

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF LATVIA
THE GOVERNMENT OF THE REPUBLIC OF ESTONIA,
AND
THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA
ON
THE DEVELOPMENT OF THE RAIL BALTIC/RAIL BALTICA RAILWAY
CONNECTION

The Government of the Republic of Latvia, the Government of the Republic of Estonia and the Government of the Republic of Lithuania, hereinafter referred to as "the Parties",

Desiring to fully integrate the Baltic States and their capitals into the European Union railway system and the trans-European transport network (TEN-T),

Emphasizing their common objective to develop the project of common interest (as defined in Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010) Rail Baltic/Rail Baltica that is of a considerable strategic and economic importance to their citizens and economies,

Acknowledging the need to agree upon the strategic timeframe for the development and completion of the Rail Baltic/Rail Baltica railway,

Taking into consideration the Shareholders' Agreement relating to the Joint Venture RB Rail AS between OÜ Rail Baltic Estonia, SIA "Eiropas dzelzceļa līnijas" and UAB "Rail Baltica stātyba" from 28 October 2014,

Acknowledging that Rail Baltic/Rail Baltica project has been hitherto co-financed from the European Union sources with intensity in the order of 85% and assuming that a similar support rate will be applied in relation to the project's implementation in the future - given the strategic importance of the Rail Baltic/Rail Baltica project to the region and the European Union transport network, as well as the Single European Market – and jointly encouraging the European Union institutions to envisage a long-term financing horizon for such priority projects as soon as possible,

Recalling the objective of the European Union to develop trans-European transport networks including the North Sea – Baltic Core Network Corridor which the Rail Baltic/Rail Baltica railway is part of,

Emphasizing the importance to adjust regulatory and cooperation framework within the Parties in order to facilitate the efficient use of the future Rail Baltic/Rail Baltica railway connection,

Continue to promote the integration of the Rail Baltic/Rail Baltica project, all project partners and route in the relevant multilateral cooperation frameworks, such as North Sea – Baltic rail freight corridor, but not limited to,

Acknowledging that the section of the railway from the Lithuanian-Polish border to Warsaw is historically with 1435 mm standard gauge, but requires an upgrade of technical parameters for the purposes of interoperability of the line across the North Sea – Baltic Core Network corridor,

Reaffirming their commitment to ensure an open and transparent implementation of the project and a proactive engagement and cooperation with the relevant national supreme audit institutions and official European Union and European Union funds auditing institutions based on international auditing standards and assure that those audit institutions do not have any restrictions to audit the project activities.

Have agreed as follows:

ARTICLE 1

Scope and the purpose of the Agreement

The purpose of this Agreement is to ensure the completion and functionality of an effective fast conventional European gauge railway, built as a project of common interest according to the common technical parameters, for passengers and freight transport on a route as part of the TEN-T Network North Sea – Baltic Core Network Corridor.

ARTICLE 2

Definitions

For the purposes of this Agreement, unless the context of this Agreement otherwise requires:

- a) “railway” means new fast conventional double track electrified railway line with the maximum design speed of 240 km/h and European standard gauge (1435 mm) on the route to be completed in accordance with uniform technical parameters based on the Technical Specifications for Interoperability, as defined in the relevant legal acts of the European Union ;
- b) “project coordinator” means the joint venture RB Rail AS established on 28 October 2014 in the Republic of Latvia for the purpose of completing the railway and developing the Rail Baltic/Rail Baltica project, whose main business is the design, construction and marketing (including branding) of the railway;
- c) “route” shall be from Tallinn through Pärnu-Riga-Panevezys-Kaunas to Lithuanian-Polish state border with a connection of Vilnius-Kaunas as a part of the railway;
- d) “infrastructure manager” means a body or bodies as defined in the Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area;
- e) “railway infrastructure” means railway infrastructure as defined in the Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area.

ARTICLE 3

Completion of the railway connection

The Parties aim to ensure completion and functionality of the railway by 2025 in order to commence its operation by 2026.

ARTICLE 4

Preparation for construction

1. The Parties commit to support, in cooperation with the project coordinator, the completion of all studies and other preparatory activities necessary for a timely start of the construction works. The preparatory activities shall include, in particular:
 - a) the spatial planning of the route area;
 - b) performing of necessary feasibility, environmental and other studies;
 - c) the completion of all necessary documentation, including the preliminary and technical design, of all necessary infrastructure in order to construct the railway in the territories of the States represented by the Parties.
2. The Parties support establishment of a contracting framework and common tendering guidelines, based on best procurement, including joint procurement, practices according to law of the European Union and agreements concluded by the Parties.
3. The Parties support establishing common technical guidelines for design and construction of the railway in view of compliance with Technical Specifications for Interoperability.

ARTICLE 5

The role of the project coordinator

The preparatory activities and the construction of the railway until its completion and achieving full technical functionality shall be coordinated by the project coordinator.

ARTICLE 6

Cooperation with other countries and with the European Commission

The Parties shall fully cooperate and exchange information with the European Commission and undertake all reasonable measures for a continuous involvement of and cooperation with the Republic of Poland and the Republic of Finland in the development of the railway with a view to remove the bottlenecks in TEN-T core network and to ensure interoperability, harmonization of technical standards, as well as to provide the conditions for the best use of railway infrastructure and for improving commercialization of railway service market.

ARTICLE 7

Ownership of land and infrastructure

1. The Party within whose State's territory the part of the project's infrastructure and land related to that infrastructure is located shall own that part of the railway infrastructure.
2. The Parties agree that land and infrastructure shall be made available for use by nominated infrastructure manager(s).
3. Infrastructure manager(s) will be granted access to related service facilities.

ARTICLE 8

The laws and regulations

1. In the application of this Agreement, any matters not dealt with herein shall be regulated by the law of the European Union, national laws and regulations of the Parties, and agreements concluded between them.
2. The specific provisions set out in the Agreement are without prejudice to European Union law concerning rail market opening, access to railway infrastructure, railway interoperability, safety and other relevant areas.
3. The Parties shall inform each other of any significant change in their national laws and regulations that would affect the application of this Agreement.

ARTICLE 9

Access to European standard gauge (1435 mm) railway infrastructure

1. A coordinated approach to regulatory framework shall be taken through the cooperation between national regulatory bodies and the national safety authorities, in order to enhance their coordination and align the impact of their decisions.
2. A coordinated approach shall be taken concerning access to railway infrastructure and services, including levying of charges for the use of railway infrastructure and allocation of railway infrastructure capacity, and traffic management.
3. The Parties commit to ensure that the most effective and feasible infrastructure management with a view but not limited to aspects mentioned in paragraph 2 of this Article is achieved and infrastructure manager(s) determined in a joint and timely manner to build confidence and achieve continuous engagement of project of common interest institutional partners and contribute to long-term feasibility of the Rail Baltic/Rail Baltica railway.

ARTICLE 10

Jurisdiction

This Agreement shall not affect the exercise of the jurisdiction of the States of the Parties within their territories.

ARTICLE 11

Financing

1. The ultimate recipients of the European Union support shall be the Parties.

2. The Parties shall seek support at the highest permissible European Union co-financing rates according to the provisions of the relevant source of financing.
3. The Parties agree on the connection of Vilnius-Kaunas as part of the railway's route in order to interconnect all the capitals of the States of the Parties and to deploy joint efforts to achieve the eligibility of the Vilnius-Kaunas connection for European Union support under Connecting Europe Facility or equivalent financing instrument, bearing in mind that the construction of this section will be phased in such a way that the entire project would not be delayed or stopped.
4. The Parties may co-finance directly from national resources the activities implemented by the project coordinator.

ARTICLE 12

Settlement of disputes

Disputes between the Parties concerning the interpretation or application of this Agreement shall be resolved by negotiations and consultations between the Parties.

ARTICLE 13

Depository

1. The Government of the Republic of Latvia shall act as the depositary of this Agreement.
2. The Depositary shall inform the Parties of the date of entry into force of this Agreement or any amendments thereto, as well as of any withdrawal referred to in Articles 14.

ARTICLE 14

Entry into force, amendments, duration and withdrawal

1. The Agreement shall enter into force on the date of receipt by the Depositary of the last written notification by the Parties through diplomatic channels confirming that the national legal procedures for the entry into force of this Agreement have been completed.
2. The Agreement may be amended by the mutual written consent of the Parties. The amendments shall enter into force according to the procedure set forth in paragraph 1 of this Article.
3. The Parties, maintaining commitment to realize Rail Baltic/Rail Baltica project in full, shall have a right to review their commitments to finance and complete the project by the date as referred in Article 3 in case long-term financing availability to the project of common interest is significantly reduced severely influencing feasibility of the project or in case of unforeseeable exceptional situation or event beyond a Party's control, which prevents them from fulfilling their obligations under the Agreement, which was not attributable to error or negligence on their part and which proves to be inevitable in spite of exercising all due diligence ("Force majeure").

4. The Agreement shall remain in force for an indefinite period of time. Any Party may withdraw from the Agreement, subject to paragraph 3 of this Article by giving a written notification thereof to the Depositary through diplomatic channels. The withdrawal shall take effect six months after the date of receipt by the Depositary of such notification.

In witness whereof, the undersigned duly authorized have signed this Agreement.

Done at ... on ... 2017 in a single copy in the Estonian, Latvian, Lithuanian and English languages, all texts being equally authentic, which shall be deposited into the archives of the Depositary. The Depositary shall transmit certified copies of the Agreement to all Parties. In case of divergence of interpretation, the text in the English language shall prevail.

For the Government of the
Republic of Latvia

For the Government of the
Republic of Estonia

For the Government of the
Republic of Lithuania