

Definition of cross-border sections of priority projects

(Endorsed by the Committee for Monitoring Guidelines and the Exchange of Information, set up in accordance with Article 18 (2) of the TEN-T Guidelines, on 25 April 2007)

1. CROSS-BORDER SECTIONS

The following notes define practical criteria allowing the identification of cross-border sections of TEN-T priority axes. The identification of a section as cross-border does not automatically imply its eligibility for an increased Community support, as specified in the other relevant criteria in Article 6 of the TEN Regulation..

- **Criteria for the identification of the cross-border sections of priority axes**

In order to be considered as a cross-border section in the meaning of Article 19 b of Decision N° 1692/96/EC or as a cross-border section which ensures via a third country, the continuity of a priority project between two Member States (see Article 2 point 5 of the TEN Regulation), projects have to comply with criteria (1) and (2A) or with criteria (1) and (2B).

(1) The project is a “cross-border” project.

This requires actions/construction works on at least two sides of the border.

In exceptional cases, it could be proposed that a project – involving the construction of a specific infrastructure (for example a bridge or a tunnel) located on the territory (or largely on the territory) of a single Member State at the proximity of the border, and is necessary to link to the network of a neighbouring Member State or a third country – is considered as a cross-border section, when it is requested together by the Member States concerned.

(2A) The project is technically and financially indivisible.

Technically indivisible:

The project’s technical indivisibility is determined by the physical configuration of the infrastructure to be built or upgraded, so that one Member State cannot carry out the project independently of the other Member State (for example a bridge or a tunnel).

Financially indivisible:

The project’s financial indivisibility is determined by the unique or coordinated management or the financial or the legal structure set up.

(2B) The Member States concerned commit themselves jointly to the project and put in place a common structure for it.

Joint commitment:

A joint commitment requires

- a) a formal agreement at an appropriate level,

- b) b) an agreed common financial plan or coordinated financial plans, including a single request for community funding, either by the Member States concerned or by one Member State and endorsed by the other Member State(s) concerned,
- c) an agreed common timetable for studies and works including a coordinated date of opening to service¹, and
- d) an agreement² on how the Member States concerned coordinate their procedures for assessing environmental effects as well as for assessing the socioeconomic effects thereof and how they use their best endeavours to conduct a transnational enquiry prior to granting construction permission and within the existing network.

Common structure:

A common structure between the Member States concerned for the implementation of the project (including normally the study and the work phase) must be created by a legally binding agreement at an appropriate level. The common structure could also be of an administrative nature, such as an Intergovernmental Commission dealing with a specific project.

2. ELIGIBILITY CRITERION

Transport related projects involving a cross-border section or a part of such a section shall be eligible to receive Community financial aid if there is a written agreement between the Member States concerned or between the Member States and third countries concerned relating to the completion of the cross-border section. Exceptionally, when a project is necessary to link to the network of a neighbouring Member States or a third country, but does not actually cross the border, the written agreement referred to above, shall not be required. (ref. Article 3 § 3 of TEN Regulation)

3. EXCEPTIONAL CASES

In exceptional cases and upon request of at least two Member States concerned, the Commission will examine on a case by case basis, whether a project can be considered as cross-border project, in case where the criteria of this document are not fully met. The Committee set up under Article 18(2) of Decision 1692/96/EC will take a decision upon the proposal of the Commission.

¹ Studies do not require a common methodology, but at least compatible methodologies, allowing coordination of results.

² This agreement can form part of the establishment of the common structure.

4. MAXIMUM DIMENSION OF A CROSS-BORDER SECTION

The geographical extension of the cross-border section is defined either by the part which is technically and financially indivisible or for which the Member States concerned will create a common structure.

In the case of Motorways of the Sea, the maximum possible length of the hinterland connections is determined normally by the connections to the closest point on the TEN-T land network.

5. NOTIFICATION TO THE COMMISSION BY MEMBER STATES

The notification to the Commission of a project being identified as a cross-border section must be done at the latest together with the request for an increased rate of Community support.