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Transport Studies Unit

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1 ORGANISATIONS INVOLVED IN CARRYING OUT PUBLIC TASKS

Public tasks are distinguished according to the following clusters of activities:

- Separation, licensing and charging
- Interoperability and safety
- State aid, competition and public service obligations
- Statistics

The following organisations are involved in one or more of these clusters of activities:

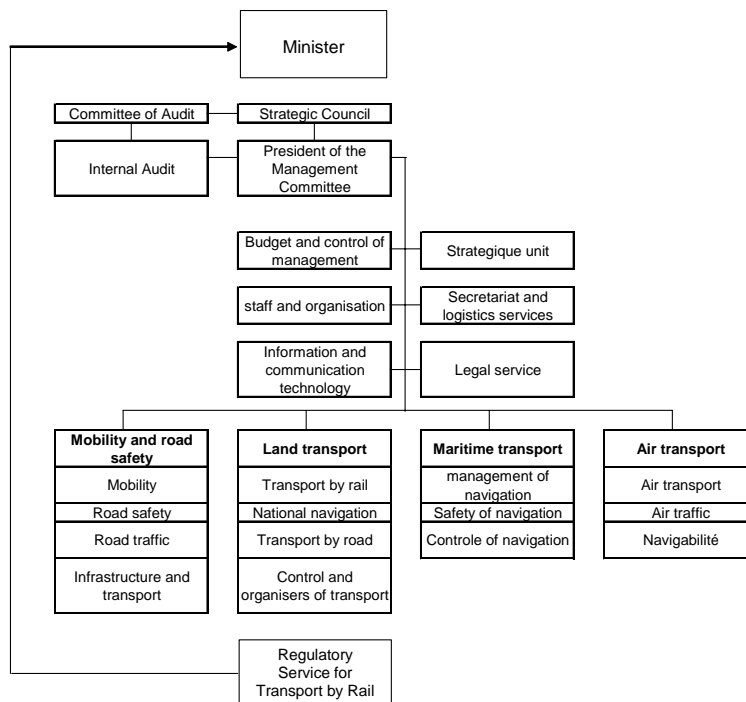
- Minister of Transport and Mobility
- Regulatory Service for Transportation by Rail (part of the Ministry of Transport and Mobility)
- Infrabel
- Conseil de la Competition

1.1 Current Organizations

1.1.1 Minister of Transport and Mobility

Minister of Transport and Mobility (and its administration)

Organisation chart



The Regulatory Service for Transport by Rail ('Service de Régulation du Transport Ferroviaire') is operationally integrated into the department of 'Land Transport'. Hierarchically, it is directly linked to on the Minister.

Income and expenses

Not relevant

Number of employees

100 in Ministry of Transport and 30 in the railway department (2004); plus the staff of the former Engineering department of railway support (Service technique d'appui ferroviaire) (10 members: 1 Director, 1 Deputy Director; 4 Experts and 4 administrative staff) which has been officially transferred to the Department of Public Service in Mobility and Transport (Service public federal Mobilité et Transport).

Legal constitution

State administration

Clients

In principle, all railway undertakings requesting licences and/ or safety certificates. Furthermore, it is responsible for issues of interoperability that are not taken care of at European level.

Contact details for clients

Ministry of Infrastructure and Communication

De heer Pierre LOISE

Directoraat-generaal Vervoer te Land

Kantersteen 12

B-1000 Brussel

Tel.: +32 (0)2-517.06.11

Fax: +32 (0)2-513.26.39

info.trans@mobilit.fgov.be

<http://www.vici.fgov.be/>

Autonomy of organisation

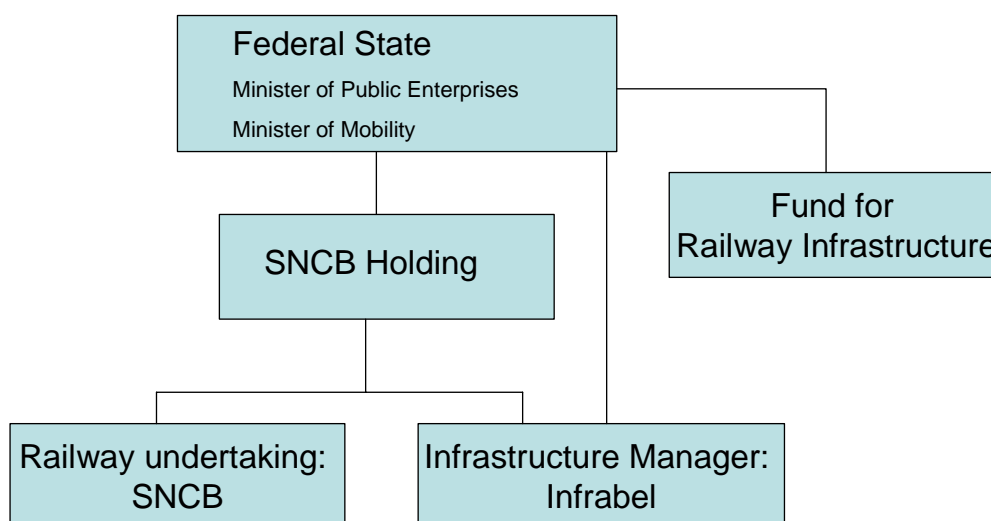
Ministry of Transport is a state institution financed by the state's budget. It is an autonomous organization.

1.1.2 SNCB

The Royal Order of 11 June 2004 and its Orders of Execution lead to the split of the national rail operator (SNCB/NMBS) into a holding (SNCB Holding), an infrastructure manager

(INFRABEL) and a railway undertaking that continues to be known as SNCB/NMBS. The new structure became effective on the 1st of January 2005.

Furthermore, a fund for railway infrastructure (Fonds d'infrastructure ferroviaire (FIF)) has been created to manage the debts that the federal government agreed to take over.



Income and Expenses SNCB (in millions euros)

As the new legal entities did not yet publish accounts, this section represents income and expenses from the (old) SNCB.

As the new legal entities did not yet publish accounts, this section represents income and expenses from the (old) SNCB.

<i>In millions</i>	2002	2003	2004
Turn-over (all sales)	3794.3	3719.7	
Revenues	2249.5	2329.4	2210
EBIT (<i>earnings before interest and taxes</i>)	-129	-94.6	-35.8
Financial Results	-96.3	146.6	-131.4
Exceptional Results	588.5	-29.8	-185.4
Total Result	578.4	-333.3	

Source: SNCB press release 28/02/2005

For infrastructure management part:

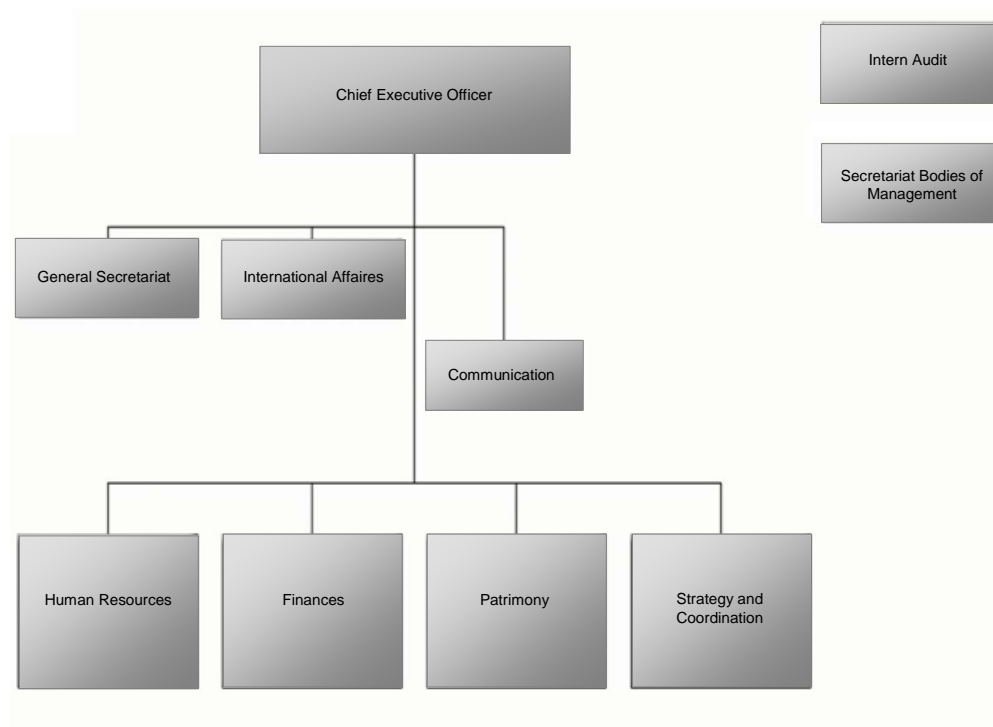
(in EUR, millions)		2002	2003	2004
INCOME	a. Exploitation Results	225.0	188.6	
	b. Subsidy from the State (infrastructure)	657.8	668.0	735
	c. Total Revenue			
EXPENSES	Total			
Net Result from Infrastructure Management	Total	-26.3	58.7	

Source: SNCB Annual Report 2003 and press release January 2005

The debt of the company reached €6 billion in 2003 and increased to 8.3 billion Euro in 2004. The Fund for Railway Infrastructure (Fonds pour l'infrastructure (FIF)), will take over 7.4 billion Euro of the debt.

1.1.3 SNCB Holding

Organization chart of SNCB Holding



Income and expenses

See above; separate accounts will be established for the first time at the end of the year 2005;

Number of Employees

Company is in existence since 31.12.2004. It has 4200 employees¹.

Legal Constitution

Limited company of public law (société anonyme de droit public), The holding is 99.9% held by the federal state; 0.1% of the shares is in the hands of small private shareholders;

Clients

The holding provides services for its two subsidiaries (new) SNCB and Infrabel:

- It manages staff that it puts at the disposal of the two subsidiaries
- It manages real estate assets of the 'old' SNCB
- It coordinates between the two subsidiaries, e.g. with regard to investment decisions;

Contact details for clients

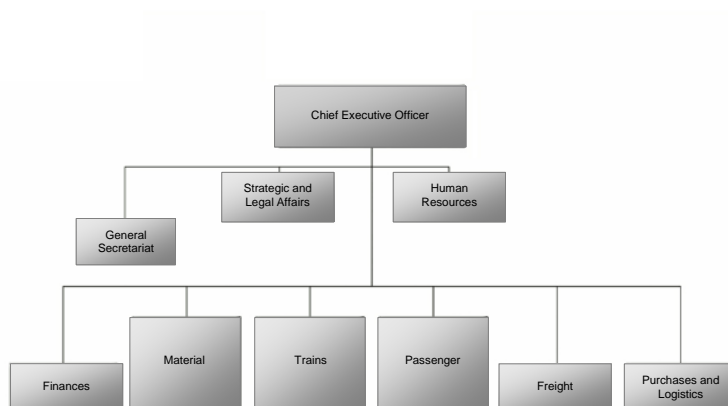
SNCB – Holding
Rue de la France, 85
1060 Brussels
Belgium

Autonomy of organisation

The holding company has Board of directors, a Management Committee, a Managing director and also a Government Commissioner and a group of the Police chiefs.

1.1.4 (new) SNCB

Organisation chart



¹ Source: SNCB annual report 2003.

Income and expenses

See above; separate accounts will be established for the first time at the end of 2005;

Number of employees

Around 20.000

Legal constitution

Limited Company of public law (Société anonyme de droit public)

Clients

Contact details for clients

Porte de Hall 40
1060 Bruxelles
Belgium

Autonomy of organisation

The Minister of Mobility and Transport monitors and contributes to the evolution of the SNCB Group (Holding). On the one hand the Minister is representing the state as the majority stakeholder; on the other hand the Minister is an organ of trusteeship (organe de tutelle) for the SNCB Holding.

In 1991 the SNCB became an independent public undertaking (entreprise publique autonome). In this respect the undertaking benefits from a large autonomy and has to aim for profitability for activities other than those related to its public service obligations.

Public Service Obligations for SNCB are detailed in the 'contrat de gestion' – management contract - which the Belgian Government regularly concludes with the undertaking. The management contracts fixes the way in which public service obligations have to be assumed by the undertaking and the financial payment from the state to SNCB for providing services considered public obligation.

Infrastructure management and internal/national passenger transport by ordinary trains (not high-speed) are considered as public services. Since the adoption of the law of 22 March 2002, defining the reorganisation of SNCB, cross-border services have been added to the Public Service Obligations of SNCB.

With the restructuring, transitory management contracts have been defined. A management contract for the (new) SNCB and INFRABEL is currently being negotiated;

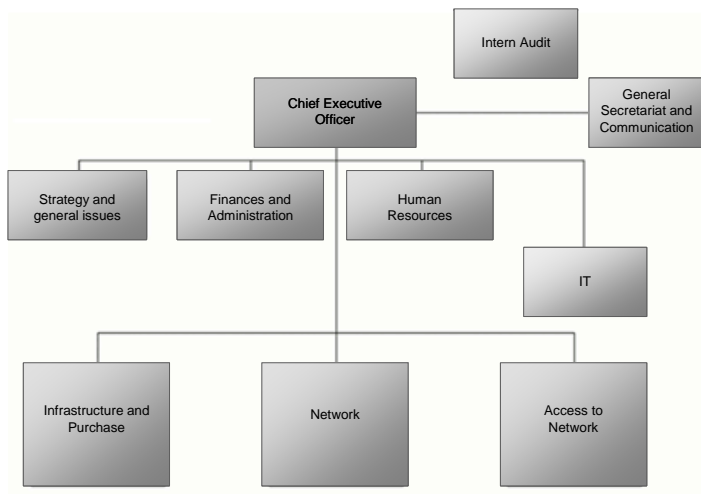
The Minister controls the compliance of the respective laws, the management contract and the statutes of the undertaking. The Minister has in this respect a ‘pouvoir de tutelle’ – a monitoring and advising power – a power of trusteeship – that the Minister can exercise through different mechanisms foreseen by law, such as the control of financial aspects by the Court of Auditors, the presence of a Commissionaire of Government, representing the Minister, in a range of meetings as well as the obligation of the undertaking to deliver certain reports on its activities.

Chief Executive officers of the SNCB Group are nominated by the Minister and the nomination is published in a ministerial order (arête).

1.1.5 Infrabel

Infrabel is the new infrastructure manager in Belgium since the start of 2005.

Organisation chart



Income and expenses

See above; separate accounts will be established for the first time at the end of 2005;

Number of employees

Around 14 500 (Source: SNCB press release, 2005 January)

Clients

Railway Undertakings (currently (new) SNCB and Dillen & Le Jeune Cargo)

Contact details for clients

Infrabel

Rue Bara 110

B-1070 Bruxelles

<http://www.infrabel.be/> (under construction 03/2005)

In French:

Jean-Claude Lermusieaux

+32 2 525 41 34

Jeanclaude.lermusieaux@infrabel.be

In Dutch :

Luc D'Hoker

+ 32 2525 44 80

Luc.dhoker@infrabel.be

Legal constitution

Limited company of public law (Société anonyme de droit public)

Autonomy

Infrabel has a board of directors (6 members) and a management committee (4 members). The SNCB/NMBS holding holds 50% of the capital of INFRABEL, the federal state holds the remaining 50%. For more information see explanation above for (new) SNCB.

1.1.6 Regulatory Service for Railway Transport (Service de Régulation du Transport ferroviaire)

Organisation Chart

(See Ministry of Transport chart)

The Regulatory Service for Transport by Rail ('Service de Régulation du Transport Ferroviaire') is operationally integrated into the department of 'Land Transport'. Hierarchically, it is directly linked to on the Minister.

Income and Expenses

Part of the MoT. Not relevant.

Number of Employees

10: 1 Director, 1 Deputy Director; 4 Experts and 4 administrative staff. (2004)

Legal constitution

Part of the Ministry of Transport

Clients

All Railway Undertakings and Infrastructure Manager

Contact Details for Clients

See contact details for Ministry of Transport

Autonomy

The Regulatory Service for Transport by Rail ('Service de Régulation du Transport Ferroviaire') is operationally integrated into the department 'Land Transport'. Hierarchically, it is directly linked to the Minister. The Director and Deputy Director have both six year contracts. The employees of the Regulatory Service cannot be employed by Infrabel, any Railway Undertaking or candidate and cannot pursue any such activity.

1.1.7 Competition Council (Conseil de la Concurrence)

Organisation chart

Exact chart is not available.

It is an organisational entity ('jurisdiction administrative with the competence of decisions of proposal and judgement regarding the protection of economic competition) within the division of competition (service de la concurrence) of the Ministry of Economic Affaires. The division of competition (service de la concurrence) is charged with the examination and research regarding matters related to the protection of competition.

The Competition Council (Conseil de la Concurrence) consist of an office (Bureau du Conseil) composed of the president, the vice-president, two full-time members, the secretary and the deputy secretary of the Council and a range of 'chambers' constituted according to the needs of the Council.

Two civil servants of the Ministry of Economic Affaires constitute the secretariat of the Competition Council.

A 'corps des rapporteurs' within the Ministry of Economic Affaires direct and organise the instruction of files. It establishes and presents the instruction to the Competition Council.

Income and expenses

Income was EUR 178.000 (2001)

The law states that the remuneration has to guarantee independence.

Number of employees

According to the law regarding the protection of the competition (loi du 5 aout 1991 sur la protection de la concurrence économique), the Competition Council has 20 members (2002, Annual Report). Of those the president, the vice-president and two members are permanent staff.

The Competition Council is divided in chambers composed of a president, a magistrate of the legal Order (magistrat de l'Ordre judiciaire) and three members.

The law regarding the conditions of the use of railway infrastructure in Belgium from 12 March 2003 –(Arrêté royal relatif aux conditions d'utilisation de l'infrastructure ferroviaire) defines that the Competition Council will be extended by three members. These three members will be nominated by the King of Belgium based on their proven competence in railway matters.

Legal constitution

State administration

Clients

See section on appeal to decisions related to charging and capacity allocation. Possibly all railway undertakings and applicants can be clients of the Competition Council.

Contact details for clients

Competition Council.

Square de Meeûs, 23

1000 Bruxelles

Téléphone: (32-2) 506 52 19

Fax: (32-2) 506 57 91

e-mail : RACO@mineco.fgov.be

http://mineco.fgov.be/redir_new.asp?loc=/organization_market/competition/competition_fr_004.htm

Autonomy of organisation

The three additional members of the Competition Council are allowed to exercise other professional activities but their independence with regard to all actors in the railway sector must be guaranteed.

1.2 Authorities required by the 2nd Railway Package

The second Railway Package demands for the establishment of a national safety authority and an independent investigation authority. The implementation of appropriate directives and establishment of organizations is expected by April 2006 (official deadline).

2 ORGANISATION OF PUBLIC TASKS

2.1 Separation, licensing and charging

- Directive 2001/12/EC: implemented through March 12 2003 Royal Law on the conditions of railway infrastructure use
- Directive 2001/13/EC: implemented through March 12 2003 Royal Law on the conditions of railway infrastructure use
- Directive 2001/14/EC: implemented through March 12 2003 Royal Law on the conditions of railway infrastructure use
- Directive 2004/49/EC: not yet implemented (deadline April 2006)

2.1.1 Investigation of accidents (2001/12)

Responsible organisation

Regulatory Service for Transport by Rail, Minister and Infrastructure manager (Infrabel)

Objectives, tasks and responsibilities

Technical norms and safety rules are fixed by order (royal decree) based on advice of the Infrastructure Manager (Infrabel) and of the Regulatory Service for Transport by Railway. Rules are published in the Official Belgian State Newsletter (*Moniteur Belge*), and an inventory lists all technical norms and safety rules; the inventory is updated yearly.

The Infrastructure Manager monitors the safety on the network. In case of extreme urgency or danger affecting the safety of the railway infrastructure or its use, the IM can take emergency measures. In that case the Infrastructure Manager informs immediately the Administration and Railway Undertakings concerned. The measures are effective immediately but with a maximum duration of 3 months. The IM reports annually on safety on the network to the Minister, Délégué and the Regulatory Service for Transport by Railway.

Procedure

For each accident of exploitation or affecting the exploitation, the IM sends a copy of its report to the administration. In case of a serious accident the IM has to inform immediately the Minister, the Ministers' representative and the Regulatory Service for Transport by Railway. After each accident the Service for Transport by Railway and experts working on its behalf immediately perform an investigation and send the respective report to the Minister and the delegate and to the IM. The report contains proposals on necessary safety measures. In case of disturbances the IM takes all necessary measures to re-establish the situation. The IM establishes an intervention plan and acts accordingly.

Legal basis of procedure

March 12 2003 Royal Order on the conditions of railway infrastructure use
June 11 2004; Royal Order modifying Royal Order of March 12 2003;

2.1.2 Safety certification of rolling stock and railway undertakings (2001/12)

Responsible organisation

The Minister of Transport and Mobility

Objectives, tasks and responsibilities

In order to be able to use the railway infrastructure, all railway undertakings or international groupings concerned have to hold a safety certificate.

The Minister issues the safety certificate.

Its administration assures with the technical support of the infrastructure manager the safety performance of the material and the staff using the railway network.

In case of non-availability of the safety certificate, the Minister can, on own initiative or based on a motivated proposal of the infrastructure manager, prohibit the use of the material on the rail network.

Procedure

In a first step the candidate has to request from the Minister a certification confirming that personnel and rolling stock it proposes to operate comply with the relevant rules ('attestation d'aptitude'). It bases its requirements on the General Rules for the Usage of Railway Infrastructure (Réglement général pour l'Utilisation de l'Infrastructure ferroviaire (RGUIF)).

The Minister notifies within 15 days the IM of the request. The IM then has 60 days to examine the compliance. In case the IM rejects the request or needs more information it immediately informs the candidate and the Minister. After receiving the requested additional information, the IM again has to respond within 60 days.

The Minister has to forward the certification received from the IM within 7 days to the candidate.

The candidate addresses the request for a safety licence to the Minister. It joins the certificate of compliance ('attestation d'aptitude'). The necessary form and content of the application is specified in Chapter IV of the Royal Decree of 17 November 2003.

The Minister passes the application to the IM within 7 days of receipt. The IM has to respond to the request within 30 days providing technical advice and reasoning. The Minister then has to

respond within 7 days to the candidate, either awarding the licence or providing reasons for the refusal.

The safety certificate is valid for 3 years. All necessary documents for the renewal have to be sent to the Minister at least 90 days before the expiring date of the certificate. The annual charge for safety certificate is €500.

Legal basis of procedure

17 November 2004 Royal Law with regard to the execution of chapters III, V and VI of the Royal Law of 12 March 2003;

12 March 2003 Royal Law on the conditions of railway infrastructure use

2.1.3 Licensing of railway undertakings (2001/13)

Responsible organisation

The Minister of Transport and Mobility

Objectives, tasks and responsibilities

A railway undertaking with a legal entity (siège d'exploitation) in Belgium and that does not have a licence has to request it from the Minister. Foreign passenger train operating companies without a domestic licence have access rights only as part of international groupings.

A licence cannot be transferred (ceased) and determines the services for which it is valuable. The Minister can at any time assess whether all specified requirements are fulfilled by licence holders.

The Minister can suspend or withdraw a licence if the holder does not anymore satisfy the relevant conditions.

Procedure

The applicant has to proof to the Minister that the undertaking satisfies the conditions of good repute, financial capacities, ability to cover legal liability and professional competence. Details of the conditions and the requested data are specified in the law and its annexes.

The Minister has to respond within a delay of 90 days from the reception of the documents. The Minister can ask the judgement of any expert in railway matters, provided that the expert has no conflicts of interest with the undertaking concerned.

The licence is re-examined every five years by the Minister. The latest three month before the expiry date, the holder of a licence submits the licence to the Minister together with all documents necessary for the re-examination of all relevant conditions.

Annual fee of an operating license is €2500 which is valid for 5 years.

Legal basis of procedure

12 March 2003 Royal Law on the conditions of railway infrastructure use

17 November 2003, Royal Law for the execution of chapters III,V and VI of the Royal Law of 12 March 2003;

2.1.4 Track access (2001/12)

Responsible organisation

Infrabel (Infrastructure Manager)

Objectives, tasks and responsibilities

Track access granted by the infrastructure manager requires that the railway undertaking has a valid license and a safety certificate both issued by the ministry of transport.

Infrabel is responsible for the management of the access to the railway infrastructure. It allocates the capacity and negotiates the access contract.

Process

As a prerequisite for the allocation of capacity, Railway Undertakings need to hold a Licence for operation on the network (see above) and a Safety Certificate (see above).

A request for capacity has to be introduced to Infrabel, the network operator, using a specific form sheet that is attached to the Network Statement (Document de Reference du Reseau). Infrabel establishes a contract under private law with the Railway Undertaking based on the Network Statement which sets out the applicable framework.

The contract can either refer to a one-off allocation of capacity or a framework agreement.

Legal Basis of procedure

Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

Network Statement (Document de Reference du Reseau)

2.1.5 Developing the capacity allocation framework (2001/14)

Responsible organisation

Infrabel (Infrastructure Manager)

Objectives, tasks and responsibilities

The requests for capacity have to be addressed to Infrabel (the Infrastructure Manager in Belgium) if the services start in Belgium. If several networks are involved the IM acts on behalf of the candidate in front of the other EU member states concerned;

The IM makes all efforts to satisfy all demands for capacity, taking into account all rules set.

Procedure

Requests for capacity have to be introduced to the Infrastructure Manager. The Infrastructure Manager establishes the timetable for the allocation of capacities ('horaire de service').

In case of conflicting demands in competition the IM establishes a procedure of coordination of requests.

If it turns out to be impossible to reply positively to all requests or if requests will not be able to be satisfied in the near future, the IM declares the respective infrastructure 'saturated'. The IM establishes immediately an analysis of the capacity, determining the restrictions of capacity and the reasons for this saturation, and proposes methods and measures that will allow to satisfy the request in the near future.

If the railway infrastructure has been declared 'saturated', the Infrastructure Manager allocates the capacities according to priority rules established in Section 3 of the Royal Law of 9 December 2004, regarding the execution of chapters VIII and IX of the Royal Law of 12 March 2003: A ranking for different types of trains is defined for specific types of infrastructure. If this does not allow to clearly allocate the capacity, the request that implies the highest amount of revenue for the Infrastructure Manager will have priority.

Legal basis of procedure

Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

9 December 2004 Royal Law for the execution of chapters VIII and IX of the Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

2.1.6 Publishing of capacity allocation framework (2001/14)

Available from: <http://www.railaccess.be>

Responsible Organisation

Infrabel (Infrastructure Manager)

Objectives, tasks and responsibilities

Infrabel, as the Infrastructure Manager, has the responsibility to establish and publish the Network Statement (Document de Reference du Reseau – DRR). The Network Statement contains all necessary information for candidates that want to use railway infrastructure for offering transport services for passengers or freight.

All contracts or framework agreement concluded by Infrabel with a candidate is based on the specifications set in the Network Agreement.

Procedure

The Network Statement is available in Dutch and French on www.railaccess.be

Interested parties can also request the Network Statement at Infrabel at a price of 250 Euro.

The reference document is published at least four month before the date fixed for the introduction of requests for infrastructure capacity.

Legal basis of procedure

Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

2.1.7 Setting of infrastructure charges (2001/14)

Responsible organisation

The Government

Infrabel

Objectives, tasks and responsibilities

The King of Belgium defines for the whole of services the principles and procedures relating to the calculation of fees for usage of infrastructures.

Basic price units (prix unitaires de base) are indexed following a method defined in the management contract between the Government and the Infrastructure Operator.

The Regulatory Service for the Transport by Rail controls that the fees charged to Railway Undertakings conform to the method, the rules and to levels fixed in the network statement; It supervises the negotiations between the Infrastructure Manager and the Railway Undertaking. The Regulatory Service for the Transport by Rail can order RUs or IM to conform to the law; in case of non compliance the Service for the Transport by Rail can impose a fine.

Procedure

Prices and procedures are published in the network statement. Any modifications to the rules of calculation, the value of coefficients and price units have to be published at least four month before the deadline for the submission of requests for capacity.

Legal basis of procedure

Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

Royal Law of 9 December 2004 for the execution of chapters VIII and IX of the Royal Law of 12 March 2003;

2.1.8 Collection of infrastructure charges (2001/14)

Responsible organisation

Infrastructure manager

Objectives, tasks and responsibilities

The infrastructure manager receives the charges for the usage of the railway infrastructure. It is payable monthly according to level of use.

Procedure

The Regulatory Service for the Transport by Rail monitors that the charges actually invoiced to each single railway undertaking conform to the method, the rules and the table of charges defined in the reference document.

Legal basis of procedure

Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

2.1.9 Publishing of charging framework (2001/14)

Available at www.railaccess.be (in French and Dutch)

Responsible organisation

Infrabel (Infrastructure Manager)

Objectives, tasks and responsibilities

Infrabel is responsible for publishing charging framework

Procedure

Charging framework is published at last 4 months before the final date of capacity allocation requests deadline. Charging framework is available at www.railaccess.be and interested party can obtain it on CD-Rom for 250 EUR.

Legal basis of procedure:

Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

Royal Law of 9 December 2004 for the execution of chapters VIII and IX of the Royal Law of 12 March 2003 (article 50);

2.1.10 Appeal to decisions related to charging and capacity allocation (2001/14)

Responsible organisation

Competition Council

Objectives, tasks and responsibilities

An applicant or a railway undertaking can address the Competition Council if it considers being a victim of an unfair treatment or of discrimination as a result of decisions taken by the infrastructure manager or of the Minister of Transport. This right does not relate to contractual rights and obligations.

The Competition Council decides with the authority of the law:

- On a complaint of a railway undertaking or an applicant whose licence has been refused, suspended or withdrawn, or whose temporary licence has been refused. The recourse does not suspend the decision of the Minister;
- On a complaint of a railway undertaking or an applicant whose safety certificate has been refused, suspended or withdrawn. The recourse does not suspend the decision of the Minister;
- On all complaints of a railway undertaking against a decision of the Regulatory Service for Railway Transport. The recourse does not suspend the decision of the Regulatory Service for Railway Transport;
- On all complaints especially those of the infrastructure manager if the organisation considers being victim of unfair treatment, of discrimination, or any other detriment;
- On all complaints against a decision of the infrastructure manager regarding the access to the network. The Competition Council cannot be addressed if complaints relate to contractual rights and obligations. The recourse does not suspend the criticised decision;
- On all infractions to the rules of competition or to the Royal Order of 12 March 2003 (arrêté royal du 12 mars 2003, relatif aux conditions d'utilisation de l'infrastructure ferroviaire) or all laws and regulations related to this law that are denounced by the Railway Institute;
- On a complaint of a railway undertaking or an applicant regarding the reference document of the railway network or the criteria mentioned in it;
- On a complaint of a railway undertaking or an applicant regarding the procedure of distribution of infrastructure capacity and its results or on the level or structure of charges for the usage of the infrastructure.

Procedure

The Competition Council has to respond within two months of receiving a complaint.

There has been no such complaints yet.

Legal basis of procedure

March 12 2003 Royal Law on the conditions of railway infrastructure use

December 14 2000 Royal Law approving regulation of internal controls of Competition Council

1991 Law complementing 1999 July 1st Law on the economic competition protection

13th January 1935 Law allowing for an institution to regulate economical allocation of production

30th January 1974 – Law establishing the statutes of the charging centres that promote technological progress diversify national economy and promote scientific research

2.2 Interoperability and safety

- Directive 96/48/EC: Article 2 of 1997 Railway Law, transposing the European directive (91/440/CEE) of 29th July 1991
- Directive 2001/16/EC: 15 May 2003 Royal decree concerning the interoperability of the European conventional railway system.

2.2.1 Drawing up Technical Specifications for Interoperability (TSIs) (96/48 and 2001/16, art. 5)

Responsible organisation

SNCB is a member of UIC (International Union of Railways), which participates in the AEIF (European Association for Rail Interoperability). AEIF is the joint representative body mandated by the EU Commission to lay down the Technical Specifications for Interoperability (TSIs).

Objectives, tasks and responsibilities

To draw up the TSI

Procedure

The procedure for drawing up TSIs follows the Directives 96/48/EC and 2001/16/EC.

Point 2.2.5 also explains the procedures.

Legal basis of procedure

15 May 2003 Royal decree regarding the interoperability of the European conventional railway network. Art 15-24.

2.2.2 Appointing of Member State representative in the Advisory Committee (96/48 and 2001/16, art 21)

Responsible organisation

Ministry

Objectives, tasks and responsibilities

Appointing of Member State representative in the Advisory Committee

Procedure

Not available

Legal basis of procedure

15 May 2003 Royal decree concerning the interoperability of the European conventional railway system.

2.2.3 Regulation of interoperability (96/48 and 2001/16, art 8 and 20)

Responsible organisation

Ministry (Ministère des Communications et de l'Infrastructure)_
Administration of Land Transport
Regulatory Service for Railway Transport

Objectives, tasks and responsibilities

Derogation

The Minister or the General Director of the respective administration can in certain cases decide that certain TSIs are not applicable.

Application of Standards

In absence of European Specifications, the administration communicates to other Member States and to the European Commission, the standards and rules in view of Article 2 de l'arrêté royal du 5 février 1997, transposing the European directive (91/440/CEE) of 29th July 1991.

Procedure

The Minister of the General Director of the respective administration decides based on a proposal of the infrastructure manager and informs Member States and the European Commission.

Legal basis of procedure

15 May 2003 Royal decree regarding the interoperability of the trans-European conventional railway system. Art 16.

Article 2 of 1997 Railway Law, transposing the European directive (91/440/CEE) of 29th July 1991

2.2.4 Authorisation of (sub)systems (96/48 and 2001/16, art 14)

Responsible organisation

Ministry (Ministère des Communications et de l'Infrastructure)_
Administration of Land Transport
Railway Service Department

Objectives, tasks and responsibilities

Evaluates and authorises (sub)-systems.

Procedure

Applicants hand in the request for authorisation and a technical report which contains all the necessary documents relating to the characteristics of the subsystem. It should also contain all the elements relating to the conditions and operational limits, with the instructions of maintenance, continuous or periodic monitoring, adjustment and maintenance.

Legal basis of procedure

15 May 2003 Royal decree regarding the interoperability of the Trans-European conventional railway network. Art 16.

2.2.5 Control on (sub/system) operation and maintenance in accordance with regulations (96/48 and 2001/16, art 14)

Responsible organisation

Ministry of Infrastructure and Communication
Administration of Transport Development
Railway Service Department

Objectives, tasks and responsibilities

To control subsystem operation and maintenance in accordance with regulation

Procedure

Before bringing into service a subsystem, the superintendent of project will have to ask an notified organization to consider the evaluation of conformity and operating requirements (procedure of EC checking) of this subsystem.

The minister or his delegate authorizes the startup of the subsystems of structural nature constitutive of the transeuropean conventional railway system established or exploited in Belgium, provided with declaration "EC-checked".

Into the case of a renewal or a refitting, the manager of the railway infrastructure or the railway company concerned provide the minister or of his delegate a file describing the project. The minister or his delegate examines the file, and, by taking account of the strategy of implementation indicated in the applicable TSI, decides if the importance of work justifies the need for a authorization of a new startup.

This authorization of startup is necessary each time if the level of safety can be affected by work considered.

If the minister considers that there is not required proof he can ask notified body to conduct extra tests at the expence of IM or RU.

Legal basis of procedure

15 May 2003 Royal decree regarding the interoperability of the Trans-European conventional railway network. Art 16.

2.2.6 Approval of Notified Bodies (96/48 and 2001/16, art. 20) please indicate which are the approved Notified Bodies and their relevant tasks

Belgium does not have notified bodies yet

Responsible organisation

Ministry of Infrastructure and Communication where Minister approves Notified Bodies.
Administration of Transport Development
Railway Service Department

Objectives, tasks and responsibilities

To approve notified bodies

Procedure

In order to be approved by the Minister, organisations that are interested have to prove that they are accredited conforming to the law of july 20, 1990 concerning the accreditation of bodies of certification and control and are in compliance with Law regulation the appointment of notified bodies (6 September 1993) (criteria is done with reference to norms NBN-EN 45000)

Legal basis of procedure

Royal Law regulating railway system interoperability for trans-European high-speed network, C- 2000 – 14155.

20 July 1990 decree concerning the accreditation of bodies of certification and control
Law regulating the appointment of notified bodies (6 September 1993) (criteria is done with reference to norms NBN-EN 45000)

2.2.7 Assessment/control of Notified Bodies (96/48 and 2001/16, art. 20)

No notified bodies in Belgium yet

Responsible organisation

Minister of Transport

Objectives, tasks and responsibilities

To assess notified bodies

Procedure

Not applicable

Legal basis of procedure

15 May 2003 Royal decree regarding the interoperability of the Trans-European conventional railway network.

2.2.8 Assessment of conformity and/or suitability of (sub)systems for use (96/48 and 2001/16, art 13)

Responsible organisation

Minister or Director of respective Administration

Objectives, tasks and responsibilities

If a TSI is applicable, the evaluation of conformity and suitability of (sub) systems is undertaken by the Notified Body to which the manufacturer has submitted a request. Under certain conditions, the Minister or Director of the respective administration can limit or prohibit the application or usage of a (sub)system.

Procedure

Upon receiving of the proposal from IM the minister or its delegate, takes all appropriate measures to restrict subsystem in its application field or to prohibit its use or to withdraw it of it from the market. The minister or his delegate immediately informs the European Commission of measures taken and indicates the reasons of his decision, by specifying in particular if nonconformity is due to:

- of non-observance of the essential requirements;

- bad application of the European specifications in so far as application of these specifications is called upon;
- insufficient level of the European specifications.

Legal basis of procedure

15 May 2003 Royal decree relating to the interworking of the railway system transeuropéen conventional. Art 16.

2.3 State aid, competition and public service obligations

2.3.1 Monitoring of competition (1017/68, 2001/12 and 01/2003)

Responsible organisation

Competition Council

Objectives, tasks and responsibilities

The competition division (service de la concurrence) of the Ministry of Economic Affaires has a general task regarding to the examination and research regarding matters related to the protection of competition.

Procedure

Procedure will be defined in a law

Legal basis of procedure

Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

December 14 2000 Royal Law approving regulation of internal controls of the Competition Council

1991 Law complementing 1999 July 1st Law on the economic competition protection

13th January 1935 Law allowing for an institution to regulate economic allocation of production

30th January 1974 – Law establishing the statutes of the charging centres that promote technological progress in order to diversify the national economy and promote scientific research.

2.3.2 Enforcing of competition (01/2003)

Responsible organisation

Competition Council

Objectives, tasks and responsibilities

An applicant or a railway undertaking can address the Competition Council if it considers to be a victim of unfair treatment or of discrimination as a result of decisions taken by the infrastructure manager or by the Minister of Transport.

Procedure

Competition Council can:

- Perform or commission any investigation it considers useful and can assign experts and call witnesses;
- It can order emergency restraining measures;
- It can ask any legal person to conform to its decisions and order a fine in case its decisions are not followed.

The Regulatory Service of the Transport by Rail assures the implementation of the decisions of the Competition Council

Legal basis of procedure

Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

December 14 2000 Royal Law approving regulation of internal controls of the Competition Council

1991 Law complementing 1999 July 1st Law on the economic competition protection

13th January 1935 Law allowing for an institution to regulate economic allocation of production

30th January 1974 – Law establishing the statutes of the charging centers that promote technological progress in order to diversify the national economy and promote scientific research.

2.3.3 Complaint handling related to competition (01/2003)

Responsible organisation

Competition Council

Objectives, tasks and responsibilities

An applicant or a railway undertaking can address the Competition Council if it considers to be a victim of an unfair treatment or of discrimination as a result of decisions taken by the infrastructure manager or by the Minister of Transport.

Procedure

If the Competition Council has been called it has to respond within two months.

Further details will be defined in a law (arrêté délibéré en conseil des Ministres).

Legal basis of procedure

Royal Law of 12 March 2003 modified by Royal Law of 11 June 2004;

December 14 2000 Royal Law approving regulation of internal controls of Competition Council

1991 Law complementing 1999 July 1st Law on the economic competition protection

13th January 1935 Law allowing for an institution to regulate economical allocation of production

30th January 1974 – Law establishing the statutes of the charging centers that promote technological progress diversify national economy and promote scientific research

2.3.4 Evaluation of annual PSO claims/economic disadvantages (1191/69)

Public Service Obligations for SNCB are detailed in the ‘contrat de gestion’ – management contract - which the Belgian Government regularly concludes with the undertaking. The management contracts fixes the way in which public service obligations have to be assumed by the undertaking and the financial means that the states agrees to support the revenues from the services considered public obligation.

Infrastructure management and internal/national passenger transport by ordinary trains (not high-speed) are considered as public services. Since the adoption of the law of 22 March 2002, defining the reorganisation of SNCB, cross-border services have been added to the Public Service Obligations of SNCB.

The Minister controls the respect of the respective laws, the management contract and the statutes of the undertaking. The Minister has in this respect a ‘pouvoir de tutelle’ – a monitoring and advising power – a power of trusteeship – that the Minister can exercise through different mechanisms foreseen by law, such as the control of financial aspects by the Court of Auditors, the presence of a Commissionaire of Government, representing the Minister, in a range of meetings as well as the obligation of the undertaking to deliver certain reports on its activities.

Responsible organisation

See above

Objectives, tasks and responsibilities

See above

Procedure

For passenger Transportation PSO:

- Under this agreement, SNCB is obliged to deliver its transport plan, which contains detailed information on service patterns and performance standards. The size of the funding is adjusted according to a price index, but also includes some compensation for tariff obligations.

Similar plan is required for infrastructure PSO compensation

Legal basis of procedure

Law of 22 March 2002, defining the reorganisation of SNCB

See above

Extra Questions on Public Service Obligation:

• What kind of PSO is concluded for Railway Passenger Transport?

In Belgium there are 3 kinds of services:

- Domestic transport
- Cross border transport (from a Belgian station to the 1st station after the border²)
- High speed domestic transport

Obligations from all these services are regulated by one single management contract (net cost contract) that the Federal Ministry of Mobility on behalf of the State regularly concludes with SNCB. In this contract the Ministry fixes the way in which public service obligations have to be performed. For instance the state demands from operator for domestic train passenger services include these factors:

- Number of train km per day
- comfort of rolling stock
- availability and types of passenger service
- train regularity on specific paths
- existence of points of ticket sales
- access for disabled travellers
- security and safety onboard

² New typology of service adopted by SNCB since March 2002.

The current net costs contract is signed for 2 years (2005-2007) and has a value of 407,2 million euros for year 2005.

Currently (June 2005) the regions in Belgium do not have the competences to make a management contracts with the operator.

- **Is a distinction made between long distance and regional/urban transport?**

The management contract does differentiate between intercity, local and urban train services. A distinction is only made at operational level by SNCB.

- **Who are the contracting authorities?**

The Federal State (Minister of Transport and Mobility) signs a contract with the railway operating company (SNCB).

- **What is the total contracting sum?**

For 2003 the operational subsidy from the state to SNCB was €387,1 million euros³. In 2005 for the same subsidy the state has reserved 407,2 million euros for 2005 railway services⁴.

Additional subsidies are foreseen for investment into rolling stock which is part of multi annual investment program approved by the State⁵; According to an interview with the Ministry of Mobility the biggest part of the subsidy is going to the supply of domestic train km.⁶

- **Length of the contracts?**

The current contract is signed for 2005-2007 between SNCB and the Belgian State.

- **Are the PSO awarded via public procurement procedures?**

The management contract is awarded via direct negotiation between the State (Minister of Mobility) and SNCB. Up to now, no tendering procedures have been used.

- **What percentage of the market is covered via pso?**

SNCB which is the sole provider of PSO passenger transportation services in Belgium had the share of PSO services in 2003⁷ was:

Passenger Turnover (millions euros): 1.307

Operational subsidies: 387,1

Coverage: 30%

³ Source: SNCB Annual Report 2003. This amount take into consideration: state compensation of free travel, senior and student tickets and state compensation for carrying out the operational service not covered by ticket income.

⁴ Source: SNCB press release (January 2005).

⁵ Source: Interview with Guy Frederix from Federal Ministry of Mobility (09/06/05).

⁶ Phone interview with Dirk Verdickt from the SNCB - Strategy division (08/06/2005).

⁷ Annual Accounts of SNCB 2004.

2.4 Statistics

2.4.1 Collection of financial data from railway undertakings (1192/69)

Before January 1, 2005 SNCB collected and provided data. It is not yet entirely clear how data collection and provision will be handled in the transition to a liberalised market.

Responsible organisation

SNCB

Objectives, tasks and responsibilities

To collect and disseminate statistics

Procedure

SNCB Holding will have to publish its yearly accounts.

Legal basis of procedure

Not yet implemented

2.4.2 Collection of financial data from infrastructure managers (1108/70)

See 2.4.1

2.4.3 Provision of financial data on infrastructure management's expenses (1108/70)

See 2.4.1

2.4.4 National contribution to Community statistics on rail transport to Eurostat (91/2003)

See 2.4.1

3 TRAIN OPERATING COMPANIES

3.1 List of train operating companies

Freight operations

The rail freight market is still dominated by the Belgian Rail and but competition started, when a new private company, DLC, entered the market in 2001.

Within the SNCB the business unit B-Cargo is in charge of good transport. B-Cargo belongs to the Belgian Freight Group as well as IFB and ABX Logistics.

- B-Cargo (subsidiary of SNCB)
- DLC (DILLEN & LE JEUNE CARGO)

Passenger operations

- SNCB

SNCF, DB, CFL, NSR and Railion also operate in Belgium transporting both freight and passenger under contracts with SNCB, but this relationship stems from agreements in UIC (International Railways Union).

3.2 Safety license

SNBC and DLC have a safety certificates

3.3 Market shares/transport volumes

Freight operations

B-Cargo is the biggest operator besides 1 private company DLC therefore market share is very close to 100%.

Transport Volumes (in million of tons)

2000	2001	2002	2003
62	57	57	55

SNCB Annual report 2003

Passenger operations

SNCB is the only operator; therefore its market share is 100%

Data for 2001-2004

	2001	2003	2004
Number of passenger	160,3 (million)	168.4 (million)	198.3 (million)
national	146,5 (million)	155 (million)	165 (million)
international	13,8 (million)	13.4 (million)	13.3 (million)
Number of passenger-km	8038 (million)		

From annual report 2003 and press release 2005

4 NGO'S

The following NGOs are active:

4.1 Industry associations

4.2 User groups

ACTP – Association des Clients du Transport Public

French speaking association of public transport users; lobbies for improvement of public transport. – comments on Management Contract;

BTTB – Bond van Trein-, Tram- en busgebruikers

Flemish speaking association of public transport users; lobbies for improvement of public transport.

Comite Consultatif Des Usages Aupres De La SNCB or Raadgevend Comité van de Gebruikers van de NMBS (NL)

99, rue de France/Frankrijkstraat 99
B - 1060 BRUXELLES/BRUSSEL
BELGIQUE/BELGIE
Tel.: +32.2.5253674
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E-mail: roland.vanbruwaene@b-rail.be

The SNCB Consultative Committee issues opinions on various policies of EC/SNCB relating to Belgium market (ticketing, national and cross-border rail links etc).

4.3 Trade unions

CGSP (Centrale Générale des Services Publics) Cheminots

The union represents all workers in public services, within 10 professional sectors. It is basically concerned by employment conditions and security/stability of employment at the SNCB.

Split of the incumbent railway operator in 3 legal entities has been negotiated and approved by the trade unions. Problems of qualifications of staff, particularly of staff involved in freight operations (division cargo). New programmes to reallocate staff demanded by Dominique Dalne of CSC-Transcom.

CSC - Transcom

It is basically concerned by employment conditions and security/stability of employment at the SNCB.

SLFP- Syndicat Libre de la Fonction Public

It is basically concerned with employment conditions and security/stability of employment at the SNCB.

4.4 Environmental groups

IEW – Inter-Environnement Wallonie

IEW is a federation of environmental associations. It was founded 1974 by around 10 associations and includes today more than 130 associations of different domains: conservation of nature, land-use, industrial pollution, agriculture, transport It aims to introduce the principle of sustainable development in all sectors of politics.

It promotes its ideas and interests towards regional and federal authorities and organisations. It generally supports the liberalisation of rail transport.

4.5 Other

Socio Economic Council of Walloon Region (Conseil économique et social de la Région wallonne (CESRW))

This council comments on the negotiations regarding the management contract for the new SNCB; expressing worries that rural Walloon regions will be less well connected in future;

5 FURTHER FACTS AND STATISTICS

5.1 Complaint statistics and information

Not available

5.2 Railway accident statistics

Comparative Statistics		1990	1995	2000	2001
Passengers	Killed	-	3	3	10
	Of which due to own imprudence	-	3	3	5
	Number by 100 million passengers	-	2.1	2.0	6.2
	Injured	59	37	54	72
	Of which due to own imprudence	40	26	46	48
	Number by 100 million passengers	41.4	25.7	35.0	44.9
Staff	Killed	2	1	4	6
	Of which due to own imprudence	1	1	2	4
	Injured	15	14	22	34
	Of which due to own imprudence	8	12	7	12
On-level-crossings (passages à niveau)	Killed	15	12	8	13
	Injured	16	12	10	11

6 GRAPHICAL OVERVIEW

