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Working Party on Rail Transport

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**DETERMINATION OF RAILWAY INFRASTRUCTURE CAPACITY INCLUDING ASPECTS
RELATED TO THE FEE FOR THE USE OF THE INFRASTRUCTURE**

Transmitted by the Governments of Austria, Israel, Lithuania, Poland, Tajikistan, Ukraine

Note: During its fifty-fourth (3-5 October 2000) session, the Working Party on Rail Transport considered inter alia the determination of railway infrastructure capacity including aspects related to the fee for the use of the infrastructure (TRANS/SC.2/194, paras.18-21). In this connection, it requested Governments that had not yet done so in 2000 to provide information on the following questions which have an impact on the railways in member countries:

- (a) Legal status (existing or foreseen) for railway infrastructure managers, railway operators and the national regulatory body.
- (b) Principles for capacity allocation.
- (c) Principles for the identification of sections with capacity constraints. Priority criteria for these sections.
- (d) Cooperation with neighbouring network infrastructure managers for the allocation of capacity at the international level.
- (e) Description of the existing/envisaged infrastructure charging schemes: charging principles and rules.
- (f) Special charging regimes.

The information submitted by Governments is reproduced below.

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AUSTRIA**(a) General Principles:**

The assignment (allocation) of train path capacity is done by the infrastructure enterprise. These enterprises have to establish general conditions for the allocation of train paths, which include all essential administrative, technical and financial conditions under which railway enterprises can get access to their infrastructure. Infrastructure enterprises have to grant access to their infrastructure to all railway enterprises as far as free capacities are available. The allocation has to be done without any discrimination against adequate payment. The railway enterprises have also the right to use other services of the infrastructure enterprises which are necessary for the operation of the railway enterprises, like access to education service, access to combined transport terminals, supply of traction energy. For the use of these additional services also general conditions have to be established.

(b) Restriction of the allocation:

Infrastructure enterprises have to examine each request for assignment of train paths. Each request has to be examined under the conditions of equal and fair treatment as well as an efficient use of the given rail infrastructure; thereby existing public service obligations and other transport systems in public interest have to be taken into account.

(c) Co-operation with neighbouring countries:

Regular meetings with representatives from other EU and neighbouring countries serve as a forum for the exchange of information on the status and the development of railway regulation and liberalisation in Europe.

(d) Infrastructure charges, reservation charges and down payments:

Infrastructure charges are calculated according to kind and duration of the transport service, as well as kind of the rail infrastructure and its depreciation. Calculation guidelines are established by the Federal Ministry for Transport, Innovation and Technology in accordance with the Federal for Finance.

Reservation charges have to be paid whenever a granted access right is not used and the train path cannot be allocated otherwise. If the access right is not used for a time longer than 3 months, the infrastructure enterprise can cancel the contract. The infrastructure enterprise may charge a down payment for the infrastructure charge. Whether these down payments are adequate or not may be subject to supervision of competition.

(e) Legal status and organizational character of the rail regulator in Austria:

The Rail Regulator of Austria was established by the Republic of Austria as a company with limited responsibility which is not profit oriented (Gesellschaft mit beschränkter Haftung, GmbH). The full title is Österreichische Gesellschaft für Schienenverkehrsmarktregulierung mit beschränkter Haftung - Schienen Control GmbH (Austrian company for the regulation of the rail transport market Limited - Schienen Control GmbH). The equity amount is Austrian Shillings 10 million (Euro 726.728,-). The office of the company is in Vienna. The company is 100% state owned. The ownership is represented by the Federal Ministry for Transport, Innovation and Technology.

ISRAEL

(a) Legal status (existing or foreseen) for railway infrastructure managers, railway operators and the national regulatory body:

Rail Infrastructure Manager, Railway Operator and National Regulatory Body - Israel Railways.

(b) Principles for capacity allocation:

Passenger trains have priority on Freight trains. Trains on-time have priority over late running trains

(c) Principles for the identification of sections with capacity constraints:

Priority criteria for these sections.

Identification of sections with capacity constraints is done according to UIC leaflet 405.
Priority criteria:

- "Grand Father Rule" concerning Freight trains, but in general passenger trains have priority on pick hours over freight trains

(d) Co-operation with neighbouring network infrastructure managers for the allocation of capacity at the international level:

Unfortunately no International traffic at present

(e) Description of the existing/envisaged infrastructure charging schemes: charging principles and rules:

No charging exists.

(f) Special charging regimes:

No charging exists

LITHUANIA

(a) Legal status (existing or foreseen) for railway infrastructure managers, railway operators and the national regulatory body:

The liberalization of railway activities by introducing equal operational conditions for private as well public operators is foreseen in the Programme of the new Lithuanian Republic Government. On May 2001 the Government of Lithuanian Republic approved the Basic Trends and Guidelines of Railways Restructuring and Privatization. During the process of restructuring of the Lithuanian Railways (LG) into separate enterprises for infrastructure and operations (freight carriage, passenger carriage, rolling stock service, construction and maintenance) will be established. According to the programme of restructuring of LG, the functions of national regulatory of the relations between different railway companies (national company and newly established private companies) will be submitted to the Railway Transport Inspection; the regulatory functions can also be charged to the Railway Department at the Ministry of Transport and Communications. Priorities in rail transport sector will be given to ensure the independence of the management of railway undertakings and an appropriate separation of infrastructure management from the transport operations into framework of the necessary restructuring of railways as well as reorganisation and strengthening of the Railway Transport Inspection.

Up to August 2001, new licensing rules for railway transport undertakings should be prepared. The projects of amendments of Railway Transport Code and Law of Railway Sector Regulation should be prepared till November 2001.

(b) Principles for capacity allocation:

Up till now the principles for capacity allocation have not been applied, because only the Lithuanian Railways (LG) use the railway infrastructure. Now the new private railway companies have been established and the regulations for the allocation of infrastructure capacities to them are being drafted according to the EU Directive 95/19/EC.

(c) Principles for the identification of sections with capacity constraints:

Priority criteria for these sections.

These principles are not being applied in Lithuania.

- (d) Co-operation with neighbouring network infrastructure managers for the allocation of capacity at the international level:

Lithuanian railways co-operate with Latvian, Byelorussian, Polish railways and with the Kaliningrad region (Russia).

- (e) Description of the existing/envisaged infrastructure charging schemes: charging principles and rules:

The infrastructure charging schemes are under preparation.

- (f) Description of the existing/envisaged infrastructure charging schemes: charging principles and rules:

The system of coefficients will be applied according to the transportation volumes, axle load, speed of transportation, time of a day and the intensity of traffic in the section.

POLAND

- (a) Legal status (existing or foreseen) for railway infrastructure managers, railway operators and the national regulatory body:

The main legal act regulating rail transport is the Law on Railway Transport from 1997 with later amendments, notably from the Law on Restructuring, Commercialization and Privatization of Polish State Railways (PKP) from year 2000.

The license for management of railway lines is given to entrepreneur, who:

- has legal title to using railway lines,
- obliges himself to employ properly qualified personnel,
- can guarantee a proper exercising of the economic activity.

The license for railway transport is given to entrepreneur, who:

- has legal title to railway vehicles, including self-propelled ones, which fulfill conditions stipulated by other provisions,
- obliges himself to employ properly qualified personnel, especially for driving railway vehicles,
- obliges himself to respect international agreements, of which Poland is a part, in case of exercising of international railway transport,
- can guarantee a proper exercising of the economic activity.

Main national regulatory body will be the President of Railway Transport Office. He will begin its activity with the moment of Poland's accession to the European Union. The main duties of the President of RTO will be:

- controlling infrastructure fees,
- coordination of railway schedules,
- controlling the equal access of transport providers to railway infrastructure,
- preventing, together with other agencies, the monopolist practices of railway infrastructure management and transport providers,

(b) Principles for capacity allocation:

The Minister of Transport is mandated to issue a decree concerning rules for capacity allocation, and the form and contents of the request for railway line allocation and procedures for its processing.

Currently capacity allocation is done according to criteria of drawing railway schedules.

(c) Principles for the identification of sections with capacity constraints:

Priority criteria for these sections.

Currently there are no capacity constraints so at this point there is no regulation on this subject.

(d) Co-operation with neighbouring network infrastructure managers for the allocation of capacity at the international level:

There are no rules for co-operation with neighbouring network infrastructure managers, since allocation of capacity for the foreign operator requires an international agreement of which Republic of Poland is part.

(f) Special charging regimes:

System of infrastructure charges is based on the decree of Minister of Transport on detailed provisions on rules for determining of charges for using the railway infrastructure.

The fee consists of:

- basic fee (section basic fee multiplied by the basic fee for the specific type of train) includes:
 - access to infrastructure,
 - edition of schedules,
 - rail traffic management services,
 - repair and rescue,
- fees for additional services:

- additional access to railway infrastructure (not required for the basic journey),
- transport of dangerous goods and loads which exceed standard weights or dimensions,
- providing of water, compressed air, receiving wastewater, fueling,
- additional telecommunication and information services,
- charges for electric power,
- VAT tax.

TAJIKISTAN

(a) Legal status (existing or foreseen) for railway infrastructure managers, railway operators and the national regulatory body:

The Tajik Railway Company is the state organization for managing the all state railway transport on the territory of the Republic and submitted to the Ministry of Transport of the Republic of Tajikistan and the Government of the Republic of Tajikistan.

- Railway company includes linear and structural divisions of railway transport, industrial, constructive, commercial and provision unions and enterprises, foreign activities enterprises, direction for new railway lines construction, banks, health department and educational department, department of culture, sport and other departments, organizations and unions providing with the activity and development the railway transport.
- Railway Company works under: the Constitution of the Republic of Tajikistan, the Law of transports of the Republic of Tajikistan, other laws of the Republic of Tajikistan and decisions of Majlisi Oli (Parliament), decrees and resolutions of the President of the Republic of Tajikistan, orders and decrees of the Ministry of Transport of the Republic of Tajikistan, orders and resolution of the Government of the Republic of Tajikistan and other normative acts. Railway company provides correct use the legislation and other normative acts, international agreements within dependent enterprises and organizations. Management of the transport process is the exclusive competence of the Railway Company.
- Railway Company has a juridical status, possesses property, has independent balance, banking accounts, currency accounts in banks overseas, stamp with its name and state symbols. Railway Company has fixes capital and circulating capital and its activity based principle on cost accounting and self- financing.

(b) Principles for capacity allocation:

The head office is in Dushanbe.

(c) Principles for the identification of sections with capacity constraints:

Priority criteria for these sections.

The principle transit carriages make on Kanibadam-Lininabad-Bekabad section, 7 pairs freight

train pass in 24 hours there.

(d) Co-operation with neighbouring network infrastructure managers for the allocation of capacity at the international level:

The principle objectives are: making and approval the schedule traffic and planning the trains forming in association with the State Railway Company “Uzbek Temir Yuillary Ltd.” and also passing the transit trains to the territory of Republic of Tajikistan.

(e) Description of the existing/envisaged infrastructure charging schemes: charging principles and rules:

The Tajik Railway Company is a participant of CIS Tariff Agreement and use rates under the Tariff Policy of CIS, approved on annual Tariff Conference. In 2001 freight year our company uses the rates approved on 9-th Tariff Conference, November 2000, Ashhabad.

(f) Special charging regimes:

Charges regime worked out according to the Tariff Policy and depend on kind of train and freight distance.

UKRAINE

The Ukrainian railway infrastructure has significant unused track and rolling-stock capacity.

The total length of the principal rail network in Ukraine is 22,500 km, of which:

- 40.5% is electrified;
- 70.2% is equipped with electrical interlocking;
- 38.2% is equipped for dispatcher control;
- 15.5% is equipped for centralized dispatching;
- 60% is equipped for automatic control of train movements.

The rail infrastructure is constantly being overhauled and modernized to bring it up to international standards.

In recent years efforts to make Ukraine more attractive to transit traffic have focused mainly on setting competitive tariffs and simplifying border-crossing procedures. To that end, the Border Crossing Points (Common Fee) Act and Presidential Decree No. 799/98 of 20 July 1998 regulating fees at border crossing points have established a procedure which enables customs authorities to charge fees for carrying out environmental, veterinary, and phytosanitary inspections using standard payment documents at border crossing points.

Carriage is effected according to quotas set by the Ukrainian Ministry of Transport's National Rail Transport Authority in collaboration with forwarding firms. Pursuant to the requirements of Ukraine's anti-monopoly legislation, and in order to promote access to the railway infrastructure by other operators and carriers, the National Rail Transport Authority and the Ministry of Transport are jointly reviewing State Classifier of Goods and Services DK-016-97 and other regulations on licensing economic entities to provide passenger and freight services on the rail network. As of 1 April 2001 a total of 63 economic entities have been licensed by the Ministry of Transport's Licensing Board.
