

IRG-Rail Memorandum of Understanding

**as amended by the Plenary Assembly in Berlin
on 29 November 2023**

PREAMBLE

International cooperation in railways is becoming increasingly important. It is already firmly established between both railway undertakings and between infrastructure managers through their participation in European railway associations and fora. Likewise, in the natural monopolies setting, rail regulation fosters sustainable and effective rail services for the public and for the economy by promoting effective competition in the railway sector and thereby contributing to the development of a European internal rail market. In this respect closer cooperation between independent national Rail Regulatory Bodies as laid down in this memorandum and outlined in the attached Background Paper will help implementing the European regulatory framework in a harmonised way, to develop regulatory best practice and speak at Community level with a strong voice. IRG-Rail Members shall strive to achieve unity. To this end all Members shall negotiate in good-faith to resolve any possible disagreement.

In addition to the European Network of Rail Regulatory Bodies established and chaired by the European Commission and other corridor related international cooperation this Memorandum Understanding sets out the framework for an informal cooperation network of independent regulatory bodies to more frequently share experiences and views among its Members on key issues relating to the regulation and development of a competitive rail market in Europe.

This network shall conduct an open dialogue with all relevant parties and shall ensure that its views and activities are presented in a transparent manner. It shall maintain close relations especially with the European network of Rail Regulatory bodies and the European Commission.

National Regulatory Bodies remain fully competent within their jurisdiction. No decision of the IRG-Rail can overrule a decision based on national competences. However national Regulatory Bodies shall take into account the decisions of the IRG-Rail.

CHAPTER I – NAME, DURATION

Article 1 – Name

To enhance the co-operation between national Rail Regulatory Bodies in Europe on an informal basis, the undersigned have decided to establish an Independent Regulators' Group Rail (IRG-Rail).

CHAPTER II – OBJECTIVES

Article 2 – Objectives

The objectives of IRG-Rail are to promote by the utilisation and management of its resources, cooperation, mutual assistance and information exchanges between its members (hereafter, the "Members")

- a. a consistent approach to the European regulatory framework for railways by its Members;
- b. the development of regulatory best practice in the railway sector in Europe both for freight and passenger rail transport;
- c. sustainable and effective competition in the provision of freight and passenger rail transport;
- d. the development of a railway market in Europe;
- e. the interests of passengers and freight users of its Members;
- f. transparency in the railway sector.

Article 3 – Fulfilment of Objectives

In order to fulfil its objectives, IRG-Rail shall:

- a. provide a forum for discussion and exchange of ideas and expertise between its Members and with other experts regarding regulatory issues in the railway sector;
- b. prepare and publish documents, e.g. reports, guidance, Principles of Best Practice ("PIBs") and common positions to inform the market on regulatory strategies and developments;
- c. cooperate with other regulatory networks; and
- d. maintain an open dialogue with all relevant parties.

CHAPTER III – MEMBERSHIP

Article 4 – Admission, Resignation

1. Admission of Members

Membership is open to any national independent Regulatory Bodies in the railway sector which at all times:

- a. regulates its railway market and, in the case of EU members, is the national regulatory authority according to Article 55 of Directive 2012/34/ EU as amended;
- b. is independent of its government, railway undertakings and infrastructure managers as confirmed by the confirmation attached to the membership application;
- c. is in a country within the territory of Europe which has a liberalised railway market or is working towards a liberalised railway market.

2. Any Regulatory Body wishing to apply for membership shall send notice to the Chairperson expressing its interest and providing a signed confirmation of independence.

3. Any Regulatory Body which does not currently fulfil the membership criteria shall be allowed to participate informally in IRG-Rail working groups to the extent that the subject matter is relevant to it.
4. Resignation of Members
A Member may resign its membership at any time by sending a notification to that effect to the Chairperson of IRG-Rail.
5. Succession of membership
If a Member is renamed, or reconstituted, or if its responsibilities are conferred upon a different organization by the government of that Member, then the successor body shall be regarded as a member of IRG-Rail unless:
 - a. the new body indicates that it does not wish to be a member of IRG-Rail,
 - b. the new body is found not to meet the membership requirements of IRG-Rail, as outlined in Article 4.1.

Article 5 – Composition

1. The Plenary Assembly is composed of all Members.
2. Members attending the meetings are represented by their respective heads or representatives of their heads.

Article 6 – Powers and Duties

The Plenary Assembly is the forum for discussion and monitoring of the IRG-Rail's activities.

It shall:

- a. take all decisions aimed at pursuing IRG-Rail's objectives;
- b. approve documents;
- c. admit new Members and exclude Members;
- d. approve any amendments to the Memorandum of Understanding;
- e. adopt any amendments to the Working Arrangements;
- f. appoint its Chairperson; and
- g. set up working groups and appoint the Co-Chairpersons of the working groups.

Article 7 – Meetings

1. The ordinary Plenary Assembly shall be convened by the Chairperson or by the Vice Chairperson at least once a year and more frequently when appropriate.
In case the Co-Chairs from two different regulatory bodies are chairing IRG-Rail, plenary assemblies will be organised as agreed between the two co-chairs of these Regulatory Bodies.
2. Any extraordinary meeting of the Plenary Assembly shall be convened by the Chairperson at the request of at least a quarter of its Members.

Article 8 – Deliberations & Decisions

1. Decisions by the Plenary Assembly shall be adopted in accordance with Articles 1.3 and 1.4 of the Working Arrangements.
2. Amendments to this Memorandum of Understanding shall be adopted by unanimity in accordance with Article 1.3.4 of the Working Arrangements.

CHAPTER V – CHAIRPERSON AND VICE-CHAIRPERSON

Article 9 – Chairperson and the Vice-Chairperson

1. The IRG-Rail shall be represented by a Chairperson and a Vice-Chairperson. The position of the Chairperson may be jointly held by two senior representatives of the same or different Regulatory Bodies. This also applies to the position of the Vice-Chairperson.
2. Without prejudice to the powers reserved to the Plenary Assembly pursuant to Article 6, the Chairperson of IRG-Rail coordinates IRG-Rail activities, represents IRG-Rail externally and engages in advocacy duties on behalf of IRG-Rail vis-à-vis third parties, based on and consistent with positions and documents approved by the Plenary Assembly.
3. The Chairperson shall have a term of one year. Before serving his or her term as Chairperson, he or she shall first serve one year as Vice-Chairperson. To this end, every year the Plenary Assembly shall appoint a person who shall act as Vice Chair in the following year and Chair in the year after that.
4. The Chairperson shall submit the draft annual Work Programme to the Plenary Assembly for approval.

CHAPTER VI – WORKING GROUPS

Article 10 – Working Groups

1. The Plenary Assembly shall establish Working Groups, composed of representatives of IRG-Rail Members and chaired by one or two IRG-Rail Members. Any other RB having expressed an interest in a topic of a Working Group shall be allowed to participate in the Working Group; it shall contact the co-Chairs of that Working Group to arrange participation.
2. The Working Groups shall report to and submit for approval to the Plenary Assembly draft documents.
3. In principle, Working Groups shall be free to organise themselves and meet regularly. The Working Group co-Chairs shall be responsible for coordinating the work.

CHAPTER VII - GENERAL PROVISIONS

Article 11 – Working Arrangements

Except as otherwise provided by this Memorandum of Understanding the detailed rules governing the execution of the functions of the Plenary Assembly, the Chairperson and the Vice-Chairperson, shall be set out in the Working Arrangements.

Article 12 – Finances

There are no financial contributions requested. Each Member bears the costs arising from its participation.

Article 13 – Secretarial Functions

Secretarial functions with regards to the Plenary Assembly shall be carried out by the Member or jointly by the Members providing the Chairperson. With regard to the Working Groups, they shall be carried out by the Working Group co-Chairs.

Article 14 – Language

The working language of the IRG-Rail shall be English.

Article 15 – Confidentiality

1. Any information exchanged and received within IRG-Rail is subject to conditions of confidentiality under domestic and, if applicable, EU legislation.
2. Members shall ensure that all persons dealing with, or having access to, such information are bound by the obligation of confidentiality.
3. Members shall only use and process information in accordance with the confidentiality conditions that this information was provided under.

Documents circulated within IRG-Rail that have not been approved for publication by the Plenary Assembly, including internal documents, shall be regarded as confidential.