

COOPERATION AGREEMENT

between the Regulatory Bodies situated in the countries of the Rail Freight Corridor “North Sea-Baltic”:

hereinafter referred to as “the Agreement”

Corridor route and map: Antwerp, North Sea Port (Gent/Terneuzen), Zeebrugge, Rotterdam, Amsterdam, Wilhelmshaven, Bremerhaven and Hamburg spreading in central Germany through Aachen – Hannover – Magdeburg and Berlin to Poznań – Warszawa – Terespol (Poland-Belarus border) with a northern branch from Magdeburg – Falkenberg – Dresden to Prague and a southern branch from Falkenberg – Wrocław – Katowice to Medyka. Another branch goes from Warszawa to Kaunas with broad gauge extension from Kaunas to Riga and further to Tallinn.

Regulatory Bodies:

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

The Netherlands: Autoriteit Consument & Markt, Muzenstraat 41, 2511 WB Den Haag

Germany: Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen, Tulpenfeld 4, 53113 Bonn

Czechia: Úřad pro přístup k dopravní infrastruktuře, Myslíkova 171/31, 110 00 Praha 1

Poland: Prezes Urzędu Transportu Kolejowego, Aleje Jerozolimskie 134, 02-305 Warszawa

Lithuania: Lietuvos Respublikos ryšių reguliavimo tarnyba, Mortos g 14, 03219 Vilnius

Latvia: Valsts dzelzceļa administrācija, Riepiņķu iela 2, 1050 Rīga

Estonia: Konkurentsiamet, Tatari 39, 10134 Tallinn

I) Preamble

In accordance with Article 20 of Regulation (EU) of the European Parliament and of the Council No. 913/2010 of 22 September 2010 concerning a European rail network for competitive freight¹, hereafter referred to as “the Regulation 913/2010”, in conjunction with Article 57 of Directive 2012/34/EU of 21 November 2012 establishing a single European railway area², hereafter referred to as “Directive 2012/34/EU”, the Regulatory Bodies of Belgium, the Netherlands, Germany, Czechia, Poland, Lithuania, Latvia and Estonia (countries of the rail freight corridor “North Sea – Baltic”) have agreed on the following way of cooperation.

On 20.11.2014, an agreement has been signed between the Regulatory Bodies of Belgium, the Netherlands, Germany and Poland. As the corridor has been expanded in compliance with article 5 of Regulation (EU) No 913/2010 by Commission Implementing Decision (EU) 2020/2168 of 17 December 2020³, it is necessary to draw up a new agreement with the Regulatory Bodies of Czechia, Lithuania, Latvia and Estonia as new parties.

The signature of the Agreement expresses the consent of the signatory Regulatory Bodies to be bound by this agreement. No provision of this agreement should be interpreted as precluding other Regulatory Bodies of the North Sea – Baltic rail freight corridor, hereafter referred to as “the Corridor” from joining this agreement.

II) Principles of cooperation

Article 20 of Regulation 913/2010 in conjunction with Directive 2012/34/EU provides the legal basis for Regulatory Bodies to monitor the competition in the Corridor through ensuring non-discriminatory access and acting as appeal bodies.

In accordance with Article 13.5 in conjunction with Article 20 of Regulation 913/2010, these Regulatory Bodies are jointly responsible for monitoring the activities of the Corridor One-Stop Shop, hereafter referred to as “C-OSS” and for ensuring non-discriminatory access to the Corridor.

In the event of a complaint to a regulatory body from an applicant regarding international rail freight services according to Article 20 of the Regulation 913/2010, this concerned Regulatory Body shall consult the Regulatory Bodies of all other Member States through which the corridor runs, by using the process of cooperation which is described below. Consultations within the framework of an own-initiative investigation by a regulatory body according to Article 20 of the Regulation 913/2010 will be subject to the same process of cooperation as in case of a complaint.

1) Complaints relating to infrastructure managers:

As the territoriality principle applies, national Regulatory Bodies regulate the activity of infrastructure managers in accordance with their national provisions and/or Article 20 of the Regulation 913/2010.

¹ EU Journal Of Laws L 276 of 20 October 2010, p. 22, as amended.

² EU Journal of Laws L343 of 14 December 2012, p. 32, as amended.

³ EU Journal of Laws L 348 of 20 December 2013, p. 129, as amended.

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

2) Complaints related to the Corridor One-Stop Shop:

Owing the multiple responsibilities for regulating 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, hereafter referred to as "RespRB", will be identified as follows:

- a) Should the Regulatory Bodies of the Corridor jointly come to the conclusion that the cause of complaint is related to only one single country, the RespRB will be the competent Regulatory Body for that country.
- b) For other cases, the RespRB handling the complaint will be the Regulatory Body of the country where the C-OSS is legally seated.

3) Process of cooperation

Depending on the circumstances, it is possible that more than one Regulatory Body could be involved in a matter concerning the regulation 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 913/2010, the process of cooperation is set out below.

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 the receipt.

RB(a) conducts a formal review of the complaint and checks whether the information given by the complainant is complete and sufficient to initiate a case.

If the information is incomplete or insufficient, RB(a) requests the complainant to provide that information without delay.

RB(a) informs other Regulatory Bodies concerned about the filing of a complaint and asks them for comments.

Regulatory Bodies jointly determine (by means of electronic correspondence) if the cause of the complaint is related to only one single country or not.

If Regulatory Bodies jointly determine that the cause of the complaint is related to one single country, the competent Regulatory Body of that single country will be the RespRB for handling the complaint.

If the Regulatory Bodies jointly determine that the complaint is not related to one single country or do not come to a joint decision on this matter, the RespRB for handling the complaint will be the Regulatory Body of the country where the C-OSS is legally seated.

If RB(a) is not the RespRB, then it sends the complaint with 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 at the RespRB.

The RespRB continues with the review of the complaint.

Review:

The proceeding is based on RespRB's national law in the context of the Regulation 913/2010. The RespRB which is responsible for the complaint sets the deadlines according to its national rules. The final decision is taken no more than six weeks after having received all information (in compliance with the time frame foreseen in the applicable European legislation).

RespRB informs concerned parties – which might include railway undertakings, infrastructure managers, C-OSS, other Regulatory bodies or other stakeholders, especially service facility operators – 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), and asks for comments on the complaint.

RespRB reviews all the information and comments received from the complainant and other parties and, if necessary, requests further information.

All Regulatory Bodies situated along the Corridor ensure their cooperation in the investigation of the RespRB by providing all information legally available within their powers.

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

After having consulted, where applicable, the Regulatory Bodies involved, the RespRB issues the decision and informs properly (according to its national legislation) the complainant, the C-OSS and, where applicable, the infrastructure manager that is involved.

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

RespRB informs the other Regulatory Bodies whether or not the concerned parties will have complied with the decision.

The exchange of information between Regulatory Bodies will be conducted in English and by email.

The decision is subject to judicial review according to the national legislation of the RespRB.

III) Miscellaneous provisions:

Signatory Regulatory Bodies agree to review this agreement if at least one of them considers it is necessary.

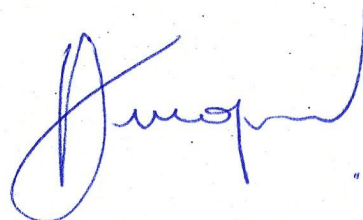
The Agreement is signed in eight original copies, in the English language. The Agreement shall enter into force on the day when it will have been signed duly by all Regulatory Bodies of the Corridor. It replaces the former Agreement signed on 20.11.2014 between the Regulatory Bodies of Belgium, the Netherlands, Germany and Poland. The signatory Regulatory Bodies will

send this agreement to the Management Board of the Corridor, to be integrated in the Corridor-Information-Document.

The signatory Regulatory Bodies will publish this Agreement on their respective websites.

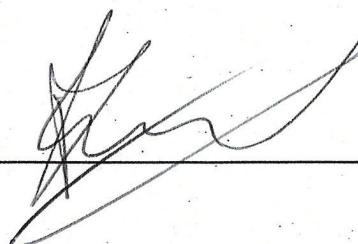
For Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles-National,

At Bruxelles on (date)

12/08/2022 

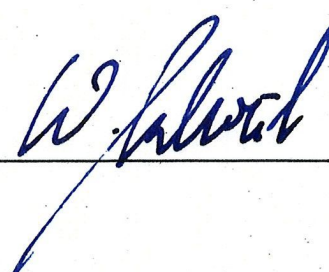
For Autoriteit Consument & Markt,

At Den Haag on (date)

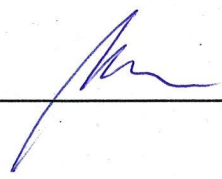
 6/8/2022

For Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen,

At Bonn on (date)


4/8/2022 

For Úřad pro přístup k dopravní infrastruktuře,

At Praha on (date) 14.10.22 

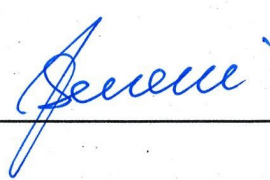



Prezes Urzędu Transportu Kolejowego,

At Warszawa on (date) 2022 10 06 
Ignacy Góra

URZĄD TRANSPORTU KOLEJOWEGO
PREZES

For Lietuvos Respublikos ryšių reguliavimo tarnyba,

At Vilnius on (date) 27.10.2022 


For Valsts dzelzceļa administrācija,

VALSTS DZELZCEĻA ADMINISTRĀCIJA

Direktors

Andulis Židkovičs

At Rīga on (date) 10.11.2022

For Konkurentsiamet,

At Tallinn on (date)

5.12.2022