

## **Memorandum of Understanding between European Railway Agency and the Coordination Group of Notified Bodies (NB Rail) concerning the Technical Secretariat of the NB Rail**

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## **Introduction**

The European Railway Agency (the Agency) is assigned with the task to contribute to the development of rail interoperability in accordance with the principles laid down in the Directive 2008/57/EC on the interoperability of the rail system within the Community<sup>1</sup>. In pursuing this task, the Agency cooperates with the Notified Bodies (NoBos) as referred to in Article 28 of the Interoperability Directive in order to collect feedback on the exercise of their duties in relation to the Technical Specifications for Interoperability (TSI) in view of improving conformity assessment. The NoBos are independent organisations responsible for assessing the conformity of products and sub-systems with regard to the New Approach Directives. The Agency is in contact with the Coordination group of Notified Bodies under the Interoperability Directive (“NB Rail”).

Since the establishment of NB Rail, a Technical Secretariat has been designated for the group for consecutive 12-month periods. Before this Memorandum of Understanding (MoU) the Technical Secretariat of NB Rail was provided under contractual arrangements with the Commission. In view of the expiration of the last extension of this contract, the Commission decided, and NB Rail and the Agency agreed, that it is a good approach that the Agency assumes the role of the Technical Secretariat.

This will be beneficial both for the Agency and NB Rail and would in particular:

- Allow the Agency to be involved more efficiently in the activities of the NoBos;
- Ensure better feedback on application of the TSIs and procedures of assessment;
- Improve the handling of questions and clarifications.

While the Agency assumes the role of Technical Secretariat, both the Agency and NB Rail will retain its responsibilities and independence, and NB Rail will continue to be chaired by the NoBos.

### **1. Purpose and scope**

The purpose of this MoU is to establish an agreement between the Agency and NB Rail on the tasks to be carried out by the Agency to provide the Technical Secretariat of NB Rail.

### **2. Legal framework**

Article 28 (5) of the Interoperability Directive states:

*‘The Commission shall set up a notified bodies coordination group (hereinafter referred to as the Coordination Group) which shall discuss any matter relating to the application of the procedures for assessing conformity or suitability for the use referred to in Article 13 and the verification procedure referred to in Article 18, or to application of the relevant TSIs. Member States' representatives may take part in the work of the Coordination Group as observers.*

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<sup>1</sup> Directive 2008/57/EC – OJ L 191, 18.7.2008, p.1. Hereafter referred to as the Interoperability Directive

*The Commission and the observers shall inform the committee referred to in Article 29 of the work carried out in the framework of the Coordination Group. The Commission, when appropriate, will propose the measures needed to remedy the problems. Where necessary, coordination of the notified bodies shall be implemented in accordance with Article 30(4).'*

Article 12 of the Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European railway agency (Agency Regulation)<sup>2</sup>, states:

*'The Agency shall contribute to the development and implementation of rail interoperability in accordance with the principles and definitions laid down in Directives 96/48/EC and 2001/16/EC. To this end the Agency shall:*

...  
*(d) assist the Commission in organising and facilitating the cooperation of notified bodies, as described in Article 20(5) of Directives 96/48/EC and 2001/16/EC.'*

The note of the European Commission to the Executive Director of ERA of 8 November 2010 [ref. MOVE/D/2/EF/sh D(2010)/786084] assigns the tasks related to the Technical Secretariat of NB Rail to the Agency as of 20 April 2011.

### **3. General principles of cooperation**

The Technical Secretariat will assist the Chairman of NB Rail in carrying out his/her duties. Therefore, in cooperation with the Chairman and under his/her leadership, the Technical Secretariat's duties are to:

- a) Ensure continuity of the Technical Secretariat's work within the duration of this MoU;
- b) Keep abreast of, and report to the group on, the progress made in the work of implementing EU legislation in the domain of interoperability and activities in the field of European railway standardisation.

To this end, the Technical Secretariat and the members of NB Rail will need to seek for the fullest possible use of new information technologies and, in particular, the "NB Rail" forum available on CIRCA at the following internet address:

<http://forum.europa.eu.int/Public/irc/nbg/nbrail/home>.

In addition to contributing towards the definition of the architecture and the up-dating of this forum, the Technical Secretariat will, when appropriate, run any newsgroups set up on this site.

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<sup>2</sup> OJ L 220, 21.6.2004, p.1

- c) Prepare, take part in and assist the Chairman during the plenary meetings of NB Rail<sup>3</sup>. This task will include (non-exhaustively) the preparation of agendas, the drawing of working documents and the drafting of minutes and adopted recommendations.
- d) Prepare, take part in and assist the Chairman during the strategy meetings of NB Rail. The task of the Technical Secretariat will be as in point 3 c). The logistical preparations for the strategy meetings are done either by the different NoBos hosting the meeting on voluntary basis or may be provided by the Agency.
- e) Participate where necessary in the meetings of the coordination subgroups of the NoBos to follow up specific technical questions;
- f) Collect all useful technical information and organise it so as to enable the notified bodies to exercise and co-ordinate their activities as efficiently as possible.
- g) Take part in coordination meetings with the European Commission and, at the latter's request, in possible technical coordination meetings with the European Standardisation Bodies (CEN/CENELEC/ETSI).
- h) Contribute to the process of drawing up recommendations for use (RFUs) and questions and clarifications (Q&Cs) and ensure follow-up during deliberation and finalisation stages<sup>4</sup>.

These documents should be drawn up and classified in so as to ensure that they can be used quickly and efficiently. This implies, amongst other things, the use of standard models.

- i) Upload in the relevant section of the CIRCA web site records of every meeting in which the Technical Secretariat has taken part no later than two weeks after the date of the meeting.

This MoU will involve participation by the Technical Secretariat in the plenary and strategy meetings of NB Rail [according to section 3.c) above] or other meetings [according to sections 3.d) and 3.g) above], which may take place in Brussels, in Lille or in any other Member State of the European Union.

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<sup>3</sup> In these activities, the Technical Secretariat can count on the support of the Administrative Secretariat with providing the logistical back-up for the plenary meetings (the tasks of the Administrative Secretariat are not covered by this MoU. These tasks are described in the service contract –SI2.ACEPROCE19277900 managed by DG ENTR).

<sup>4</sup> An RFU is a document for internal use within NB Rail, recording questions, issues or concerns and the agreed answers. A Q&C is a document used to record questions, issues or concerns and the agreed answers on matters that cannot be dealt with internally from within NB Rail i.e. that requires action, approval or input from external bodies.

For more information:

<http://circa.europa.eu/irc/nbg/nbrail/info/data/en/information/nbrail/00nb%20rail%20homepage.htm>

In relation to the meetings of NB Rail, the Agency will bear the costs of its own participation and of the work related to the tasks of the Technical Secretariat. The participants from the different NoBos will bear their own costs<sup>5</sup>.

#### **4. Contacts**

For the Agency (until further notice in writing from the Agency to NB Rail concerning possible changes):

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For NB Rail:

NB Rail Chairman as indicated at the following website:  
<http://circa.europa.eu/irc/nbg/nbrail/info/data/en/information/nbrail/Chairman.htm>

NB Rail Vice Chairman as indicated at the following website:  
<http://circa.europa.eu/irc/nbg/nbrail/info/data/en/information/nbrail/Vice%20Chairman.htm>

#### **5. Miscellaneous**

The present MoU comes into force upon the signature of the parties and will be valid until 19 April 2014. The validity of the MoU may be extended upon a written mutual agreement between the parties.

Any amendments to this MoU shall be made in writing and agreed by the parties.

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<sup>5</sup> The contract for the tasks of the Administrative Secretariat deals with the aspects of reimbursement of the Chairman for participation in the plenary meetings.

In case of disagreement on the interpretation or application of this MOU, the parties will negotiate in good faith in order to find a common understanding or approach (without recourse to any court).

Although the Agency will do its best reasonable efforts in performing the various tasks of the Technical Secretariat, the Agency cannot be held liable for any adverse consequences resulting from its work (except in the case of gross negligence). The Agency will be solely responsible for organising its work for the Technical Secretariat.

Signed in Genova on 26/V/2 2011.

For the Agency



By: Mr Marcel Verslype  
Title: Executive Director

For the NB Rail



By: FRANCESCO HANCA  
Title: CHAIRMAN