where the legal representative structure of the C-OSS is legally seated. This is the “RespRB” in the process below.

If RB(a) is not the competent Regulatory Body, it sends all relevant information to the RespRB, informs the complainant that it is not competent to handle the complaint and advises the complainant to introduce the complaint with the RespRB.

The RespRB continues with the review of the complaint.

## **2.2. Review**

Proceedings are based on the RespRB’s national law in the context of the Regulation. The Regulatory Body which is responsible for the complaint sets the deadlines according to its national rules.

The RespRB informs concerned parties in writing that it has received the complaint. Subsequently, it sends to these parties appropriate information, including a notification letter (in English and/or in one of the official languages of the country where the RespRB is located) inviting parties to submit comments on the complaint. Such parties may include railway undertakings, infrastructure managers, operators of service facilities, the C-OSS, other Regulatory Bodies and any other stakeholder.

The RespRB reviews all the information and comments received from all parties and, if necessary, sends further requests for information.

All Regulatory Bodies on the North Sea Mediterranean Corridor ensure that they cooperate in the investigation of the RespRB by providing all information legally available within their powers.

The RespRB drafts a decision and consults, within the limits of its national legislation, the Regulatory Bodies involved (deadline defined by the RespRB on a case by case basis).

After having consulted, where applicable, the Regulatory Bodies involved, the RespRB issues a decision and informs properly (in accordance with its national legislation) and in writing the complainant, the C-OSS and, where applicable, the infrastructure manager or the operator of the service facility that is involved.

The final decision is taken no more than six weeks from receiving all relevant information (in compliance with time frame foreseen in the applicable European legislation).

The RespRB sends the decision and a summary of the decision in English to all Regulatory Bodies affected by the decision.

The decision is subject to judicial review in accordance with the national legislation of the RespRB.

### Article 3 – Others

The exchange of information between Regulatory Bodies will be in English and by e-mail.

To this end, the Regulatory Bodies shall exchange email contact details and ensure that it is up to date.

June 2016,

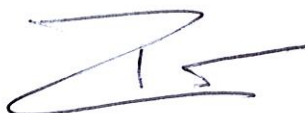
For Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles-National,

Serge DRUGMAND



For Autorité de Régulation des Activités Ferroviaires et routières

Pierre CARDO



For Institut Luxembourgeois de Régulation

Jacques PROST



For Autoriteit Consument & Markt

Johan Keetelaar



For the Office of Rail and Road

Daniel BROWN

