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A CER Statement on Brexit

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CER has been since 1988 a key contributor to all public debates on all aspects of the EU transport and climate policy, providing policy- and law-makers with reliable information, solid arguments and sound proposals.

In view of this and for the promotion of the positions outlined below, CER offers its support and expertise to the EU institutions as well as to any other interested and relevant party.

Brexit must not undermine the ongoing development of the Single European Rail Area. To this end CER members wish that the outcome of the Brexit negotiations will allow for a framework of relations between the EU and the United Kingdom that should be as close as possible to the present framework, as outlined in the following statements.

As a service with public relevance, railways are a network industry that operate in a heavily regulated environment. Legal certainty for rail business and in the relations between the EU and the UK is of fundamental importance.

CER also calls for an increased role of the business community in the negotiations ahead, and in particular of the rail community, which contributes to the EU GDP with 66 bn euro and provides 1.21 million direct and indirect jobs.

Access to the market

CER calls on both the EU and the United Kingdom (UK) to guarantee access for UK operators to the EU market and for EU operators to the UK market on the basis of symmetrical conditions.

This means that commercial services as well as services under a Public Service Contract should be accessible on both sides by both sides within the legal framework set by the EU acquis for market access and competition law.

Regulators on both sides should keep close relations, to guarantee effective enforcement of existing rules.

What happens if no agreement is reached?

The fairness and transparency of the licensing process in all EU Member States as well as in the UK ensures that all European rail operators can explore new markets and offer their services to all EU citizens, independently from the nationality of the ownership of each operator.

After Brexit, it is fundamental for the rail sector that the procedures for obtaining and recognising a license should in principle remain fair and transparent on both sides by both sides.

Mobility of staff

Free movement of workers between the UK and EU should be kept up as far as possible. Secondments and cross-border deployment of staff in the transport sector and beyond should remain possible.

Free movement in all sectors is critical for railways to have access to the best talents in all those industrial domains that belong to the same value chain and cooperate with railway companies for the provision of a wide range of services and products.

What happens if no agreement is reached?

The railways need workers with skills and competencies to continue operating and upgrading. This includes engineers and technicians, but also operating staff such as train drivers. Mobility of workers is therefore essential to guarantee to both the EU and the UK undertakings the necessary human resources.

The problem, of course, becomes bigger the smaller is the job market to which a railway undertaking has access to. For example, it is estimated that up to 20% of the UK industry's workforce comes from non-UK EU countries – and as many as 40% for some businesses.

The EU and the UK should ensure that the industry has reciprocal access to a sufficient number of workers at least for a defined transitional period.

Technical rules

The harmonisation of technical rules and mutual recognition processes in the Single European Rail Area – addressing interoperability, safety, and operations – is a precondition for market access and it should continue in the EU on the path set by the Technical Pillar of the Fourth Railway Package.

After the UK has left the EU and depending on the nature of the future relationship, legislative or regulatory changes within the UK legislation and jurisprudence may occur. Nevertheless, such changes should not create unnecessary market barriers and should not compromise the safety of the UK rail network.

What happens if no agreement is reached?

More than 11 million passengers and 22 million tonnes of freight goods cross the border between the UK and the EU every year. The border between the UK and Ireland as well as between the UK and France is of the utmost importance for the regional economies and the everyday life of citizens on all sides.

Following withdrawal, there is the possibility that trains might no longer legally be allowed to cross these borders.

To enable smooth travel across borders, trains need to conform to technical standards which are mutually recognised by both the UK and the EU. Train drivers also need their licences and certificates to be mutually recognised by both the UK and the EU.

If train drivers are not licenced to work in the EU (or vice-versa), or if technical standards are not mutually recognised, it could become legally impossible for a train service to travel through the border into the destination country.

The UK Government and EU should agree full mutual recognition of train driver licences and certificates and of the operating licenses for rolling stock on the international routes. This could be drawn up in a transitional land transport agreement whilst negotiations are ongoing.

The European Union Agency for Railways (the Agency) will have to find an appropriate UK counterpart, that will be able to guarantee also in the United Kingdom the regulatory simplification that the Agency will enforce, in the years to come, to the benefit of all players. The Agency will have to form a new relationship with the UK to support the implementation of TSIs and/or corresponding safety provisions where applicable.

For example, it may be envisaged that the appropriate UK representatives have access to a direct regular exchange with the Agency and their national counterparts. Conversely EU, EFTA and EEA

representatives should have the possibility of a regular exchange with the appropriate UK counterparts.

What happens if no agreement is reached?

The UK applies most of the EU technical standards for railway rolling stock and equipment.

If the mutual recognition of railway standards were to stop, there could be significant legal and regulatory implications for EU-based companies in the UK market and UK-based companies in the EU market and especially for the rail supply industry.

Intermodal competition

Redressing intermodal competition by establishing fairer competitive conditions among transport modes must remain a priority for both the EU and the UK.

CER calls on the EU and the United Kingdom to agree that the future policies will follow the same path towards modal shift to more sustainable modes of transportation.

Customs and border crossings

CER calls on both parties to ensure that both passenger and freight traffic flows conditions are kept as much as possible to the same level of today. Smooth transport between the UK and EU is essential to the development of the Single European Rail Area, and to keep the quality of the service for customers. Bottlenecks at border crossings will create delays, extra (high) costs for stakeholders concerned and operational issues on respective networks.

In particular, CER supports the protection of the Common Travel Area for passengers and seamless border procedures for rail freight travelling between the UK and Ireland, to ensure free movement of passenger and freight traffic within the island of Ireland.

What happens if no agreement is reached?

The EU Customs Union is managed on the ground by 28 national customs services of Member States acting as if they were one. Customs supervise goods traffic in the EU, both at external borders, which means ports, airports and land border crossings, and within the EU territory.

Customs are mainly involved with commercial cargo traffic, but they also check passengers for illegal or dangerous goods like drugs or firearms, and for goods, that, for example, pose a risk by carrying animal and plant diseases for example.

Membership of the EU Customs Union currently allows businesses of both sides to have trade and transport of goods within the EU, without any customs declaration and without rules of origin declarations, health, veterinary and safety controls, and the delays as well the costs and investments in transit these incur. This has had the consequence that current infrastructure of the UK and EU ports and international railway stations for intracommunity traffic has been designed with a simplified process dedicated to goods from the EU and from the UK respectively without formalities.

One in four containers that arrive in British ports make their onward journey by rail. Additional infrastructure may be required to manage trains in depots bonded warehouses/places for longer periods or to store goods. On a network that is one of the most intensively used in Europe, delays could have a significant impact on domestic freight and passenger services.

It is important to take into account the complexity any customs arrangement could have for rail freight going directly via the Channel Tunnel or crossing the Irish-UK border, as well as the impact delay and congestion of goods, as well the investments for customs infrastructure (systems, human resources, etc. all over Europe where consignments from and to the UK start or end) would have on facilities at the border and other places in the EU for processing declarations. This can lead to cancellation, poor loading and hence poor revenue for rail freight operators.

EU research and innovation

Appropriate technical, legal and financial arrangements in the field of EU research and innovation should be taken in to allow UK operators, manufacturers and research institutions to contribute to EU research and innovation programmes. UK, EU, EFTA and EEA parties should benefit from this fruitful cooperation in a way that mirrors the respective financial contributions.

CER calls on negotiators of both parties to find appropriate arrangements not only for the future relationship between the UK and the EU but also for the ongoing research programmes, in order to ensure continuity of ongoing research projects in which UK-based organisations are involved. EU EFTA EEA should be able to join UK programs in the same way as UK companies join EU programmes.

Transitional arrangements

Considering that the process laid out for the negotiations between the UK Government and the EU will first focus on citizens' rights, the financial settlement and the relationship between Northern Ireland and the Republic of Ireland, more time will be needed for the negotiating parties to agree on a new relationship for other industry sectors. As such, industry, including the railway sector, will require certainty in order to continue to provide its services until its status in the new relationship between the UK and the EU is clarified.

For the transport sector, this certainty could be given by introducing a bilateral agreement on land transport whilst enough time would be given to both the UK Government and the EU, to think of detailed solutions for the new relationship in terms of transport.

This is why CER also supports transitional arrangements whereby existing market provisions continues to apply – especially for cross-border services - for a fixed period after Brexit, allowing extra-time for the long-term transport agreement to be agreed.

About CER

The Community of European Railway and Infrastructure Companies (CER) brings together more than 70 railway undertakings, their national associations as well as infrastructure managers and vehicle leasing companies. The membership is made up of long-established bodies, new entrants and both private and public enterprises, representing 73% of the rail network length, 80% of the rail freight business and about 96% of rail passenger operations in EU, EFTA and EU accession countries. CER represents the interests of its members towards EU policy makers and transport stakeholders, advocating rail as the backbone of a competitive and sustainable transport system in Europe. For more information, visit www.cer.be or follow us via Twitter at @CER_railways.

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