

Rail Delivery Group



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Response to:

**Transport Committee
Freight and Brexit Inquiry**

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Organisation: Rail Delivery Group

Address: 200 Aldersgate Street, London EC1A 4HD

Type: Business representative organisation

The Rail Delivery Group (RDG) brings together passenger train operators, freight train operators, as well as Network Rail. Together with the rail supply chain, the rail industry, a partnership of the public and private sectors, is working with a plan [In Partnership for Britain's Prosperity](#) to change, improve and secure prosperity in Britain now and in the future.

The RDG provides services to enable its members to succeed in transforming and delivering a successful railway to the benefit of customers, the taxpayer and the UK economy. In addition, the RDG provides support and gives a voice to passenger and freight operators, as well as delivering important national ticketing, information and reservation services for passengers and staff.

Our railway is the backbone of the British economy. It employs around 240,000 people, moves 4.5 million people around Britain each day, and 86 million tonnes of freight each year. It spreads wealth to every part of the country. As a sector that imports and exports both goods and services, moves people across borders, and possesses mainland Britain's only physical link to the Continent, getting Brexit right for the rail industry will also be a barometer for whether the overall deal will enable Britain to prosper in the decades ahead.

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1 Summary of Response

The RDG welcomes the opportunity to respond to the Transport Committee's Freight and Brexit inquiry. Our response has been developed in consultation with our members and reflects the detailed policy work we have undertaken in preparation for Britain's exit from the European Union (EU) including our key policy asks.

We have structured our response into five sections: a summary of rail freight and Brexit in the introduction in section 2; consideration of the impact of Brexit on international rail freight including the Channel Tunnel and ports traffic in section 3; an assessment of Brexit implications on domestic rail freight in section 4; and our conclusion in section 5. Throughout our response, we set out the scale of the challenge and what we consider to be the main legal, regulatory, infrastructure and operational requirements for the sector.

2 Introduction to rail freight

The rail freight sector makes a significant contribution to the UK economy. There are five main freight operating companies – DB Cargo, Freightliner, GB Railfreight (GBRf), Colas Rail and Direct Rail Services (DRS) – with four smaller operators: Victa Railfreight, Mendip Rail, Devon and Cornwall Railways, and Rail Operations Group. Each year, rail freight operators transport over £30 billion worth of products including high-end goods, aggregates, construction materials, nuclear waste and oil¹.

Rail freight has a crucial role to play in Britain's post-Brexit economy, supporting key Government policies including Industrial Strategy, housing and decarbonisation. The productivity and efficiency benefits delivered by rail freight help British businesses remain competitive. In 2016 freight operators delivered £1.7bn in economics benefits for the UK economy, more than 87% of which were delivered outside of London and the South East², supporting regional economies. Rail freight is well-positioned to help deliver national infrastructure projects and tackle the UK's housing crisis, in a sustainable way. One freight train carries enough material to build 30 houses³ and 40% of construction materials in London are delivered by rail⁴.

The negative impacts of freight distribution on the country's roads and health are mitigated when goods are transported by rail rather than by road. For example, rail freight produces 76% less CO₂ than HGVs and each freight train removes up to 76 lorries from our roads, resulting in 1.6 billion fewer HGV kilometres every year.⁵

The EU Single Market has enabled British and European railway operating and manufacturing companies to set up complex supply chains and services that enhance competitiveness, growth and employment in both economies. With much at stake, freight and passenger operating companies and the rail supply chain are anticipating with interest the final outcome of the negotiations between the UK and the EU27.

Significant legislation regarding international and domestic rail travel originates from the EU. Successive 'Railway Packages' and the creation of the Single European Railway Area have liberalised rail traffic within the EU. This has created opportunities for British businesses to operate railway services on the continent and vice-versa. Aside from these important industry-specific frameworks, there are also EU regulations regarding environmental impact, safety and security standards and rights for employees (so-called horizontal legislation).

¹ *Freight Britain: Continuity and Certainty for Rail Freight*, RDG, 2015.

² KPMG Analysis, January 2018.

³ Network Rail.

⁴ Mineral Products Association.

⁵ *Freight Britain*, RDG, 2015.

RDG has undertaken a detailed analysis of Brexit across passenger and freight and infrastructure management issues. We have distilled this into four high-level policy asks:

1. **Smooth cross border transport:** Passenger and freight train operators need to access rail infrastructure without undue cost, delay or operational boundaries.
2. **Reciprocal market access:** The rail industry needs an agreement which allows reciprocal market access to both EU and UK railway companies and their owning groups without complications.
3. **Access to EU skills:** The industry relies on continued access to skilled workers to continue operating and upgrading the railway, to support economic growth. Government and the industry should work together to ensure the industry can have access to a sufficient number of skilled workers either trained domestically or from the EU.
4. **Clear application of railway standards:** Ideally, the sector would have continued influence in the design of European standards and, where in the interests of efficiency/safety, continued application of EU standards.

In March 2018, RDG welcomed the agreement of an implementation or transition period in principle. This is because all the risk mitigation measures arising from Brexit require time to either put in place procedurally or build infrastructure to mitigate operational risks. The least favourable outcome for business would be a no-deal “cliff edge” Brexit. The rail industry wants to avoid this and will continue to cooperate with Government to find suitable outcomes and secure transitional arrangements. RDG is hopeful that with the continued excellent collaboration with DfT and DExEU many of the issues raised in this submission can be resolved.

3 International rail freight

3.1 Channel Tunnel (intermodal)

3.1.1 Scale of the challenge

Rail freight services commenced operation through the Channel Tunnel in 1994 as a collaborative effort between British Rail (Railfreight Distribution division) and SNCF Fret. Since the commercial opening, the tonnage of freight carried by rail through the Tunnel steadily increased from just below 0.5 million tonnes in 1994 to a peak of 3.14 million tonnes in 1998.⁶ During this time over 40 trains per day were using the route.⁷

Since the traffic peak, cross-Channel rail freight traffic has faced a number of issues which have had a negative impact on the volume of traffic. A combination of issues including security concerns initially raised by the migrant crisis and major strikes by railway staff in France created a decline in users of the route. However, with renewed efforts by the parties involved, there are signs that traffic is returning to the route, with new paths secured by rail freight operators in 2018. There is potential to increase this traffic, moving freight onto rail from other modes with the associated environmental and social benefits.

In 2017 1.22 million tonnes of freight were moved by 2,012 trains, predominantly as import flows into the UK reflecting the balance of trade between the UK and the EU.⁸ Rail freight traffic represents 6% of the total freight tonnage conveyed through the Channel Tunnel.⁹

⁶ Analysis by SNC Lavalin.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

Currently two freight Railway Undertakings (RUs), DB Cargo and GBRf, are licensed and hold Safety Certification to operate through the Channel Tunnel. These companies are the only ones in the UK and France that operate the Channel Tunnel compatible Class 92 locomotives.

In the UK, DB Cargo and GBRf are the main operators of services to and from Dollands Moor and through the Channel Tunnel to France. Rail Operations Group and Colas also operate occasional trains to/from Dollands Moor for onward movement through the Tunnel. In France, services to and from Calais Fréthun may be provided by Euro Cargo Rail, SNCF Logistics or LINEAS (B-Cargo).

In order to not only preserve the existing freight flows but also grow the market, regulatory and infrastructure modifications will have to be made. It should also be noted that provisions will not only have to be made in the UK but also in France as any delay or issues on mainland Europe will create knock-on impacts for the GB rail network.

3.1.2 Legal or regulatory requirements

Two examples of legal or regulatory requirements for smooth cross border transport post-Brexit are outlined below.

Train driver licences

The Train Driving Licences and Certificates Regulations 2010 implementing 2007/59/EC facilitate the mobility of EU train drivers by specifying common conditions and procedures for certification on rolling stock. These regulations provide assurance for international freight train drivers that they are authorised to operate in the EU.

In order to maintain smooth cross border transport for freight there must be mutual recognition of these licences between the EU and UK. Without this, train drivers will have to carry two licenses. This will incur additional costs.

Operational licences

The Railway (Licensing of Railway Undertakings) Regulations 2005, implementing 2004/49/EC require most freight operators to hold an appropriate European licence – in freight's case, this is a European freight licence issued by the ORR. Post-Brexit there would be a need for mutual recognition of licences in order to operate between countries in an efficient and cost-effective manner.

As with the train driver licensing issue, mutual recognition of licenses is the most elegant solution, minimising costs and delay.

3.1.3 Infrastructure or operational requirements

Interoperability

In order for a train to run across the border between the UK and France, and indeed beyond, both the rolling stock and the infrastructure must be interoperable. This means that certain basic standards must be respected so that the train can travel seamlessly. This is usually achieved by the application of technical specifications for interoperability, or TSIs.

These are explained in more detail below including the GB industry position on their application both to domestic and international routes and how the UK can go about influencing them. **Any international routes, including where necessary beyond the Channel Tunnel, and rolling stock that crosses borders must be interoperable otherwise international rail freight would be very challenging.**

3.1.4 Customs

Whilst customs do not form the substantive element of this inquiry, RDG has noted some high-level points insofar as they pertain to impacts on the domestic network.

In order to ensure that all categories of traffic using the Channel Tunnel were able to exploit the journey time benefits the 'Fixed Link' would provide, special arrangements were incorporated for border control issues from the outset to be as seamless as possible.

The implementation of the Channel Tunnel project commenced in 1986 with the signing of the Treaty of Canterbury between the UK and French Governments. As a Treaty, the agreement survives Brexit. The Treaty envisaged 'juxtaposed' frontier controls, with only controls on entry into the system for both Eurostar passengers and Le Shuttle (freight and passenger) users. Due to space and capacity constraints, neither Dollands Moor or Fréthun were intended as customs clearance points.

RDG is calling for greater clarity on customs controls and for the Government to implement a risk-based approach using modern digital processes in order to mitigate risks imported by Brexit. However, the industry is also taking action to investigate the possibility of 'inland customs clearance facilities' in order to move potential congestion away from the border. RDG will work closely with DfT to implement appropriate solutions.

3.2 'International' rail freight via ports

3.2.1 Scale of the challenge

One in four containers arriving at British ports makes its onward journey by rail¹⁰. There are 24 rail facilities linking to ports in Great Britain.

3.2.2 Infrastructure requirements

The rail freight sector is concerned at ports' ability to cope with any new legal or regulatory regimes that increase the dwell times at port rail terminals. Additional infrastructure may be required to manage trains in depots for longer periods or to store goods if there are not smooth and expedient customs and border measures in place. On a network that is the second most intensively used in Europe, delays occurring at port rail terminals could have an impact on domestic freight and passenger services elsewhere on the rail network.

A number of infrastructure enhancements have already been delivered through the Strategic Freight Network and further enhancements are planned in the industry's next funding period, Control Period 6, creating capacity and improving efficiency. The industry welcomes the Government's recently published ports connectivity study¹¹, which calls for a more holistic, multi-modal approach to freight infrastructure planning as the UK prepares to leave the EU.

A number of other freight studies have been undertaken across Government, most notably by the National Infrastructure Commission and the Government Office for Science. To ensure we have a more holistic approach to freight infrastructure planning, the recommendations emerging from these studies must be considered collectively rather than in isolation.

In this context, RDG asks Government to provide as much clarity as possible on the funding of rail freight enhancements in the industry's next funding period. This will enable freight operators and customers to plan their businesses with certainty.

¹⁰ Circa 5.9 million total containers arriving at UK ports each year
(<https://www.gov.uk/government/statistics/port-freight-statistics-2016-final-figures>)

¹¹ *Transport Infrastructure for our global future: A Study of England's Port Connectivity*, DfT, 2018.

4 Domestic rail freight

4.1 General

4.1.1 Scale of the challenge

Rail makes a major contribution to domestic freight distribution in the UK, with over 10 billion tonne kilometres of goods moved by rail in 2016-17, from coal and oil to metals and construction material.¹² As such, it is important to recognise that Brexit will potentially not only affect international rail freight traffic but may also have an effect on domestic operations. Not only is domestic rail freight operations subject to EU law, it is a market which is particularly sensitive to macro-economic changes.

4.1.2 Legal or regulatory requirements

Rail Freight Corridors

The European Commission sought to support the rail freight market through the establishment of rail freight corridors (RFCs) – freight capable railway lines, linking two or more terminals along a predefined route. The UK is a member of Rail Freight Corridor 2 (RFCNSM)¹³. Once the UK leaves the EU, this regulation, unless appropriately incorporated into UK law under the European Union (Withdrawal) Bill will mean the British rail industry will no longer have elements of the framework to be a member of RFCNSM. Whilst this may not prevent membership of RFC, RDG still proposes ‘transposition’ via the Withdrawal Bill as far as this is possible.

RDG members have identified a number of strengths of the Regulation and opportunities if it remains a member of the corridor. As such the industry would like the relevant infrastructure managers to explore the possibility of becoming an associated member of RFCNSM. RDG members believe that RFCs are a good basis on which to build a competitive and attractive rail freight sector helping to overcome operational barriers such as national rules and procedures. Furthermore, the corridor concept is important in developing cross-border traffic. Although traffic is currently at relatively low levels the corridor will facilitate an increase in competitiveness of rail freight and achieving modal shift. Benefits include:

- Consistency for applicants with clear access and certainty;
- Greater certainty for British operators going into mainland Europe and vice-versa;
- The Corridor Information Document (CID) is a useful and comprehensive source of information;
- The Corridor One Stop Shop (C-OSS) provides a collaborative framework; and
- Clear and targeted route of collaboration with Eurotunnel.

In addition, the corridor will provide an invaluable platform for exchange post-Brexit. Where the UK will not be integral to the EU, remaining inside an organisation such as RFCNSM, will provide a forum for the industry to maintain relationships. Furthermore, if the industry demonstrates its commitment to such a European project, it may help our future relationship with the EU.

Whilst RDG has submitted proposals to the DfT and the DExEU on the legal drafting required to ‘transpose’ this regulation via the Withdrawal Bill, **if associated membership is not possible, RDG will seek support from DfT regarding the promotion of international rail freight.**

Reciprocal market access

Foreign involvement in the British rail market is well-documented and we have welcomed the jobs, investment and innovation that international transport businesses (including freight operators) have brought to Britain. What is sometimes less well-publicised are the inroads RDG members have already

¹² ‘Freight Moved’, *Rail Freight Usage 2016-17*, ORR.

¹³ Regulation 913/2010 (concerning a European Rail Network for Competitive Freight)

made into overseas rail markets such as Germany and Poland. As such, reciprocity of market access is highly relevant for freight operators including those with non-EU or UK ownership operating in the EU. **Whilst we are asking the Government to support reciprocal market access for the industry post-Brexit, we are also keen to work on the new post-Brexit trade deals and explore potential markets further afield.**

4.1.3 Infrastructure and operational requirements

Standardisation

The railway standards framework is formed at all levels; International, European and National. Some standards are mandated through legislation (approximately 20% of all EU standards¹⁴), whilst other standards are left for the rail industry to adopt either through contractual arrangements or adoption through a company's own management system.

At a European level, there are mandatory requirements contained in European Regulations called Technical Specifications for Interoperability (TSIs) developed by the European Union Agency for Railways (The Agency). The primary purpose of the TSIs is to harmonise requirements across Europe to meet objectives of European legislation, which are to:

- Open up and grow the European rail market for products and services; and
- Facilitate cross-border traffic with the aim of effectively making the key aspects of the whole EU railway network 'technically the same' so that, in theory, any TSI compliant European train could operate anywhere on the whole EU rail network.

As such, the TSIs are essential for smooth cross-border transport, as outlined above. Many of the TSIs have an impact on rail freight including:

- Locomotives and passenger rolling stock (LOC & PAS TSI)
- Noise (NOI TSI)
- Wagons (WAG TSI)
- Infrastructure (INF TSI)
- Energy (ENE TSI)
- Control and Command Signalling, including European Railway Traffic Management System or ERTMS (CCS TSI)
- Safety in railway tunnels (SRT TSI)
- Operations and traffic management (OPE TSI)
- Telematics applications for freight service (TAF TSI)

The rail industry is currently leading two pieces of work in relation to TSIs, influencing their formulation and application.

When the UK leaves the EU, its membership of the Agency will cease. The Government has indicated that it is not seeking bilateral membership as currently enjoyed by Switzerland or Norway. This means that Government and the industry will lose their opportunity to influence the TSIs in their development; something it has done very successfully in the past. Without the ability to influence the TSIs, the industry, including freight operators, may find- depending on the outcome of the negotiations- that it has to apply something that is not entirely suitable. The industry is looking for ways to continue to input to the Agency either via an industry membership or via its own transnational trade associations.

Secondly, not all TSIs offer added value to the rail freight industry and there may be an opportunity to disapply some of the more onerous non-value adding requirements. However, this should be done with a whole industry, whole lifecycle cost benefit analysis. As such the industry, in collaboration with the

¹⁴ British Standards Institute (BSI)

DfT is looking to establish a process which allows it to adopt relevant TSIs that provide benefits and modify or disapply those which do not.

The industry is looking to Government for further clarity on Agency membership and the industry will review the resourcing and additional work required to influence, assess and potentially modify TSIs. **The industry is committed to working with DfT in designing new processes to assess the applicability of TSIs in the future and we have welcomed the progress made so far by the Department.**

4.2 Macroeconomic Implications

As with the rest of the rail industry, a growing economy is crucial to a growing rail freight market. If the British economy saw a decline in spending and demand in the event of Brexit, this may have adverse effects on the rail freight market.

A post-Brexit scenario which presents a weaker economy could affect trade in aggregates and intermodal container transport. A weaker economy with imbalances in trade could also cause difficulties in ensuring that operators can move sufficient quantities of goods in both directions, potentially resulting in sub-optimal supply chains. Equally, a post-Brexit scenario that presents a stronger economy could present benefits to the industry with freight operators seeing an increase in business.

5 Conclusion

RDG does not believe its challenges to be unique and are broadly common to the rest of the rail industry and across the transport sector. However, as an industry with such a significant positive impact on the British economy and environment, we think it is imperative for RDG to continue working closely with DfT and DExEU to address the specific issues highlighted in this response. In summary RDG would like:

- Mutual recognition of train driver and operator licences between the EU and UK for cross border traffic;
- International infrastructure and rolling stock to continue to be interoperable;
- Clear customs controls and a risk-based approach using modern digital processes;
- As much clarity as possible on the funding of rail freight enhancements in the industry's next funding period to enable freight operators and customers to plan their businesses with certainty;
- Continued promotion of international rail freight, if possible via membership of the relevant RFC;
- Reciprocal market access for the industry;
- Clear processes for applying TSIs where there is a benefit on a whole-industry, whole-lifecycle basis.

In order for the industry to be able to constructively deliver on the above points it needs time and certainty.

The rail industry is developing policy and making plans to mitigate risks and maximise opportunities for Britain related to Brexit. The key enabler for the industry to deliver its plans is time. If there is sufficient time, via an implementation period for example, where the status quo is maintained, then it is possible for freight operators and the wider industry to deliver the people, processes and infrastructure it requires.

The industry also requires certainty of legal/regulatory framework which it currently does not have. The plans we are developing may require additional capital expenditure or changes to businesses which are not yet known. Whilst the industry is confident in its ability to respond to change, it can only do this with greater certainty of outcome.

RDG remains committed to working with Government to prepare for Brexit and the industry is working proactively to find solutions and put in place appropriate plans. Thank you for considering this submission.