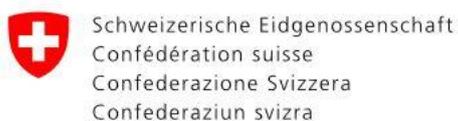


Regulatory Bodies of Rail Freight Corridor North-Sea Mediterranean

FIRST MONITORING STATEMENT

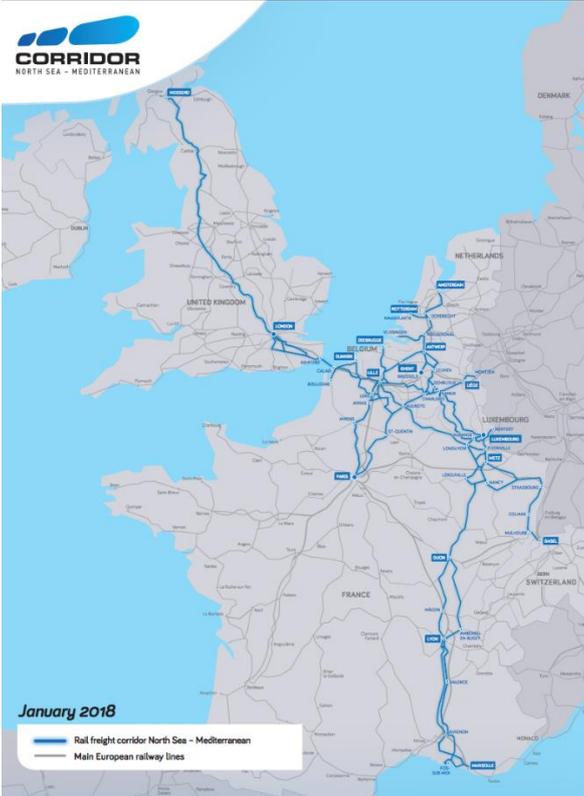
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Schiedskommission im Eisenbahnverkehr

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I. Introduction

1. Rail Freight Corridor North Sea – Mediterranean (hereafter RFC NSM or the corridor) runs through 6 different countries: Belgium, France, Luxembourg, Switzerland, United Kingdom and The Netherlands. With the creation of this corridor in 2013, the regulatory bodies of the respective countries were assigned some new tasks regarding the functioning of the corridor, in particular a general monitoring duty as well as handling of complaints. In order to fulfil these new tasks the respective regulatory bodies have had to strengthen their cooperation and streamline their national procedures.
2. This strengthening of cooperation resulted at the beginning of 2018 in the development of an initial work plan. Under this work plan, regulatory bodies have committed to an annual monitoring statement, that will include an overview of the work carried out by the regulatory bodies regarding the corridor and of the most important issues and developments on the corridor, whether positive or negative.
3. 2018 marks the first monitoring statement of the regulatory bodies of RFC NSM. The scope of this first monitoring statement covers not only 2018, but also the developments and observations of the last few years.

Aim of the monitoring statement

This initial statement is aimed at:

- Improving the corridor
4. With the monitoring statement the regulatory bodies of RFC NSM evaluate the functioning of the corridor, by means of focused monitoring, with a view to making the corridor work better and facilitating its use.
- Increasing transparency
5. This monitoring statement also focuses on the work carried out by the regulatory bodies in order to increase the transparency regarding their work in respect of the corridor. Chapter I contains an overview of the work carried out at monitoring, procedural and institutional levels.
- Strengthening cooperation
6. EU Regulation 913/2010, article 20 requires cooperation of the regulatory bodies of the respective rail freight corridors in order to monitor the competition and in particular to ensure a non-discriminatory access to the corridors. The regulatory bodies of RFC NSM have continued to strengthen their cooperation since the creation of the corridors, leading to an annual Work Plan and Monitoring Statement in 2018.
 7. This monitoring statement gives an overview of the development of this cooperation, not only amongst regulatory bodies but also amongst other actors on the corridor.

II. Monitoring work of regulatory bodies

8. This chapter will give an overview of the main work carried out by the regulatory bodies regarding the RFC NSM.

Cooperation agreement

9. In order to handle complaints, as required by article 20 of Regulation 913/2010, the regulatory bodies of RFC NSM signed a cooperation agreement in 2013, which was updated in June 2016 after the extension of the Corridor to the UK. This agreement sets out the principles of cooperation between regulatory bodies in the case of a complaint regarding the corridor. In order to give full transparency to the market, this cooperation agreement is also included in the Corridor Information Document, which is the equivalent of a Network Statement, of the RFC NSM.
10. Under this cooperation agreement, ILR, the regulatory body of Luxembourg has been designated the “responsible regulatory body” to handle complaints related to the European Economic Interest Group RFC NSM in its capacity of representative structure of the Corridor One-stop-Shop (hereafter EEIG/C-OSS). The EEIG/C-OSS is the body responsible for allocating access on the corridor. The agreement sets out in particular the process that should be followed in the case of such a complaint.
11. To date, no complaint has been received by the regulatory bodies.

Work plan

12. In light of the experiences gained since the launch of the corridor, the regulatory bodies of RFC NSM decided in 2018, that there was a need to strengthen their cooperation, in particular to meet their monitoring duty. They agreed to establish an annual work plan, where tasks are listed and assigned to the corridor regulatory bodies. In April 2018 the regulatory bodies jointly decided on a first work plan.

Bi-annual meetings with EEIG/C-OSS

13. Since the launch of the corridor the regulatory bodies and the EEIG/C-OSS of RFC NSM have established a cooperation framework based on bi-annual meetings. One meeting takes place at the beginning of the year, after the publication of the “Pre-Arranged Path” (or PaP) - catalogue, the other meeting takes place after the allocation phase in the autumn.
14. These meetings with the EEIG/C-OSS have been successful and provide a useful overview of the latest developments on the corridor and a helpful platform for exchange of information.

Institutional presence

15. The regulatory bodies of RFC NSM participate as observers in the following meetings of corridor institutions:
 - The corridor Executive Board ¹ (ExBo), which is constituted by representatives of Member States;

¹ The Executive Board has a general supervising role, and is amongst other things responsible for defining the general objectives of the corridor, approving the investment plan, and approving and monitoring the

- The Railway Advisory Group² (RAG), to which all interested railway undertakings are invited to participate in. The regulatory bodies of RFC NSM take great interest in these meetings, as they are a good opportunity to understand the concerns of the main clients of the corridor and to identify their needs.
- The Terminal Advisory Group (TAG), a group for all operators of the terminals along the corridor.

16. In addition to these meetings which are only related to RFC NSM, the regulatory bodies also actively participate in other meetings related to freight corridors in general, such as:

- The Network of Executive Boards (NexBo): a network created to share best practices among the executive board of all rail freight corridors, including representatives of the sector and ministries.
- The Single European Railway Act rail freight corridor Committee (SERAC): a platform chaired by the European Commission grouping representatives of member states, regulatory bodies, infrastructure managers and the corridors.
- The IRG-Rail Access Working group: the Access Working group's work has a specific focus on corridors. In 2018 this Working Group organized a Rail Freight Corridor Forum for the second time. At this forum the regulatory bodies had a discussion with the sector on, in particular, incident and crisis management, technical barriers and new capacity allocation processes.

III. Monitoring – main findings

17. This chapter gives an overview of the corridor developments and the main findings of the RFC NSM regulatory bodies. As the RFC NSM publishes each year an Annual Report (available on the corridor's website), this monitoring statement does not seek to reproduce the KPI's and other quantitative data included in the annual report, but focuses on qualitative aspects of monitoring. Nevertheless, reference is made to the relevant data if necessary.

18. The findings and evidence for this chapter are based on several sources such as the public documents of the corridor organisation, the meetings of the regulatory bodies with the EEIG/C-OSS and with the ExBo, interviews with the RAG spokesperson, bilateral discussions and exchange with infrastructure managers and regulatory bodies.

19. The main issues identified by the regulatory bodies can be grouped around three main themes: the role of the EEIG/C-OSS, capacity (offer and PaP product) and operational issues.

Role of the EEIG/C-OSS

Willingness to make the corridor work

20. During the different corridor related meetings the EEIG/C-OSS of RFC NSM showed that it is committed to make a success of the corridor. The EEIG/C-OSS has made efforts to promote the corridor, to educate the railway undertakings on the Path Coordination System (PCS), and to push the infrastructure managers to offer harmonised and high quality PaPs, better aligned with customer needs. It provides a valuable link between the clients and the infrastructure managers.

implementing plan. The Executive Board meets approximately four times a year in Brussels. A representative of the regulatory bodies of RFC NSM is invited as observer to these meetings

² The RAG meets around 3 or 4 times a year. The regulatory body of the country where the meeting is held is invited to these meetings as an observer.

21. A good example of the work of the EEIG/C-OSS is the action plan that was set up by the corridor in January 2017. In this Action plan the crucial issues for the corridor were listed with a view to developing solutions together with the railway undertakings.

Improved communication with stakeholders

22. A success of the RFC NSM, and of the corridors in general is the intensified communication between the relevant actors of the rail freight sector; not only between infrastructure managers, but also with railway undertakings, applicants, terminal operators, ministries, the European Commission and regulatory bodies. The reinforced communication seems to lead to a better understanding of the needs and challenges of all parties, in particular the railway undertakings and their customers. One of the key players in this intensified communication is the EEIG/C-OSS.

23. The RAG and TAG meetings have proved to be of value in better understanding users' needs. One positive development is that the RAG-spokesperson is now invited to the ExBo and Management Board meetings to present the users' views. However regulatory bodies observe that engagement at these meetings is limited to a small number of parties which only represent part of the market. This is especially the case for the TAG meetings.

Limitation of the role of the EEIG/C-OSS

24. Under the current system the role of the EEIG/C-OSS ends with the allocation of capacity for the following annual timetable (mid/end of August). Once the capacity is allocated to the applicants, the respective dossier is transferred to the national infrastructure managers and allocation bodies. This means that the EEIG/C-OSS has no longer any information regarding the further changes and usage of the PaP and that it has no further role in the entire value chain of the path-product. As a result the EEIG/C-OSS is unable to act as the sole contact point for the user.

Capacity

25. Regulatory bodies have observed that the original concept of the PaP does not meet completely the needs of the market. More flexibility is needed. The main obstacle appears to be the differences in commitment of the national infrastructure managers to the corridor concept in general. The number of PaPs offered on long stretches such as between Antwerp and Basel do not meet demand. Similar issues can also be observed at cross border points for instance between Belgium and France (Aubange / Mont Saint Martin). In 2017 a total of 9 PaPs was requested for the Aubange border, however for TT 2018 only 7 PaPs were offered.

26. Looking at the different path catalogue offers over the years there have been big fluctuations in the number of train kilometres that are offered, reflecting the challenge infrastructure managers face in providing an adequate capacity on the corridor. Despite this there has been a continuing growth in capacity requests.

27. The growth targets foreseen in the Implementing Plan (3% growth by 2020, 9% growth by 2030)³ have proven to be unambitious, as the 9% target was reached in 2015. No update has been made so far.

³ https://www.rfc-northsea-med.eu/sites/rfc2.eu/files/rff/cid_book_5_tt2018-pub_december_2016.pdf

28. Some railway undertakings are conservative in the way they request capacity. They were reluctant to use PCS (the system for ordering capacity on the corridor) and preferred to place individual capacity orders with the national infrastructure managers and allocation bodies. In addition PCS has faced several problems concerning usability.
29. Nevertheless, despite these constraints the corridor has managed to allocate an increasing amount of capacity. However, the regulatory bodies have not been able to assess, as part of their evaluation goal, the overall impact of the corridor on the rail freight market.

Operational issues

Loading gauge

30. One of the operational constraints the corridor faces, is the limited clearance gauge of several tunnels on the line between the French region of Vosges and Basel in Switzerland. Several studies have already been conducted on this issue as well as a test by railway undertakings. However solutions appear to fall short because of a lack of financing.

Longer trains

31. Another operational constraint is that the Belgian rail network is not able to accommodate trains of 740 meters and longer during peak hours. Such trains can run on the networks of other corridors and are requested by the market. This limitation therefore weakens the competitive position of the corridor.

KPIs

32. In order to monitor the performance and the quality of the corridor, KPIs are needed. Each year, the corridor provides a performance report, including an overview of the KPIs that are measured by the corridor. This report is useful and is presented in a consistent way in order to make yearly comparisons possible. However, these KPIs mainly cover the activities of the EEIG/C-OSS (offer, allocation), and they do not monitor sufficiently progress of operational performance and quality of the corridor as per the Corridor Regulation.
33. The regulatory bodies note that no operational corridor KPIs are available since infrastructure managers are not capable of distinguishing corridor trains from normal traffic. To have a better view on the quality of the corridor, it is important that infrastructure managers set up a system to earmark the capacity allocated by the EEIG/C-OSS, so that in the national systems this capacity can be identified as corridor capacity. This is also important for the efficient monitoring of the corridor, necessary from a legal point of view. Article 17 of Regulation 913/2010 gives a certain protection to corridor trains in the event of traffic disturbance. If infrastructure managers are not able to identify the corridor trains, it is in practice impossible to fulfil this legal obligation.

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