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Annex “A” to Decision No 227/2022 of 30 November 2022

**Indications and requirements concerning the
“Network Statement 2024” submitted by the infrastructure manager
of the national rail network, R.F.I. S.p.A.,
and the “Network Statement 2023”**

Table of contents

| | |
|---|-----------|
| Introduction..... | 3 |
| 1. General information | 5 |
| 1.1 Web links for the cooperation between European infrastructure managers and supplement to the glossary ... | 5 |
| 2. Characteristics of the infrastructure | 5 |
| 2.1 Prior notice of path request for trains with weight exceeding 1600 tonnes..... | 5 |
| 2.2 ERTMS Development Programme | 7 |
| 2.3 Technical meeting on infrastructure development. Decommissioning of stations..... | 10 |
| 2.4 Network usage rules, speed reference values per traffic segment/route..... | 11 |
| 3. Conditions of access to the infrastructure | 12 |
| 3.1 FA models for PSO services: PIC information service. | 12 |
| 3.2 Customer satisfaction of assistance services to PRM on a regional basis. | 14 |
| 4. Capacity allocation..... | 15 |
| 4.1 Capacity requests for trains with a mass exceeding 1600 tonnes and up to 2500 tonnes | 15 |
| 4.2 Contract provisions for construction and operation of rail connections (DICC)..... | 15 |
| 4.3 Schedules for submission of path requests relating to the applicable working timetable and update of technical scenario..... | 16 |
| 4.4 TTR project..... | 18 |
| 4.5 Adaptation of freight terminals and marshalling yards for dangerous goods..... | 19 |
| 5. Services and charges | 21 |
| 5.1 Traction current..... | 21 |
| 5.2 Services included in the Minimum Access Package, data access via PIC WEB and PIC IF Back End systems and data publication. | 23 |
| 5.3 Assistance to Persons with Disabilities and Reduced Mobility (PMR) in case of replacement buses. | 24 |
| 5.4 Penalties for train cancellation and penalties for exceeding layover times at border stations | 25 |
| 6. Performance of the contract | 31 |
| 6.1 Punctuality and market segments | 31 |
| 6.2 Performance of the IM on scheduled capacity restrictions..... | 32 |
| 6.3 Information to be guaranteed in case of strike | 33 |
| 7. Service facilities | 33 |
| 7.1 Model lease agreements for areas and facilities within passenger stations. | 33 |
| 7.2 Maintenance centers. Obligations and rights of the RUs | 34 |

Introduction

By note no RFI-NEMI.DCO\PEC\P\2022\426 of 30 September 2022, registered as received under ART ref. no. 20441/2022, Rete Ferroviaria Italiana S.p.A. (hereinafter: RFI or, alternatively, IM) submitted the final draft of the Network Statement 2024 (hereinafter: NS 2024), together with the comments received from stakeholders following the consultation, as well as its ensuing assessments.

The structure of the sections of the NS 2024 is the same as in the previous NS 2022 and NS 2023 and complies with the common standard defined by the organisation of European railway infrastructure managers “Rail Net Europe” (hereinafter: RNE), i.e. the *“Network Statement Common Structure and Implementation Guide for Timetable 2022”*.

This document — whose objective scope refers exclusively to the national railway infrastructure managed under a concession agreement by RFI S.p.A. pursuant to the Decree of the Minister for Transport and Navigation No 138T of 31 October 2000, under the conditions laid down therein and in its later additions, as well as in the Programme Contract (hereinafter: PC) concluded with the State — the Authority provides its indications and requirements, pursuant to Article 14 (1) of Legislative Decree no 112 of 15 July 2015 and of Article 37 of Decree-Law no 201 of 6 December 2011, converted with amendments into Law no 214 of 22 December 2011, with respect to sections 1, 2, 3, 4, 5, 6 and 7 of the a.m. NS 2024.

For each of these sections, for each of the subjects under consideration, reported below are:

1. the Authority’s relevant assessments following the analysis of the draft NS 2024 sent by RFI on 30 September 2022;
2. the ensuing indications and requirements for the Infrastructure Manager of the national rail network.

In providing such indications and requirements, account has been taken of the outcome of the Authority’s activities carried out in the area of interest over the last year, including in relation to the reports received and the findings from the IM’s hearing on 21 October 2022; special attention was paid, *inter alia*, to the following: issues relating to rail freight transport by trains with a weight exceeding 1600 tonnes, TTR project, correct communication of the programmes for implementation of the ERTMS system, provision of traffic data via system-to-system connection for Regions/Autonomous Provinces/State. In addition, the Authority has provided indications and requirements on the sanctioning system model in case of exceeding scheduled stop times at border stations applicable to international freight trains, resulting from the application of certain amendments to the model included in the NS 2023, proposed by the IM — including on the basis of the discussions with the RUs in 2022 — in the final draft of the NS 2024; it should be recalled that, following an *ad hoc* consultation launched on 30 September 2022 and closed on 14 October 2022, the IM, by note of 10 November 2022 (ref. ART 24126/2022) proposed further amendments to its proposal described in the final draft of the NS 2024.

Finally, it should be noted that the Authority’s offices analysed the comments made by interested parties during the consultation referred to in point 4 (i) of Decision no 173/2021 (on indications and requirements for the NS 2023) where it was provided that RFI would: *“(i) launch by the first two months of 2022, and conclude by the two-months following the start date, an ad hoc public consultation, with a view to gathering observations and proposals from stakeholders on any changes and additions of the regulations underlying the exercise of the essential function of train path allocation and detailed in the current NS, in accordance with the principle of efficient capacity management;”*. Following this analysis, by taking into account the comments previously communicated to the IM with regard to the March 2022 draft of the Business Plan, the Authority adopted specific requirements with particular reference to the correct identification and publicisation of the operating models provided by the IM on the various sections of the relevant network; such requirements provide that the so-called *“technical scenario”* be supplemented with reference value of speed and *“inter-time”* per traffic segment, and that a specific performance indicator of the IM be identified in terms of planning of infrastructure unavailability compared to the capacity for commercial services.

The indications and requirements to be applied already from the 2020/2021 timetable are highlighted with **blue formatting** (in this case, the numbering of sections, subsections and paragraphs is referred to the NS 2023, and shall be understood as referring to the sections, subsections and paragraphs of the NS 2022 which, while possibly presenting a different numbering, relate to the same subjects).

Main abbreviations used in the document:

| | |
|-------------|--|
| ANSFISA: | Rail and Road Safety National Agency (<i>Agenzia Nazionale per la Sicurezza delle Ferrovie e delle Infrastrutture Stradali e Autostradali</i>); |
| Authority: | Transport Regulation Authority (<i>Autorità di regolazione dei trasporti</i>); |
| DAC: | Digital Administration Code; |
| DCS: | Data Collector System; |
| DD: | Delegated decision; |
| DICC: | Contract Provisions, Instructions and Clauses for the construction and operation of rail connections with industrial or similar plants and facilities; |
| ERA: | European Union Agency for Railways; |
| ERTMS: | European Rail Traffic Management System; |
| FA: | Framework agreement; |
| GPWT: | General Preface to Working Timetable; |
| HS/HC: | High Speed/High Capacity; |
| IM: | National railway infrastructure manager; |
| MIT: | Ministry of Infrastructure and Transport; |
| NRI: | National Railway Infrastructure; |
| NS: | Network Statement; |
| NSCS: | Network Statement Common Structure and Implementation Guide for Timetable 2022; |
| PC: | Programme Contract; |
| PC-I: | Program Contract - Investments; |
| PC-S: | Program Contract - Services; |
| PCS: | Path Coordination System; |
| PR: | Performance Regime; |
| PRM: | People with reduced mobility; |
| PSC: | Public Service Contract; |
| PSO: | Public Service Obligations; |
| Regulation: | Implementing Regulation (EU) 2017/2177; |
| RFC: | Rail Freight Corridor; |
| RFI: | Rete Ferroviaria Italiana S.p.A.; |
| RNE: | Rail Net Europe; |
| RU | Railway undertaking; |
| TCR: | Temporary Capacity Restrictions; |
| TM: | Technical Meeting for collection of suggestions and requests for improvement, efficiency enhancement and development of the infrastructure and services provided by RFI; |
| TOCS: | Train Operation Control System; |
| TSI: | Technical specifications of interoperability; |
| TTR: | Timetable Redesign Project. |

1. General information

1.1 Web links for the cooperation between European infrastructure managers and supplement to the glossary

1.1.1 Assessment by the Authority

It should be noted that some links in paragraph 1.7 *"Cooperation between European infrastructure managers"* are not up-to-date and that, as regards the Regulatory Body of the RFC5, sub-paragraph 1.7.1 *"Rail Freight Corridors"* should indicate the rules for identification of the Regulatory Body to which the complaint is addressed.

It is also noted that, among the EU legislative sources, Commission Regulation (EU) No 1300/2014 of 18 November 2014 *"on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility"* referred to in the NS should be mentioned as well.

Finally, the IM should introduce a definition of "leisure" passenger trains, with reference to the specific regulations on the timing of the request for the corresponding paths, as further elaborated in the relevant paragraph in Chapter 4 of this Annex A.

1.1.2 Indications

1.1.2.1 The IM is given the indication to supplement paragraph 1.3.1 *"Quadro giuridico"* (Legal framework), by including the reference to Commission Regulation (EU) No 1300/2014 of 18 November 2014 *"on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility"*.

1.1.2.2 The IM is given the indication to verify and amend, where necessary, in paragraph 1.7, *"Cooperazione tra Gestori dell'infrastruttura europei"* (Cooperation between European Infrastructure Managers) the web links contained therein.

1.1.2.3 The IM is given the indication to report in paragraph 1.7.1, *"Rail Freight Corridors"*, the rules for the identification of the Regulatory Body to which users of the RFC5 may address complaints, as defined in the existing cooperation agreement between the Regulatory Bodies with regard to the RFC5.

1.1.2.4 The GI is given the indication to introduce in paragraph 1.8 *"Glossario dei termini"* (Glossary of Terms) the definition of *"leisure"* extraordinary passenger train.

1.1.3 Requirements

No requirements are provided.

2. Characteristics of the infrastructure

2.1 Prior notice of path request for trains with weight exceeding 1600 tonnes

2.1.1 Assessment by the Authority

In paragraph 2.3.5 *"Mass limits"*, and in particular in sub-paragraph *"Lines in which trains with a mass exceeding 1600 tonnes and up to 2 500 tonnes are allowed to operate"*, the IM has introduced the provision laid down in RFI's operating provision No 8/2021, according to which trains with hauled mass exceeding 1600

tonnes and up to 2 500 tonnes are allowed to operate on the lines specified in Annex X to the GPWT-RU and GPWT-RFI, by communicating to the *Direzione Tecnica* (Engineering Department) of RFI, prior to the path request, the arrangements for composition and braking of those trains, specifying whether they are carried out in accordance with the relevant part of the GPWT-RU¹ or whether they derive from autonomous risk analyses performed by the applicants for capacity in compliance with the common safety methods defined by the EU.

Although this provision has an impact on the capacity allocation process, in the relevant section 4 of the NS, the IM has not described, despite this being necessary for the purpose of procedural transparency, how this obligation is integrated by the IM itself into the above mentioned process (annual, VCO or operational management), e.g. by specifying the modes and timing of the dialogue with the Engineering Department, or how the applicant for capacity should account for the communication made at the time of the path request through the ASTRO-IF or PIC information systems.

While in response to the comments submitted during consultation by the applicants for capacity, the IM replied that this obligation on the RUs is necessary to allow the competent RFI offices to carry out the ensuing communication to ANSFISA, during the hearing the same IM clarified that this communication is purely formal and the Engineering Department of RFI does not provide for consent or refusal following its receipt. In addition, according to what was reported at the hearing, following a path request for a "heavy" train, the *Direzione Commerciale* (Sales Department) of RFI checks with the competent Engineering Department (through RFI internal communication flow) that the RU has made the communication; failing this prior notification by the RU to RFI Engineering Department, RFI Sales Department shall process the request by providing for a limit of 1600 t for the hauled train mass.

Furthermore, RFI specified at the hearing that the limitation of short-notice requests (*richieste in gestione operativa*) depends on "*operational difficulties related to the verification that the conditions for requesting the "heavy" path are fulfilled (in particular those relating to the compliance with the distancing referred to in Annex X to the GPWT), as well as in the light of the shortage of slots suitable for the required distancing in case of residual capacity (which draws on the Operational Management, hereinafter OM) on certain border terminals. The same path quality would not be guaranteed given the short notice typical of the OM with possible effects on the remaining traffic.*" RFI has, in any event, expressed its willingness to provide for "*a trial period during which trains with hauled mass exceeding 1600 tonnes and less than 2500 tonnes may be requested through the (newly established) freight operational one stop shop.*"

The Authority notes that, since RFI does not provide for any substantive verification of the communication sent by the RUs, this communication (which the Sales Department may be aware of only following a request to the Engineering Department) could be provided in the context of the RU's path request and therefore directly included in Astro-IF/PIC application; later, through RFI's internal communication flow, this communication referred to in the aforementioned operating provision No 8/2021 could be forwarded by the Sales Department to the Engineering Department.

Finally, taking note of the operational difficulties identified by RFI and the ensuing limitations on the use of short-notice requests for "heavy" trains, the Authority considers it appropriate that the IM, by supplementing and amending the sub-paragraph "*Richieste allo Sportello Operativo Merci*" (Requests to the freight operational one stop shop) under paragraph 4.5.3.2 "*Tempistiche per richieste in corso d'orario*" (Requests in connection with the annual timetabling process) (to be included also in the NS 2023 for the purpose of correct information to applicants for capacity), quickly starts the trial on the use of the freight operational one stop shop for "heavy" train path requests, so as to limit the consequences of these decisions on the "commercial flexibility" of the RUs (see Annex II).

¹ Article 60 (3).

2.1.2 Indications

No indications are provided.

2.1.3 Requirements

2.1.3.1 The IM is required to supplement paragraph 2.3.5 "*Limiti di massa*" (Mass limits), by making reference also to the relevant paragraphs of Section 4 "*Allocazione della capacità*" (Capacity allocation), with the provision that, if the applicant for capacity intends to request paths for the operation of trains with hauled mass exceeding 1600 tonnes and less than 2500 tonnes, the notifications referred to in RFI's operating provision No 8/2021 ("*Prior to the path requests, the RUs shall specify to RFI Engineering Department whether the trains are composed according to the composition and braking rules referred to in paragraph 3 of Article 60 of GPWT-RU*" or "*according to the results of the analyses referred to in paragraph 3-bis of Article 60 of GPWT-RU*") may be made, upon the path request, through appropriate note in the Astro-IF/PIC application. Following these notes in Astro-IF/PIC, the communications shall be sent to RFI Engineering Department through internal communication flow. Further, it should be specified that, in the absence of such communication, the path, if granted, will be provided for a maximum hauled mass of 1600 tonnes.

2.2 ERTMS Development Programme

2.2.1 Assessment by the Authority

In the consultation called upon by the IM on the Business Plan - March 2022 (with a time horizon of reference extended until 2026), by note ref. no. 12911/2022, the Authority submitted several comments, *inter alia* one referring to the need to ensure adequate information, in the Business Plan and in the NS, to the applicants for capacity regarding the decision of RFI to dismiss the "*Sistema di Controllo Marcia Treno*" (SCMT Train Control System) with simultaneous replacement with the ERTMS system, in order to enable the applicants to develop and carry out their own equipment programming of rolling stock operating in Italy so as to be able to interact with the ERTMS system ("*It is also considered necessary that the IM [...] implements in the NS and in the Business Plan the time schedules, until 2036, provided for in the a.m. ERTMS development plan, in order to give correct and timely information to all applicants for capacity, including potential applicants; it should be noted that the installation of ERTMS and the decommissioning of SCMT system have a significant impact on the need to update the rolling stock, as already stated by the IM in the above-mentioned development plan.*")

By note ref. no. ART 14489/2022, the IM underlined that the plan for replacement of the SCMT system with the ERTMS system is already available to applicants for capacity on its ePOD platform and therefore did not consider it necessary to include this plan either in the Business Plan or in the NS, pointing out that both RUs and trade associations have already been involved in the development of this replacement plan. In fact, in the consultation on the draft NS, some stakeholders complained of various unresolved technical and economic issues; in particular, Fercargo association complained about the following issues, listed here below by type and related specific reasoning:

- 1) "*ERTMS for freight railway undertakings is only a cost item*".
 - a. "*The implementation of ERTMS on existing rolling stock or newly acquired rolling stock is only a cost item that affects the cost of transport for an estimated amount of 5/6 % without any operational benefit.*";
 - b. "*until the end of the ERTMS implementation plan, rolling stock must be equipped with double equipment [edit: SCMT+ERTMS] to allow train movements on the entire infrastructure.*";
- 2) "*Standard implementation costs are sizeable and highly underestimated*".

- a. *"the implementation of ERTMS on locomotives [has] an impact ranging from EUR 150,000 to EUR 400,000 per rolling stock, plus the impact of fixed costs [...]. These costs are not sustainable without adequate support."*;
- 3) *"The fixed costs for development and authorisation of ERTMS are substantial and not equitably distributed."*
 - a. *"rolling stock suppliers are indicating very high fixed costs for development and authorisation of ERTMS, listing fixed costs ranging from EUR 600,000 to EUR 1,000,000 per ESC type approval"*;
 - b. *"Since at present there are already 8 ESC types in Italy and this number is expected to increase, these costs, the distribution of which between the RUs is not currently known, are expected to explode."*;
 - c. *"In particular, the impact of the approval process for first production models is expected to be very long and costly."*
- 4) *"The complexity of ESC Type and ERTMS trackside will have a strong impact on the mobility of rolling stock."*
 - a. *"ERTMS requires ESC type approval. Each ESC type approval brings not only considerable and unpredictable costs and time, but operational limitations. **Since the number and distribution of ESC types is not known to date, it is impossible to estimate the necessary commitment, just as it is impossible to guarantee that, at the time of the ERTMS implementation and ensuing SCMT shutdown, the rolling stock belonging to a given line will be ready for system change.** On the contrary, it is almost certain that upon the implementation of ERTMS several rolling stock will lose mobility on these lines because they will not be ready in time."* (emphasis added);
 - b. *"In addition to this, a huge problem is already arising from the strict application of Article 7.2.5 of TSI, which will lead to devastating consequences for the national rail system. The standard **indicates that a rolling stock equipped with both Class A (ERTMS) and Class B (SCMT) systems on a line equipped with Class A and Class B systems may operate only using the Class A system.**"* (emphasis added);
 - c. *"At present, the main locomotive suppliers indicate that it is NOT POSSIBLE to authorise rolling stock with ERTMS on the entire infrastructure before 3/4 years, with the first ESC type approval not earlier than 2023"*;
 - d. *"Therefore, a plan is also needed for freight railway undertakings and, in general, for freight locomotive owners that: — **Fully covers the costs** of implementation/upgrade/retrofit/installation on new ERTMS rolling stock — **Manages the implementation of first production models in a coordinated manner with RFI accelerated plan, ensuring that no rolling stock will lose mobility on the newly equipped lines** — **Identifies a systematic development plan of first production models on various ESC types, with full cost recovery for railway undertakings that will have to surrender the rolling stock used for the tests for the time required** — **Clearly indicates a solution that allows the rolling stock equipped with Class A and Class B systems, but with A-Class not yet authorised to operate on the lines with double equipment by using the Class B system pending completion of the ESC type approval process.**"* (emphasis added).

In relation to these issues, RFI highlighted the following:

- 1) *"As provided for in CCS TSI 2016/919, as amended, **the ERTMS/ETCS equipment is mandatory for all new vehicles** in accordance with the SRS ETCS Baseline 3"* (emphasis added);
- 2) *For existing rolling stock, as it is known, **RFI has taken on the role of developer, until the Authorisation for Use** by ANSFISA, of the new General Applications (GA) and the First Specific Applications (1aSA) of all Types of Vehicles running on the national railway infrastructure for renewal or renovation of SSBs with STM SCMT/SSC. The RUs shall equip the models in accordance with the TaV for which the funding will be allocated under Decree-Law no 121/202"* (emphasis added);

- 3) *The latest surveys by RFI — carried out also on the basis of the information provided by DG Move — show that **the total cost of ERTMS equipment on standard rolling stock has suffered an increase** also linked to the cost increase of raw materials. Also in the light of what has been reported by RUs, **RFI has already launched initiatives in the appropriate institutional fora to increase the funds for financing the costs of implementing the ERTMS system.** (emphasis added).*
- 4) RFI intends to define aggregated ESC types with the final objective of identifying, for each of the four suppliers currently operating in Italy, an applicable ESC type for the lines covered by the ERTMS Accelerated Plan;
- 5) As regards the critical issues linked to the rigidity of the CCS TSI, Regulation (EU) 2016/919 *"In view of the issues arising from the application of Regulation (EU) 2016/19 and the discussions already started with ANSFISA and MIMS, RFI is carrying out further analyses and initiatives aimed at identifying mitigation actions for this issue"*.

At the hearing, RFI clarified, in particular, the following:

- round-table discussions are being held with RUs so that the trackside equipment plan is coordinated with the on-board equipment plan;
- RFI has taken over the approval of on-board equipment, whereas the RUs shall provide to install on-board equipment; RFI has taken the initiative with the State to increase the available funds, also following the reports by the RUs concerning inadequate funding;
- the communication of the ERTMS plan includes: *i)* drawing up of an internal review of the ERTMS plan with updated dates of entry into operation (which will also be available on ePOD), at least annually, issued in due time to update the operational horizons and ePIR maps accordingly. RFI considers that, at present, the horizons of entry into operation of the above-mentioned plan are quite reliable until 2026; *ii)* the information referred to under the previous point allows to update the relevant section of the Business Plan, whose draft is produced in February/March of the following year. In any case, RFI confirms that the entire accelerated ERTMS plan will be presented in the Business Plan (until 2036); *iii)* RFI will include, in the next edition of the NS, additional useful information on the activities necessary to access the infrastructure equipped with ERTMS, with a view to transparency, equal treatment and non-discrimination against current and potential applicants for capacity;
- as regards the ESC Type, whenever a generic/specific application or a new type of vehicle is adopted, its compatibility with the trackside subsystem shall be checked; this integration is borne by RFI for the new lines of the ERTMS Plan included in the FAs already awarded for 4 generic applications (different suppliers), for lines already in operation with ERTMS; for new foreign RUs or new suppliers, the integration is borne by the RUs;
- the need for verification of the integration between on-board equipment and trackside ESC Type derives from precise obligations [Application Guide GUI/CCS TSI/2020 "Guide for the application of the CCS TSI In accordance with Article 19 (3) of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016"; ANSFISA GL "Linee guida per il rilascio delle autorizzazioni relative a veicoli, tipi di veicolo, sottosistemi strutturali e applicazioni generiche" Rev. 1] also applying to the RUs in the foreign territory and this problem is found in all EU countries.

In addition to the issues discussed above, which will be further analysed by the Authority, it should be noted that, with the draft NS 2024, the IM intended to briefly report on generic forecasts concerning the extension of the ERTMS system to replace the SCMT system in paragraph 2.3.13 "Sistemi di esercizio e di controllo della marcia" (Train operation control and protection systems), but it indicated neither the availability of the ERTMS development plan ("ERTMS/ETCS and GSM-R development plan") in the ePOD platform, nor the lines covered by this programme within the start-up or duration of the 2023-2024 working timetable referred to in the NS 2024. The Authority considers it necessary that this information, which is crucial for the definition and pursuit of the industrial policies by each rail economic operator, should be integrated into the aforementioned

paragraph of the NS, already starting from the NS 2023, for the purposes of transparency, equal treatment and non-discrimination of not only current, but also potential applicants for capacity.

2.2.2 Indications

No indications are provided.

2.2.3 Requirements

2.2.3.1 The IM is required to include, in paragraph 2.3.13, "*Sistemi di esercizio e di controllo della marcia*" (Train operation control and protection systems), the link to the adopted "*ERTMS/ETCS and GSM-R Development Plan*", available on its ePOD document management platform, so as to enable applicants to retrieve information on the expected start-up of this system for the routes of interest.

2.3 Technical meeting on infrastructure development. Decommissioning of stations.

2.3.1 Assessment by the Authority

As better detailed in Chapter 4 of this Annex A, Article 4 (4) of the MICC, i.e. the contractual conditions for construction and management of sidings, provides for the possibility that a station of arrival and departure of vehicles, or of support for a connection (serving one or more connected service facilities), is turned into a stop (i.e. crossings are eliminated and only plain-line tracks remain in place) and that the siding-connected undertaking, at its discretion and at its own expense, may provide for the technological and infrastructural works that are necessary for continuing siding operation.

Since the IM, in the Technical meeting for the purpose of collecting suggestions and requests for improving, enhancing the efficiency and developing the infrastructure and services offered by RFI (hereinafter: TM), referred to in paragraph 2.6 "*Sviluppo dell'Infrastruttura*" (Infrastructure Development), has to illustrate any initiatives regarding the decommissioning of its service facilities, in addition to the operators directly concerned, the IM shall inform the market well in advance in the context of the above technical meeting and collects any comments, also considering the possibility that the decommissioning of stations leads to the decommissioning of one or more service facilities for which compliance with the provisions of Article 13 (8) of Legislative Decree no 112/2015, Article 15 of Implementing Regulation (EU) 2017/2177, as well as Measure 10 of Annex A to Decision No 130/2019 of the Authority is mandatory.

Furthermore, following the consultation, RFI has made itself available to keep applicants for capacity up-to-date as to the process concerning the submitted proposals that RFI considered as deserving further inquiries, through the drafting of "*a report for each stakeholder to provide, on an annual basis, appropriate information on the state of the request. In particular, it will be reported whether the proposal, after passing the various stages, is part of the planning process and therefore whether it has been included in the PC.*"

In this respect, also in relation to the agreement expressed by RFI at the hearing, the Authority considers it necessary, to ensure transparency towards the market, that the IM draws up an *ad hoc* report on the process of these activities, to be made available to all stakeholders annually, on its corporate website, in the same section as the above-mentioned TM.

2.3.2 Indications

No indications are provided.

2.3.3 Requirements

2.3.3.1 The IM is required to amend paragraph 2.6, “*Sviluppo dell’Infrastruttura*” (Infrastructure development), providing for supplementing the information to be made available to the market annually (through communication to stakeholders and publication on the corporate website), before the TM is started, with the list of stations for which the decommissioning is being considered by the IM and the indication of the service facilities connected to them or using them as support stations.

2.3.3.2 The IM is required to amend paragraph 2.6, “*Sviluppo dell’Infrastruttura*” (Infrastructure development), providing that, together with the analysis report on the results of the annual TM, a report is also made available by the 30th of January each year in the relevant section of the corporate website. The report shall include appropriate information on the state of the proposals that were deemed worthy of further inquiries by RFI, and in particular on the inclusion, after passing the various steps, in the planning process and therefore in the PC. Upon initial application of this requirement, the deadline to be complied with is the 30th of June 2023.

2.4 Network usage rules, speed reference values per traffic segment/route

2.4.1 Assessment by the Authority

By note ref. no. 12911/2022 of 13 May 2022 concerning comments on the draft Business Plan of March 2022, the Authority clarified that the operating model of the lines/routes of the managed network should be made available, together with an evaluation and clarification of which system, between the homotachic and the heterotachic (and, in the second case, according to which percentages) can better guarantee adequate performance in terms of use of capacity, speed and regularity of services.

By note ref. no. RFI-AD\PEC\P\2022\825 of 10 June 2022 (ART ref. no. 14489/2022), including with reference to the definition of how these operating models and the performance characteristics of the network could be represented, RFI expressed its agreement on the Authority’s remarks.

To initiate this process regarding the provision of the operating models (including with a view to the progressive adoption of the TTR, which is currently limited only to certain traffic routes), the IM should integrate the document “*Scenario tecnico*” (Technical scenario) — available in the ePIR, referred to in paragraph 4.5.4 “*Processo di allocazione delle tracce e dei servizi*” (Path and service allocation process), making reference to it also in paragraph 2.7 “*Utilizzazione della rete*” (Access to the network) by including a sub-paragraph providing, in particular, the following:

- for each route, indication of the speed taken as a reference for the design of the paths during the allocation of capacity, by differentiating by segments of freight traffic, HS passengers, non-HS long-distance passengers, passengers of local public transport (hereinafter: LPT), and
- for each route and pair of traffic segments, minimum inter-time required by the IM to ensure adequate levels of traffic regularity.

In this regard, it should be noted that, during the hearing, while agreeing on the indication of the “*reference speeds of rolling stock optimising infrastructure capacity*”, RFI further underlined the following:

- over time it has been already made clear that it is necessary to increase [already at the time of the renewal of Framework Agreements (hereinafter: FA), subject to Public Service Obligations (hereinafter: PSO) and concerning LPT] the speeds of service set-up on certain mixed traffic lines such as Rome-Florence HS line (speed of at least 200 km/h);
- this increase in the maximum speed of LPT PSO services entails the replacement of the rolling stock currently available for LPT PSO services, which can reach a maximum speed of 160 km/h.

2.4.2 Indications

No indications are provided.

2.4.3 Requirements

2.4.3.1 The IM is required to supplement paragraph 2.7 “*Utilizzazione della rete*” (Access to the network) with a sub-paragraph containing the references to the following specific information details, to be included in the Annex “*Scenario tecnico-margini di regolarità*” (Technical scenario-margins of regularity) referred to in paragraph 4.5.4 “*Processo di allocazione delle tracce e dei servizi*” (Path and service allocation process): i) speed of reference for path construction for different traffic segments: freight, LPT passengers, non-HS long-distance passengers and long-haul HS passengers, to optimise the use of capacity; ii) inter-times used between different traffic segments to ensure optimal levels of traffic regularity.

3. Conditions of access to the infrastructure

3.1 FA models for PSO services: PIC information service.

3.1.1 Assessment by the Authority

As part of the discussions of the Authority’s offices with some Regions on the management and monitoring of regional public transport services, some bodies expressed their willingness to adopt local information systems to monitor the public transport services covered by Public Service Contract (hereinafter PSC). For this purpose, those bodies should have more complete access to the information available on the IT systems of the IM, relating to the regional public transport services within their remit, so as to be able to develop “local” platforms for monitoring the transport services covered by the PSC.

The sub-paragraph “*Accesso ai sistemi informativi*” (Access to the information systems) of paragraph 3.3.1 “*Accordi Quadro*” (Framework Agreements) provides that “*(Non-RU) applicants shall be entitled to obtain, on request and with reference to the relevant trains, access to the IM’s PICWEB-IF information system, or equivalent system, (for customer information purposes and for the purpose of managing the Contracts entered into by the Applicant, if it is other than a RU, and the RU/RUs providing the transport services) [...]*”.

Measure 3 of Annex A to Decision No 16/2018 of the Authority on the “*Minimum quality requirements for national and local passenger transport services by rail, that are subject to public service obligations, pursuant to article 37 (2) (d) of Decree-Law no. 201 of 6 December 2011, converted, with amendments, into Law no. 214 of 22 December 2011, initiated by Decision No 54/2015*”, provides as follows:

- point 6: “*In order to encourage the development of mobility services and widespread monitoring of the ways rail passenger transport services are provided, as well as the efficient use of public resources to compensate the public service obligations and promote participation in the public debate, **the data needed to define the indicators and minimum levels laid down in the measures below, that are produced either directly or indirectly by the RU, SM [Station Manager] or IM, are held by the AE [Awarding Entities] and/or competent authorities in charge of service scheduling** and are made accessible and re-usable in accordance with the provisions of paragraph 8 et seq. of this measure, within the limits laid down by Legislative Decree no. 33 of 14 March 2013, as amended.*” (emphasis added);
- point 12: “*In order to facilitate wider use of transport services, the AE, as data controller referred to in point 6, shall make such data accessible and reusable, under equitable and non-discriminatory conditions, to economic operators providing passenger transport and ancillary services, including in the form of mediation.*”

These regulatory measures are also confirmed in the so-called Digital Administration Code (hereinafter: DAC) which is applicable to the IM in accordance with Article 2 (4), where it is provided that: ***"The provisions of Chapter V concerning access to digital documents and usability of digital information shall also apply to public service operators and bodies governed by public law."*** (emphasis added); it should be noted that Directive 2014/24/EU on public procurement, under Article 2 (1.4), refers to bodies governed by public law as *"bodies that have all of the following characteristics:*

- (a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;*
- (b) they have legal personality; and*
- (c) they are financed, for the most part, by the State, regional or local authorities, or by other bodies governed by public law; or are subject to management supervision by those authorities or bodies; or have an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law."*

Consequently, RFI, as a body governed by public law, has the following obligations pursuant to Article 50 of the DAC: ***"Any data processed by a public administration, with the exclusions referred to in Article 2 (6), except in the cases provided for in Article 24 of Law No 241 of 7 August 1990, and in compliance with the legislation on the protection of personal data, shall be made accessible and open to other administrations where the use of the data is necessary for the performance of the institutional tasks of the requesting administration, without charge to the latter, except for any exceptional costs incurred by the administration providing the data; in any event this is subject to Article 43 (4) of Presidential Decree No 445 of 28 December 2000"*** (emphasis added).

Therefore, according to the Authority:

- the Awarding Entities (which include both Regions and Autonomous Provinces, and the State) are entitled to access the data referred to in measure 3 (6) of Annex A to the aforementioned Decision No 16/2018 (as they hold the relevant responsibilities and need access for the purpose of carrying out their institutional functions) in accordance with the technical/operating procedures defined by RFI in the NS;
- RFI is subject to the obligation to make available the data referred to in measure 3 (6) of Annex A to the aforementioned Decision No 16/2018 without charge to the Awarding Entities, except for any additional/exceptional costs incurred by RFI.

At the hearing, RFI, in agreement with the above, clarified that:

- requests for access to the a.m. system imply a processing cost related to the processing time and therefore to the use of servers;
- *Back End* users need a proprietary interfacing system of the AE;
- should an awarding entity satisfy this prerequisite that is necessary for the release of the information services, RFI would give, under the current legislation also referred to by the Authority, its consent to access, issuing a limited number of information services free of charge for each Awarding Entity that submits a request.

In view of the above, paragraph 3.3.1 of the NS shall be supplemented as appropriate and proper amendments shall be introduced, as specified in the following chapters of this Annex A:

- in paragraph 5.3.1 *"Servizi inclusi nel pacchetto minimo di accesso"* (Services included in the Minimum Access Package);
- in the sub-paragraph *"Servizi informativi"* (Information services) of paragraph 5.5.2 *"Fornitura di informazioni supplementari"* (Provision of additional information);
- in the sub-paragraph *"Servizi informativi"* (Information services) of paragraph 5.5.2.1 *"Tariffe"* (Charges)

3.1.2 Indications

No indications are provided.

3.1.3 Requirements

3.1.3.1 The IM is required to replace in point (d) "*Accesso ai sistemi informativi*" (Access to information systems) of paragraph 3.3.1, "*Accordo Quadro*" (Framework Agreement), the following sentence "*In the specific case of Regions and Autonomous Provinces, for the purpose of providing full information to customers, the PICWEB-IF or equivalent system shall provide information on the delays of all passenger trains serving the region.*" with the following: "*In the specific case of Regions and Autonomous Provinces, for the purpose of providing full information to customers and carrying out the institutional tasks within their remit, the PICWEB-IF system or equivalent product shall provide (if necessary, where requested, including through direct connection between the information systems of the IM and the information systems of the aforementioned Regions, Autonomous Provinces and State) information on the delays of all passenger trains relating to a given PSO Contract or Framework Agreement and, in general, the information necessary to define the indicators and minimum levels of performance, as specified in the relevant regulatory measures referred to in the Authority's Decision No 16/2018 on the minimum quality requirements for national and local passenger transport services by rail, that are subject to public service obligations.*"

3.2 Customer satisfaction of assistance services to PRM on a regional basis.

3.2.1 Assessment by the Authority

With reference to indication 6.4.2.2 of Annex A to Decision No 173/2021 ("*The IM is given the indication to verify the feasibility of defining and enhancing, on a regional basis, the customer satisfaction indicator concerning assistance services to PRM referred to in Article 8 bis of the draft infrastructure Access Contract attached to the NS*). No later than 15 June 2022, the IM shall inform the Authority on the outcome of this verification and on any integration of paragraph 6.3.2. of the NS, similarly to the previous indication, by the first useful update thereof"). In its note of 14 June 2022 (ref. no. ART 14578/2022) RFI informed that it was impossible to enhance in a statistically reliable manner a customer satisfaction indicator on a regional basis for PMR assistance services, due to the adequate data availability only for 4 regions.

During the hearing, regarding the possibility to nonetheless publish these data by specifying, for the regions concerned, the statistical unreliability of the indicator, RFI noted that for only four regions (Lazio, Lombardia, Emilia-Romagna and Campania) the sample of users interviewed is statistically relevant for the calculation of an *ad hoc* performance index, and therefore considers it more appropriate to consider the publication of a macro-area index, while being aware that the results of each of these areas will be heavily influenced by the regions with the largest number of data. These differences are linked to the greater or lesser willingness of users to answer, after they used the service, to specific interviews carried out on site.

In relation to the remarks made by RFI, the Authority, in order to improve the detail of customer satisfaction data on these activities of the IM in favour of travellers, considers that the IM should define the reference macro-areas for which the relevant indicator is made available, in addition to that defined at the aggregate national level.

3.2.2 Indications

3.2.2.1 The IM is given the indication to identify, by 30 April 2023, and notify to the Authority, at least four significant geographical macro-areas with respect to which it is possible to define and enhance the customer satisfaction indicator on the assistance services to PRM referred to in Article 8 bis of the Infrastructure Access Contract annexed to the NS, accordingly updating paragraph 6.3.2 "*Regole di*

gestione" (Management rules) and the NS published in the relevant section of the corporate website.

3.2.3 Requirements

No requirements are provided.

4. Capacity allocation

4.1 Capacity requests for trains with a mass exceeding 1600 tonnes and up to 2500 tonnes

4.1.1 Assessment by the Authority

For the obligations set out in sub-paragraph *"Linee in cui è ammessa la circolazione dei treni con massa superiore alle 1600 t e fino a 2500 t"* (Lines where trains with a mass exceeding 1600 tonnes are allowed) of paragraph 2.3.5 *"Limiti di massa"* (Mass limits), with reference to the remarks already made in Chapter 2 of this Annex A:

- the Authority considers it necessary to specify in the relevant paragraph 4.2 *"Descrizione del Processo"* (Description of Process) the modes for transmission by the applicant for capacity of the communication concerning trains with mass exceeding 1600 t via the Astro-IF/PIC system in the context of the path request;
- also with reference to the aforementioned operational/management difficulties reported by the IM, the sub-paragraph *"Richieste allo Sportello Operativo Merci"* (Requests to the freight operational one stop shop) in paragraph 4.5.3.2 should be supplemented and amended appropriately, for a quick start of the testing on the use of the freight operational one stop shop concerning path requests of "heavy" trains.

4.1.2 Indications

4.1.2.1 The IM is given the indication to include a sub-paragraph *"Richieste allo Sportello Operativo Merci"* (Requests to the freight operational one stop shop) in paragraph 4.5.3.2 *"Tempistica per richieste in corso d'orario"* (Schedule for Working Timetable) also in the NS 2023, and to supplement and amend it appropriately with indication of the start date of the testing, no later than 31 January 2023, on the use of this one stop shop for path requests concerning trains with hauled mass exceeding 1600 t and up to 2500 t.

4.1.3 Requirements

4.1.3.1 The IM is required to include in paragraph 4.2 *"Descrizione del Processo"* (Description of Process), a sub-paragraph dedicated to path requests of trains with a mass exceeding 1600 t and up to 2500 t, describing the procedures whereby RUs report, via ASTRO-IF/PIC system, the verification procedures referred to in RFI operating provision No 8/2021 together with the path request, in order to comply with the specific provisions of Section 2 of the NS.

4.2 Contract provisions for construction and operation of rail connections (DICC).

4.2.1 Assessment by the Authority

In paragraph 4.2 *"Descrizione del Processo"* (Description of Process), the IM recalls that the contractual conditions for construction, operation and management of rail connections are set out in the DICC annexed to

the NS. In this regard, the Authority notes that the DICC provides, in paragraph 24.4 of Article 24, as follows: *“If a station of arrival and departure of vehicles, or of support is turned into a stop and the siding-connected undertaking intends to maintain the operation of the siding-connected yard, it shall take charge of the technological and infrastructural works and bear the resulting management costs.”*

The Authority preliminarily observes that measure 14.1 of Annex A to Decision No 130/2019 provides that *“Interested parties shall be given the opportunity to connect to the railway infrastructures under transparent, equitable and non-discriminatory conditions, as provided for in Article 13 (3) of Legislative Decree No 112/2015.”*; furthermore, it should be noted that the situation referred to in paragraph 24.4 of DICC, while referring to meeting the needs of the IM and not those of the siding-connected undertaking, imposes unexpected burdens on the latter to keep the connection in operation, even in the presence of an existing siding connection agreement.

At the hearing, RFI agreed on these comments and on the need to clarify the provision of the above-mentioned article, also because, usually, the decommissioning of stations is planned only in the absence of traffic or connections with contract in force. In addition, RFI stated that *“for the 423 active connections, the contracts in force are 196 (which include 237 connections) and that it is always committed to regularising with utmost urgency the contracts which are still being defined/updated.”*

In conclusion, while underlining that Decision No 130/2019 provides that the activities of extraordinary maintenance and modification of the connection carried out by the IM at the request of the siding-connected undertaking are to be borne by the latter, the Authority considers that — in application of measure 14.1 of Annex A to the a.m. Decision setting out that interested parties are given the possibility to connect to the railway infrastructure under transparent, equitable and non-discriminatory conditions — the IM, having consulted the market, shall provide for the update of the aforementioned paragraph 4 of Article 24 of the DICC, in view of the need to define precise cost-sharing criteria in connection with these activities; this shall be coordinated with the infrastructure development process referred to in the PC-I and Business Plan, for which significant funding is usually provided by the State.

4.2.2 Indications

No indications are provided.

4.2.3 Requirements

4.2.3.1 The IM is required to amend, having consulted the market, the provision referred to in Article 24 (4) of the DICC, which, in the current version, provides that the siding-connected undertaking bears all the costs of infrastructure and technological works to keep the connection in operation in the event of decommissioning of an interconnected station, by choice of the IM. This amendment must involve the introduction of a cost-sharing system of the aforementioned costs by the siding-connected undertaking, based on objective, transparent and non-discriminatory criteria, in coordination with the infrastructure development process and therefore with the process of defining the PC-I and Business Plan. The consultation shall be concluded by 30 April 2023, so as to allow the DICC to be updated by the deadline set for the publication of the first draft NS 2025 for the purpose of consultation.

4.3 Schedules for submission of path requests relating to the applicable working timetable and update of technical scenario.

4.3.1 Assessment by the Authority

In the section *“Richieste in programmazione oraria”* (Requests in connection with the annual timetabling process) of paragraph 4.5.3.2 *“Tempistica per richieste in corso d’orario”* (Schedule for Working Timetable), the IM proposed a new revision of the deadlines for submission of path requests (up to two in addition to the associated technical ones) proposing a further increase compared to the already adopted provisions under the

NS 2023. During the consultation on the NS, RUs and some trade associations in the freight sector made several comments and expressed concerns in this regard; in its assessments on the comments received in the consultation, the IM justified its proposal with *“the increased technical times for RU-RFI interaction”*.

At the hearing RFI explained these increases by reason of:

- «1. *significant increase in the volumes of extraordinary passenger leisure trains (residual time) that require technical checks in relation to the feasibility of the request and, very often, a new modulation of the same original request, following an iterative process together with the railway undertaking, in order to converge on the final quality of the path and of the related industrial and commercial services;*
2. *significant increase in operating programmes linked to the approval of rolling stock;*
3. *need to allow the RUs to consolidate the process of the request in the IT systems (ASTRO) in due time compared to the formal delivery by RFI.”*

At the same hearing, however, RFI expressed its willingness to apply these schedules exclusively for extraordinary leisure passenger trains and for journeys connected to the approval of rolling stock.

On the basis of the specific reasons given by RFI, the proposed schedule modification is considered acceptable, solely for the cases that RFI has identified as critical, i.e. requests for spot passenger trains or leisure trains (for which RFI shall give an adequate definition in the Glossary referred to in Chapter 1), as well as those relating to trial runs.

It should also be noted that the IM, in the draft NS 2024, proposed to differentiate between the schedules of requests for cancellation, in connection with the applicable working timetable, of paths/services entailing a modification of use of the facility at the stations concerned (at least 15 working days before the implementation of the measure) and those relating to requests for cancellation, in connection with the applicable working timetable, of paths/services that do not entail a modification of use of the facility at the stations concerned (at least 5 working days before the implementation of the measure). At the hearing, also following the comments made by the Authority’s offices on the need to coordinate these measures with paragraph 5.6.4.1 of the NS, RFI decided to withdraw its proposal.

Finally, the document *“Scenario tecnico margini di regolarità”* (Technical scenario regularity margins) referred to in paragraph 4.5.4 should be supplemented, as better described in the relevant paragraph of Chapter 2 of this Annex A, in order to provide clear information on the operating models taken as a reference by the IM in terms of speed and inter-time for the different traffic segments.

4.3.2 Indications

No indications are provided.

4.3.3 Requirements

4.3.3.1 The IM is required to replace in the sub-paragraph *“Richieste in programmazione oraria”* (Requests in connection with the annual timetabling process) of paragraph 4.5.3.2 *“Tempistica per richieste in corso d’orario”* (Schedule for Working Timetable), the bullet point between the first one, beginning with the sentence *“at least 30 working days”*, and the third reading *“at least 5 working days compared to the scheduled date of implementation of the measure, in the case of requests for cancellation of paths/services”*, with the following bullet points:

- *at least 30 working days prior to the date of performance of the service, in the case of requests for more than two paths (excluding the related technical paths requested at the same time as the commercial paths). The definition of the draft timetable, or the rejection of the request by the IM, shall be made within 18 working days from the receipt of the request;*

- **with the exception of the cases referred to in the next point, at least 12 working days prior to the start of the train path/service, if the request concerns up to two paths (excluding the related technical paths requested at the same time as the commercial paths), provided that the RU has already entered into access contracts for similar services; in this case, the acceptance or rejection of the paths by the IM shall be made within 5 working days from the date of receipt of the request relating to the draft timetable;**
- **at least 15 working days prior to the start of the train path/service, if the request concerns up to two paths (excluding the related technical tracks requested at the same time as the commercial paths) for so-called leisure extraordinary passenger services (provided that the RU has already entered into access contracts for similar services), or trial runs in connection with type approval or line testing processes; in this case, the acceptance or rejection of the paths by the IM shall be made within 7 working days from the date of receipt of the request relating to the draft timetable;**
- **at least 5 working days prior to the scheduled date of implementation of the measure, in the case of requests relating to the cancellation of paths/services already allocated.”.**

4.3.3.2 The IM is required to supplement, by 31 May 2023 at the latest, the technical annex in the ePIR referred to as *“Technical Scenario regularity margins”* under paragraph 4.5.4, with detailed information for each route, in terms of: speed of reference for path construction for the different traffic segments: freight, LPT passengers, long-distance non-HS passengers and long-distance HS passengers, so as to optimise the use of capacity; inter-times between different traffic segments to optimise traffic regularity. The IM shall provide, by the aforementioned date, appropriate evidence of the above on the corporate website, in order to allow applicants for capacity to make appropriate comments in the context of the consultation on the NS 2025.

4.3.3.3 With reference to the previous requirement, the IM is required to submit to the Authority, no later than 31 January 2023, a proposal on the modes and form chosen by the IM for updating the document *“Technical Scenario regularity margins”*, for the purpose of the relevant assessments by the competent offices of the Authority and of any requests for amendment/supplement.

4.4 TTR project

4.4.1 Assessment by the Authority

Paragraph 4.9 *“Progetto TTR”* (TTR Project) describes the new operating modes of the capacity allocation process that will lead, with the 2024-2025 and 2025-2026 working timetables, to a first partial application of the TTR, while essentially maintaining the current regulatory and legislative framework for the allocation process of these timetables.

In particular, in paragraph 4.9.4 *“Pilots e test del progetto TTR”* (Pilots and tests of TTR project), the IM clarified that *“in line with the RNE guidelines “Proposed Minimum Scope for Timetable 2025” and with the expected changes in the European and national regulatory framework, for the 2024-2025 working timetable, RFI will partially implement both the Capacity Strategy and the Capacity Model for certain territories. As regards the Capacity Needs Announcements, which may be applied on a voluntary basis pursuant to the above-mentioned document, they may be subject to a testing phase, in cooperation with FTE, on some lines.”*

At the hearing, RFI also clarified the following:

- the application of the *Capacity Needs Announcements* process by infrastructure managers is optional and voluntary for the 2024-2025 working timetable (as decided under the *TTR Minimum Scope* approved by RNE General Assembly in December 2021);
- RFI is currently engaged in the operational testing of the TTR process in collaboration with other managers abroad, such as SBB Infra, and plans to involve associations of railway undertakings such as

Forum Train Europe, to assess the functioning of the aforementioned *Capacity Needs Announcements* process, with a view to its use by the applicants for capacity;

- the *Capacity model 2025* (referred to the 2024-2025 timetable) will be applied in the same way as the corresponding *Capacity strategy 2025* and it will therefore be limited to some lines in Northern Italy;
- RFI has published the *Capacity Strategy 2025* in the appropriate section of its corporate website, where it also made available the link to the RNE website where the documents containing the *Capacity Strategy* defined by the other associated IMs have been published, as well as the "common" *Capacity Strategy*, resulting from the project in which RFI participated with the infrastructure managers of neighboring foreign networks;
- The *Capacity Strategy 2026* (December 2022 deadline) will be drawn up in accordance with the indications provided by RNE and will involve changes compared to the information provided in the *Capacity Strategy 2025*.

To exercise the functions referred to in Article 37 (3) of Legislative Decree no 112/2015, the Authority confirms the need to: (i) be addressed all the communication sent by the IM to the applicants for capacity and to neighbouring infrastructure managers during the process of definition of the *Capacity Strategy* and ensuing *Capacity Model*, supplementing paragraph 4.9 of the NS; (ii) receive by 30 June 2023 a detailed and comprehensive report by the IM on the process of definition of the *Capacity Strategy* and *Capacity Model* (with a particular focus on sharing with applicants for capacity, including potential, on available future infrastructure capacity and on expected development needs), as well as on the state of the ongoing testing. The IM should also clarify how and to what extent, at present, the rules in force in the context of capacity allocation processes will continue to be applied for the definition of 2024-2025 and 2025-2026 timetables.

4.4.2 Indications

4.4.2.1 The IM is given the indication to specify, in paragraph 4.9.1, "*Obiettivi del TTR*" (TTR objectives), how and to what extent the rules in force in the context of capacity allocation processes will continue to apply with reference to 2024-2025 and 2025-2026 timetables.

4.4.3 Requirements

4.4.3.1 The IM is required to supplement paragraph 4.9.1, "*Obiettivi del TTR*" (TTR objectives), as follows: "*RFI shall include the ART among the addressees of all communications sent to applicants for capacity and to neighbouring infrastructure managers during the process of definition of the capacity strategy, of the ensuing capacity model and additional documents supporting the TTR process. At the end of each procedural step of the TTR referred to in the time schedule under paragraph 4.9.3, the final documents required for applicants to participate in the next steps of the TTR process shall be published in the TTR project dedicated section on the website www.rfi.it*".

4.4.3.2 The IM is required to submit by 30 June 2023 a detailed and comprehensive report on the process of definition of *capacity strategy* and *capacity model* (with particular focus on sharing with applicants, including potential, on available future infrastructure capacity and on expected development needs) as well as on the state of the ongoing testing.

4.5 Adaptation of freight terminals and marshalling yards for dangerous goods.

4.5.1 Assessment by the Authority

In response to a remark made during the consultation, the IM underlined that the following period "*The IM may charge the costs of the infrastructure adjustments to the RUs concerned according to equitable, transparent and non-discriminatory criteria*" in paragraph 4.7.1, "*Criteri per l'individuazione degli scali merci*

terminali e degli scali merci di smistamento di merci pericolose" (Criteria for identifying the freight terminals/marshalling yards for dangerous goods) are to *"referred only to the upgrading works determined by the specific needs expressed by the RUs, rather than to the planned works under the PC and Business Plan"*.

During the hearing, the IM highlighted that:

- the project initiatives shared at Technical meetings, that are included in the Commercial Plan and are financed by the PC-I, are assessed in the context of infrastructural developments of interest to the railway market;
- since each asset is made available to the market and, therefore, cannot assume *ex ante* an obligation to use vis-à-vis a single undertaking, should it be necessary to make timely adjustments by a RU for its traffic, which, in the context of the TTA, are not part of the developments planned by the CP-I/Commercial Plan, the applicants for capacity are entitled to request any necessary adjustments for the receipt of dangerous goods in return for payment of the necessary resources to cover the costs arising from the implementation of the specific measures required;
- this measure, that has been already in place for some time in the NS, can be better coordinated with the practices applied for other urgent works, carried out by RFI on other parts of the infrastructure in response to urgent requests from the applicants; RFI has never requested the reimbursement of these adjustment costs in previous years;
- RFI agrees that a better perimeter of those cases is appropriate, considering specific situations, e.g., the related upcoming traffic and those for which the usual flow of investment assessment cannot be followed.

On the basis of the clarifications made by the IM, the Authority considers it necessary, in order to ensure transparent, equitable and non-discriminatory access to the applicants concerned, that those cases, which have been never applied according to the IM, be more detailed, by linking them to particular needs, such as the upcoming specific traffic, for which the usual investment assessment process cannot be followed; this process whereby the inclusion of particular works in the aforementioned contractual instruments (CP-I) or information instruments (Business Plan) (or their financing to be borne exclusively by the IM, if the latter deems it appropriate) is promoted by the same IM in accordance with its independence and discretionary powers, in agreement with the MIT and on the basis of the outcome of the planned interactions with the stakeholders.

4.5.2 Indications

No indications are provided.

4.5.3 Requirements

4.5.3.1 The IM is required to replace the following sentence in paragraph 4.7.1 of the NS *"The IM may charge the costs of the infrastructure adjustments to the RUs concerned according to equitable, transparent and non-discriminatory criteria"* as follows: *"In case of implementation of works that, due to particular needs of the applicant (e.g. upcoming start of specific railway traffic), cannot be assessed in the context of the ordinary infrastructure development processes (and which are therefore included, at the end of the standard assessment process, in the works financed through the PC-I between RFI and the State or through own resources of the IM), the IM may charge to the applicant concerned the costs of specific infrastructure adjustments requested by the latter, in accordance with equitable, transparent and non-discriminatory criteria."*

5. Services and charges

5.1 Traction current

5.1.1 Assessment by the Authority

In paragraph 5.4.1., *"Fornitura di corrente di trazione"* (Traction current), the NS provides as follows:

- *"The service consists in supplying electricity for rolling stock traction, in respect of both 25Kv and 3kV powered grids.";*
- *"RFI shall associate the use of traction current to all the train paths requested by the RU, within the electrified rail infrastructure, except if the RU specifically notifies that it intends to use other types of traction current.".*

In view of the sole obligations of RFI relating to the provision of electricity distribution facilities, as part of the MAP, and since the supply of electricity for traction purposes is a complementary service not included in the MAP, as it has been noted that the NS does not currently clarify how a RU may acquire traction current from a supplier other than RFI, the latter has been asked to state its views at the hearing, which are set out below:

- currently, the legislation does not regulate the cases of final consumers with "mobile" points of delivery (POD) as in the case of RUs owner of the train. The regulatory framework provides that the distribution of electricity is to be carried out by the territorially competent distributor and that the final consumer concludes a supply contract with an entity that is authorised to sell energy;
- an essential prerequisite for the RUs to be able to purchase electricity on a competitive market is that they are equipped with certified on-board tax metering systems that are recognised on the electricity market;
- the role of the distributor remains to be defined, since, with reference to the case of the RUs, an enormous amount of "mobile metering systems" should be managed throughout the national territory and therefore on the electricity market areas, whereas currently the distributors operate within the territory of competence and therefore on fixed POD that are assigned only to one "electricity area"; a possible solution also linked to the need to compulsorily ensure the correct accounting of energy flows on the market, could be to formally attribute to RFI, through the Regulatory Authority for Energy, Networks and Environment (hereinafter: ARERA), the role of distributor for the rail system (see the case of Closed Distribution Systems); with this arrangement, the fixed POD of RFI (e.g. those in the electrical substations) would be the perimeter of a distribution system in which the measurement and accounting of on-board absorption would be managed within the railway market itself. Therefore, the RUs would be part of a specific "closed" distribution system. Given the role of the distributor, the railway undertaking would be free to turn to the best energy market supplier at that time, in line with its purchasing policies. This arrangement would also allow to manage the transitional phase in which only a part of the rolling stock is equipped with a real metering system that is certified and recognised for tax purposes. In the latter case, RFI would play a dual role: distributor for the Railway System and purchaser of energy for all consumption related to trains that are not equipped with on-board tax metering systems.

On the basis of the above, noting that in other EU countries such as Germany this is already possible, the Authority considers that the IM should assess the feasibility and identify the proposals to be submitted to market consultation so as to ensure that applicants may address traction current suppliers other than RFI, for the purpose of supplementing the NS accordingly.

The Authority further notes that, during the consultation, the IM highlighted that: *"as regards the issue of the return of line traction current, as IM we have already supplemented the text of the NS by clarifying that in case of agreement on the reporting with real metering systems, the measurements transmitted to the DCS correspond to the net energy consumption of the train and therefore take into account both the absorbed*

electricity and the electricity fed into the grid"; in this regard, the Authority considers that the IM should include this provision, which is currently not clearly expressed in the NS, under paragraph 5.4.1, *"Fornitura di corrente di trazione"* (Traction current), as a valid incentive for RUs towards the billing of energy consumption through the use of real metering systems.

Finally, as reported in the minutes of the aforementioned hearing of the IM, *"With regard to traction current, given the situation on the energy market, RFI has proposed in the draft NS 2024 measures to support the activity of railway undertakings (i.e. preparation of both a first estimate of the electricity price, and a monthly publication of the electricity price in the ePIR portal — it should be specified that the communication of the electricity price on a monthly basis will not be subject to billing, but represents a final value only for the month of reference); the reduction in the value of the advance payment provided by the RUs for the provision of the service, ranging between from 85% and 75% of the total value of the service included in the Contract)".* In consideration of RFI's proposal to apply also in the NS 2023 the above-mentioned measures, by including them in an extraordinary update of the document, as they are not subject to comments and are aimed at meeting the requests of the RUs, the Authority finds no impediments to accepting the proposal with reference to the relevant point b) *"Fornitura corrente di trazione"* (Traction current) of subsection *"Fatturazione"* (Billing) of paragraph 5.9 *"Consuntivazione, Fatturazione e Pagamento dei servizi non ricompresi nel PmdA"* (Final balance, billing and payment arrangements of services not included in the MAP".

5.1.2 Indications

5.1.2.1 The IM is given the indication to amend paragraph 5.9 *"Consuntivazione dei servizi non ricompresi nel PMdA, rendicontazione, fatturazione e pagamento"* (Final balance of services not included in the MAP, final balance, billing and payment arrangements) of the NS 2023, and in particular points (a) *"Tracce e pacchetto minimo di accesso"* (Paths and minimum access package) and (b) *"Fornitura corrente di trazione"* (Traction current) of sub-paragraph *"Fatturazione"* (Billing), adopting the wording proposed in the final draft of the NS 2024.

5.1.3 Requirements

5.1.3.1 The IM is required to launch by 1 February 2023 a consultation on how applicants for capacity may request the supply of traction current to entities other than the IM. At the beginning of the consultation, the IM shall also identify any limitations or special conditions for the purchase of traction current by applicants for capacity from third-party suppliers in relation to the use of On-board Metering Systems, provided that they comply with the provisions of EN 50463:2017 in accordance with paragraph 5.4.1 of the NS. The consultation shall be concluded by 5 May 2023 in order to allow the IM to introduce such arrangements in the consultation draft of the NS 2025, at the same time updating the current estimates under paragraph 5.4.1 of the NS. By the date of publication of the consultation draft of the NS 2025, the IM will send to the Authority an explanatory report on the progress of the consultation and the conclusions reached by the IM.

5.1.3.2 The IM is required to specify in paragraph 5.4.1 of the NS that in case of acceptance of the reporting with on-board real metering systems, the measurements transmitted to the DCS correspond to the net energy consumed by the train and therefore, for the purposes of reporting, account is taken of both the absorbed electricity and the electricity fed into the grid by rolling stock.

5.2 Services included in the Minimum Access Package, data access via PIC WEB and PIC IF Back End systems and data publication.

5.2.1 Assessment by the Authority

As described in Chapter 3 of this Annex A, obligations are placed on RFI vis-à-vis Regions, Autonomous Provinces and the State, as applicants for passenger transport services subject to public service obligations, on the basis of the measures approved by the Authority’s Decision no 16/2018 and the relevant articles of the DAC.

In particular, RFI is obliged to provide the data referred to in measure 3 (6) of Annex A to Decision no 16/2018, with no charges for the awarding entities, except for any exceptional costs incurred by RFI (as provided for in Article 50 of the DAC).

Therefore the Authority considers that, in paragraph 5.3.1, *“Servizi inclusi nel Pacchetto Minimo di Accesso”* (Services included in the Minimum Access Package), and in particular in the sub-paragraph referred to as *“Informazioni necessarie per la realizzazione o la gestione del servizio per il quale è stata concessa la capacità e Informazioni al pubblico”* (Information needed to perform or manage the service for which the capacity has been granted and Information to the public), regarding access to the information systems of the IM:

- the user profiles available for Regions, Autonomous Provinces and State Administrations should be expressly mentioned, as well as the related number of users (at least equal to that resulting from application of the rules set out in Table 5.25 and not less than two) as holders of existing FAs on the basis of which specific contracts for the use of railway infrastructure are concluded;
- it should be explicitly stated that, pursuant to Article 50 of the DAC, only the Regions, Autonomous Provinces and State are guaranteed, upon request, access to the *“PIC IF Back End-Pubblicazione dati”* (PIC IF Back End – Data publication) under the economic conditions that, in turn, they shall comply with the provisions of Article 50 of the DAC, by not providing for charges to be borne by the awarding entities except for any exceptional costs incurred by RFI.

In addition, the same sub-paragraph includes an incorrect reference to paragraph 5.3.2 instead of paragraph 5.5.2, *“Fornitura di informazioni complementari”* (Provision of additional information), and in particular Table 5.25 *“Tariffa fornitura informazioni complementari – Utenze Informative”* (Charges for provision of additional information – Information services).

With regard to paragraph 5.5.2 above, and in particular sub-paragraph *“Utenze informative”* (Information services), it should be specified that access to the *“PIC IF Back End-Pubblicazione dati”* (PIC IF Back End – Data publication) is also guaranteed in the context of the MAP, with regard to Regions, Autonomous Provinces and the State, as part of the implementation of the PSO FA; in addition, the incorrect reference to paragraph 6.3.4.1 should be amended, by replacing it with the correct one in paragraph 5.5.2.1.

As regards paragraph 5.5.2.1, *“Tariffe”* (Charges), and in particular Table 5.26 *“Tariffe fornitura informazioni complementari – Utenze Informative”* (Charges for provision of additional information – Information services) relating to the system-to-system information, it should be specified that, with regard to Regions, Autonomous Provinces and the State, in the context of the PSO FAs, access to the system *“PIC IF – Pubblicazione dati (Back End)”* (PIC IF — Data Publication (Back End)) access to the system *“PIC IF – Pubblicazione dati (Back End)”* (PIC IF — Data Publication (Back End)) is guaranteed at no charge, as agreed by RFI at the hearing of 21 October 2022, except for any exceptional costs, to be accurately quantified by the IM and to be examined by the Authority’s offices.

5.2.2 Indications

5.2.2.1 The IM is given the indication to replace in the sub-paragraph *“Informazioni necessarie per la realizzazione o la gestione del servizio per il quale è stata concessa la capacità e Informazioni al pubblico”*

pubblico" (Information needed to perform or manage the service for which the capacity has been granted and Information to the public) in paragraph 5.3.1 of the NS, the incorrect reference to paragraph 5.3.2 with that in paragraph 5.5.2.

5.2.3 Requirements

- 5.2.3.1** The IM is required to specify, in paragraph 5.3.1, *"Servizi inclusi nel Pacchetto Minimo di Accesso"* (Services included in the Minimum Access Package), and in particular in the sub-paragraph referred to as *"Informazioni necessarie per la realizzazione o la gestione del servizio per il quale è stata concessa la capacità e Informazioni al pubblico"* (Information needed to perform or manage the service for which the capacity has been granted and Information to the public) regarding access to the information systems of the IM, as follows: i) user profiles available for Regions, Autonomous Provinces and State Administrations, as well as the related number of users (at least equal to that resulting from application of the rules set out in Table 5.25 and not less than two) as holders of existing FAs on the basis of which specific contracts for the use of railway infrastructure are concluded; ii) guarantee, pursuant to Article 50 of the DAC, of the supply, upon request, to Regions, Autonomous Provinces and State Administrations, of access to the *"PIC IF Back End-Pubblicazione dati"* (PIC IF Back End – Data publication), under the economic conditions that shall comply with the provisions of the aforementioned article 50 of the DAC and at no charge for to the contracting entities, except for any exceptional costs to be borne by RFI, that shall be subject to the prior examination of the offices of the Transport Regulation Authority.
- 5.2.3.2** The IM is required to specify, in paragraph 5.5.2, *"Fornitura di informazioni complementari"* (Provision of additional information), and in particular in sub-paragraph *"Utenze Informative"* (Information services)", that access to the *"PIC IF Back End-Pubblicazione dati"* (PIC IF Back End-Data Publication) is also guaranteed in the context of the MAP, with regard to Regions, Autonomous Provinces and State Administrations, within the scope of the existing PSO FAs, which are implemented through the conclusion of contracts for use of the railway infrastructure.
- 5.2.3.3** The IM is required to specify, in paragraph 5.5.2.1, *"Tariffe"* (Charges), and in particular in Table 5.26, *"Tariffe fornitura informazioni complementari – Utenze Informative"* (Charges for provision of additional information – Information services) relating to the system-to-system information, that, with regard to Regions, Autonomous Provinces and the State, within the scope of the PSO FAs concluded by them, access to the system *"PIC IF – Pubblicazione dati (Back End)"* (PIC IF – Data Publication (Back End)) access to the system *"PIC IF – Pubblicazione dati (Back End)"* (PIC IF – Data Publication (Back End)) is guaranteed at no charge, except for any exceptional costs, to be subject to the prior screening of the offices of the Transport Regulation Authority.

5.3 Assistance to Persons with Disabilities and Reduced Mobility (PMR) in case of replacement buses.

5.3.1 Assessment by the Authority

In the context of the discussions between the IMs and the Authority's offices, the IM, by note of 1 July 2022 (ref. no. ART 15649/2022), expressed its availability, in the case of buses replacing rail transport services for traffic disruptions, and where persons with disabilities and reduced mobility are travelling, *"to assess any performance of the service following a formal request by the RUs, within the perimeter of the facilities of the SalaBlu network, provided that the latter provides adequate information on the level of accessibility of the road vehicle used, precise indications on the route and the related travel time in order to know, with due precision, the time and place of arrival."*

Taking the above availability into account, the IM also pointed out that:

- paragraphs 31 and 52 of Article 18 of Regulation (EC) No 1371/2007 assign specific responsibility to RUs in the event of rail service criticalities;

- Article 18 (4) of Regulation (EU) 2021/782, by providing that *“the powers of the RUs concerning the organisation of an alternative service in the event of delay, missed connection or cancellation of a service, shall remain unaffected, assigns specific responsibility for accessibility and assistance to PRM to the alternative service providers”*.

Since the IM confirmed its availability as described above at the hearing of 21 October 2022, the Authority considers that paragraph 5.4.6 *“Assistance to Persons with Disabilities and Reduced Mobility (PRM) as referred to in Regulation (EU) No 782/2021”* should be supplemented accordingly, so as to make the railway undertakings operating rail passenger services aware of the above-mentioned possibility of requesting the cooperation of the IM to provide assistance to PRM even in the case of replacement bus services, in the context of stations and stops of the SalaBlu network.

5.3.2 **Indications**

No indications are provided.

5.3.3 **Requirements**

5.3.3.1 The IM is required to supplement paragraph 5.4.6, *“Assistance to Persons with Disabilities and Reduced Mobility (PRM) referred to in Regulation (EU) No 782/2021”*, with procedures whereby the RUs may request RFI to provide assistance to persons with disabilities and reduced mobility, within the perimeter of the facilities of SalaBlu network, even in the case of rail replacement bus services for traffic disruptions.

5.4 **Penalties for train cancellation and penalties for exceeding layover times at border stations**

5.4.1 **Assessment by the Authority**

Paragraph 5.6.6, *“Penalties for the RU for exceeding layover times at foreign network connection stations”*, describes the rules under which the IM may impose penalties on the RUs of the freight segment that are responsible for exceeding the scheduled stop times at border stations.

These penalties were introduced in the consultation draft of the NS 2022, following a consultation process promoted by RFI on the basis of indication no 6.1.2.1 of Annex A to Decision no 151/2019 of the Authority. By Decision no 187/2020 on indications and requirements on the NS 2022, the Authority required RFI to expressly provide that all RUs accessing border stations² be subject to the application of penalties and that, among them, for RUs operating on the foreign side, the value of the path purchased in Italy that is related to the origin/continuation of the connected train be taken as a reference for the calculation of the penalty³.

In 2022, the IM carried out in-depth discussions with the RUs concerned, which highlighted a number of critical issues, either closely linked to this system of penalties, to the organisation of the production and coordination process between RUs, and to internal procedures of the IM; in addition, in September 2022, RFI (note of 2 June 2022, ref. no. ART 17411/2022) made available to all RUs an *ad hoc* PIC query *“Preview of penalties for*

² Decision ART no 187/2020, Annex A, requirement 5.5.3.1: *“The IM shall clarify, under paragraph 5.6.6 “Penalties due by the RU in the event of excessive stop times at foreign network connecting stations [new]” of the NS, that the penalties of border stations are applicable to all RUs accessing border stations.”*

³ Decision ART No 187/2020, Annex A, requirement 5.5.3.2: *“For excessive stops at border stations of trains in arrival and departure compared to the scheduled stop, that are attributable to the responsibility of the RUs operating exclusively in the foreign territory (for which no path is purchased by the same RU in Italy, that is related to the train in the foreign territory and on the basis of which the penalty is calculated), the IM shall refer to the value of the path purchased in Italy that is attributable to the origin/continuation of the connected train.”*

excessive stop times at border facilities" aimed at ensuring greater transparency towards the market on the effects of the planned penalty system.

With the final draft of the NS 2024 the IM proposed the following amendments:

- 1) introduction of a 10-minute tolerance threshold, within which exceeding the scheduled stop time at the border station does not give rise to any penalty (*"In view of the time deviations that may occur during the operations planned during the stay, the penalty will be applied only in the case of stop times (Tes) (RU) exceeding 10'."*);
- 2) *"The total amount of penalties may not, however, exceed, both for the RU holding infrastructure Access Contracts and for those holding infrastructure Access Contract relating to border sections of the railway network, 3 % of the charge reported to the RU on an annual basis for international routes."*

Following the publication of the final draft of the NS, the IM requested interested parties to comment on the above-mentioned amendments by 14 October 2022; by note of 10 November 2022 (ref. no. ART 24126/2022), the IM forwarded its *"Evaluations on the comments received on the review proposal of RFI"*, as well as a copy of the comments received (from Fercargo and Fermerci trade associations only) and a simulation of the effects of the proposals on the RUs concerned, proposing to *"supplement the proposed review of the penalty system in paragraph 5.6.6 of the NS as compared to the current system, which therefore considers:*

- i. *the introduction of a variable exemption ceiling depending on the maximum times for operations carried out in the border facility at the following intervals:*

| Max time transit operations | Exemption ceiling |
|-----------------------------|-------------------|
| 0'-39' | 10' |
| 40'-59' | 20' |
| ≥60' | 30' |

- ii. *the change of the currently applied cap with a cap equal to 3 % of the annual charge reported to each RU for international routes only;*
- iii. *only for the RUs holding an Infrastructure Access Contract, the sharing of the total annual penalty payments referred to in paragraph 5.6.6 to the total amount of penalties from Performance Scheme (with a threshold set at 5 % of the annual charge), the sum of which, therefore, may not exceed the limit value set for the Performance Scheme."*

The Authority considers it necessary to preliminarily recall that the current system has not yet produced any economic effect (although it entered into force with the NS 2022 and therefore with the 2021-2022 working timetable), following the common understanding between the IM and the concerned applicants for capacity aimed at suspending its economic effects, in a first phase, until June 2022 and, later, until December 2022, in view of the particular economic and political situation linked to the pandemic and war events in Eastern Europe, as well as of specific regulations issued by ANSFISA (later amended by note ANSFISA No 5346.10-02-2022), which was agreed upon by the offices of the Authority. However, the Authority's offices, already in their note ref. no. ART 10799/2022 of 21 April 2022, underlined that *"the above-mentioned temporary derogation from the application of the economic effects of the penalties at issue, where provided for by the IM, must represent — both for the RUs of the freight sector involved, and for the infrastructure manager — a useful opportunity to implement all the management initiatives as deemed necessary to optimise the respective organisational structures and mutual cooperation, that shall be considered essential for the efficient and effective application of the penalties in question, by keeping the Authority informed of the outcome of those initiatives"* (emphasis added).

As regards the comments received during the consultation, which ended on 14 October 2022, Fercargo association (ref. no. ART 22315/2022) highlighted the following issues:

- *"in most cases, delays at the border originate and accrue on foreign rail networks, rather than on national networks;*
- *the situation of foreign delays cannot be kept under control because the proposed system does not provide for European coordination and does not involve other parties (in particular, other infrastructure managers) of countries crossed by international transport;*
- *the penalty system penalises delays without rewarding punctuality or lesser use of planned capacity at borders;*
- *the system of penalties penalises only the RUs crossing Italian borders, although delays are very often due to other parties (foreign IMs, terminals, shunters, customers, ...)".*

However, in the Authority's view, these issues do not take into account the main rule of the system under consideration, namely that the penalties are due by the RUs directly responsible for exceeding the maximum scheduled stop times at the border station managed by RFI (which, as highlighted below in this paragraph, shows non-negligible values). In addition, it is noted that it is an obligation of RFI to coordinate adequately with neighbouring foreign IMs for the correct determination of the causes of international train delays.

With regard to the comments received from Fermerci association (note ref. no. ART 24126/2022), reference is made, in particular, to the following issues of interest:

- *"The value of the indicated penalty is also not consistent with the value of the path purchased by foreign companies which is far lower given the few kilometers travelled on the Italian NRI. In consideration of the above, **the assumed model would imply that foreign RUs, if not very virtuous, reach in a few months the 3% cap of the annual charge, making the concept of penalty unenforceable because it would be no longer collectable and they could potentially implement a penalising management of stops at the border, in terms of capacity, for all other RUs.** In order to mitigate this risk, a reduction in the corrective factor from 0.3 to 0.1 could make the system more homogeneous for both foreign and Italian RUs."* (emphasis added);
- *"By introducing an exemption ceiling in the criteria governing the calculation of any penalties accrued following an additional stop in transit locations, the IM has shared and accepted the need to determine a "neutral" time interval for the purposes of accounting. **On the other hand, in determining its quantity, the IM should take into greater account the characteristics of the freight segment in its entirety,** which may negatively affect the perfect correspondence between the scheduled and actual accrued stop minutes"* (emphasis added);
- *"In the event of a delay accrued from a border station for which the RU will have to pay the relevant penalty to the IM, this delay should be cleared from the following accounting made by the IM for the calculation of other charges borne by RUs";*
- *"In view of the international traffic developed between the border terminals and the facilities placed at a short/very short distance, the penalty applied in case of excessive scheduled stop times would be higher than the payment of the path";*
- *"[...] RUs working with international trains will face a double penalty generated both by the performance scheme and by the penalty system at the border. To mitigate the economic effect of the two penalty systems applied to the same delay, the 3 % cap should be accounted for in the 5% cap provided for in the performance scheme, thus excluding the possibility that the two penalties may be added together.";*
- *In the light of the continuous interruptions on the lines, for which the railway operation is severely deteriorated and the RUs are forced to bear the charges resulting from train delays such as greater commitment of resources and use of locomotives, the application of the penalty at the border should be of a two-way nature between Infrastructure Manager and Railway Undertakings. **In fact, the penalty serves a purpose of encouraging the RUs to optimise flows across borders, as much as it***

serves the purpose of encouraging the IM to optimise the processes that affect international traffic.
(emphasis added);

In the opinion of the Authority:

- the first critical issue mentioned above by Fermerci highlights the risk that RFI's proposal to refer, with regard to the aforementioned 3 % cap, to a completely different set of charges between the RUs operating on the foreign side and the RUs operating on the Italian side, could penalise the RUs on the Italian side;
- as regards a better specification of the tolerance thresholds, it is noted that the IM intended to modulate them according to the maximum value of the scheduled stop times and this possibility can be shared if it is related to the actual scheduled stop time at the border station for a given international train;
- as regards the correlation with additional charges (including the Performance Scheme) to be borne by the responsible RU as compared with the IM, it is confirmed that the penalty is related to the possible crowding of rolling stock at border stations, for delays of freight trains to/from foreign networks, with ensuing serious effects on traffic regularity and that this issue has been subject to a long consultation process which is unrelated to the Performance Scheme system;
- as regards the last-mentioned issue, it is noted that the IM, as part of the planning process of its activities, must comply with the timeframes set out in Annex VII to Directive 2012/34/EU [as amended by Delegated Decision (EU) 2017/2075] and provide that the working timetable is defined in accordance with the planned time limits and with the TCRs; in order to better assess the performance of the IM in this area, the Authority considered it appropriate to define a specific performance indicator, as referred to in Chapter 6 of this Annex A.

Also on the basis of the simulations and data provided in note ref. no. ART 24126/2022, covering the period January-June 2022, the Authority notes that:

- 1) it is acceptable to provide for the introduction of an annual limit to the amount of penalties for exceeding stop times, and for the introduction of a tolerance threshold of the value of the accrued deviation due to a certain RU as compared to the scheduled stop time; however, these measures should not make the system ineffective in relation to the objectives pursued;
- 2) in the period January-June 2022, 45344 international freight trains (as from data derived via the PIC-Web application software) were operated in Italy; in the same period, according to the system of penalties in force, 11286 trains (both abroad and in Italy) would be subject to penalties having accrued longer stops at border stations for reasons attributable to the RU; for these trains, a penalty amount of EUR 2,632,172 is estimated to be divided between the RUs operating on the foreign side (EUR 1,015,430) out of a total of 3929 of trains subject to penalties (corresponding to 214,817 minutes of deviation at the border station) and the RUs operating in Italy (EUR 1,616,742) on a total of 7357 trains subject to penalties (corresponding to 347,314 minutes of delay). According to these data, an average of 50 minutes of deviation at border stations can be identified and a corresponding average penalty of EUR 232 per train. It should be noted that the average deviation values subject to penalties for reasons attributable to RUs operating on the foreign side and RUs operating in Italy are 55 and 47 minutes respectively, which correspond to penalties of EUR 258 and EUR 220 per train; this means that, proportionally, RUs operating on the foreign side produce greater deviations and thus accrue more penalties for each train concerned.
- 3) On the basis of the above data, the following table reports the data separately for different border stations, differentiating between RUs operating on the foreign side and RUs operating on the Italian side.

| | <i>RU operating on foreign side trains subject to penalty</i> | <i>RU operating on foreign side deviations subject to penalty (minutes)</i> | <i>RU operating on foreign side average deviations subject to penalty</i> | <i>RU operating on Italian side trains subject to penalty</i> | <i>RU operating on Italian side deviations subject to penalty (minutes)</i> | <i>RU operating on Italian side deviations subject to penalty</i> |
|----------------------|--|--|--|--|--|--|
| <i>Brenner</i> | 1967 | 114325 | 58 | 2170 | 93131 | 43 |
| <i>DOMO II</i> | 47 | 1738 | 37 | 482 | 26356 | 55 |
| <i>Domodossola</i> | 123 | 3564 | 29 | 149 | 4711 | 32 |
| <i>Luino</i> | 17 | 644 | 38 | 770 | 28345 | 37 |
| <i>Tarvisio</i> | 1701 | 84367 | 50 | 2561 | 109413 | 43 |
| <i>Ventimiglia</i> | 74 | 10178 | 138 | 126 | 4908 | 39 |
| <i>Villa Opicina</i> | (*) | (*) | (*) | 1099 | 80448 | 73 |
| <i>Total</i> | 3929 (a) | 214416 (b) | 55 (b/a) | 7357 (c) | 347312 (d) | 47 (d/c) |

() The existing agreement between the Italian IM and the Slovenian IM does not provide that, for foreign-side access to the station of Villa Opicina (part of the Italian national network), the RU concludes an infrastructure access contract with RFI. By note ref. no. ART 22157/2022 of 21 October 2022, RFI informed the Authority of the conclusion of the technical discussion on the update of the above agreement with the neighbouring IM and the start of the procedure for conclusion of the new agreement.*

(Source: ART data processing on RFI data)

In the stations considered, the trains subject to penalties are to a large extent related to the RUs operating on the Italian side, while, as already noted in the previous point, the average deviations in the border stations are essentially comparable, except for the stations of Domo II and Domodossola (where the average deviation for the RUs operating on the Italian side in Italy is significantly higher than that recorded for the RUs operating on the foreign side) and those of Ventimiglia and Brenner (where the situation is reversed);

- 4) in the case of RUs operating on the foreign side, the annual charge paid by these RUs to the IM is significantly lower than that which is assumed by using the conventional charge of EUR 559 per path; consequently, for the purposes of applying the 3% cap also to foreign-side RUs, the reference to the charge actually paid to the IM (as also underlined by a stakeholder) would lead to discrimination against the RUs operating on the Italian side, with the same number of trains and the same time deviations at the border stations.

Accordingly, on the basis of the above, in order to ensure the deterrent effect of the system under review (while limiting the economic impact on all the RUs operating in the freight segment compared to the system set out in the NS 2022), and in particular in order not to make estimates of substantially ineffective penalties with regard to the RUs operating on the foreign side, and in order to avoid discrimination against the RUs operating on the Italian side, the Authority considers that:

- 1) the IM's proposal to introduce a variable tolerance threshold depending on the actual scheduled stop time for a given international train is acceptable;

- 2) as regards the introduction of the 3% limit of the annual charge actually paid by the individual RU for international paths only, it is considered that, for the RUs operating on the foreign side, the amount of charges to be taken as a reference is the conventional one that may be obtained as the total amount of the charges of the connected paths on the Italian side (following the measures already provided for in the NS 2022, with reference to the determination of the penalty, as a result of requirement 5.5.3.2 of Annex A to the a.m. Decision No 187/2020);
- 3) the 3 % limit mentioned above should not be related to any amounts due by the RUs in the context of the Performance Scheme.

5.4.2 **Indications**

No indications are provided.

5.4.3 **Requirements**

5.4.3.1 The IM is required to update the existing model on the NS 2022 for determination of the penalties for exceeding scheduled stop times at border stations, as described in paragraph 5.6.6, "*Penalties for the RU in case of exceeding stop times at foreign networks connecting stations*", as follows:

- introduce a variable tolerance threshold, within which exceeding the scheduled stop time does not lead to any penalties, depending on the actual scheduled stop time of the train according to the following table proposed by the IM at the end of the consultation concluded on 14 October 2022:

| Max time transit operations | Exemption ceiling |
|-----------------------------|-------------------|
| 0'-39' | 10' |
| 40'-59' | 20' |
| ≥60' | 30' |

- introduce a limit for the annual total amount to be paid by each RU as a penalty for exceeding scheduled stop times at border stations, equal to 3% of the amount of the charges taken as reference for the individual RU. In the case of the RUs operating on the Italian side, the amount of charges to be considered will be equal to that obtained from the total amount of the charges paid by the RU for international paths only; in the case of the RUs operating exclusively on the foreign side, the amount of charges will be equal to that obtained by adding the charges of the paths, purchased in Italy, of the trains with origin or continuation of the international trains on the foreign side, in cases of exit to foreign countries or entry from foreign countries, respectively.
- do not provide for any further changes to the current system of penalties set out in the NS 2022.

6. Performance of the contract

6.1 Punctuality and market segments

6.1.1 Assessment by the Authority

Paragraph 6.3.2 “Management rules”, provides that “RFI shall measure by market segments the actual punctuality on arrival of trains stopping at the main stations of the network (intermediate or destination) reported in a specific technical annex to the ePIR portal.”’

The market segments taken as a reference by the IM in the relevant annex to the NS referred to as “Punctuality Data-No Exclusion and RFI” are as follows: *Market, Universal Service, Regional, Freight*. The exact definition of these market segments is not reported in the NS, but in a PIC platform support user manual, “PICWEB Selection Filters PICSA Report”; in this respect, the Authority noted that these market segments are defined, under paragraph 1.1.13 “Category Group” of the above-mentioned user manual, as follows:

- “Market — ES”: includes trains falling within the categories “ES*”;
- “Universal service”: includes trains falling within the categories “EXP, IC, EC, EN”;
- “Regional transport”: includes trains falling within the categories “Regionali, IR, DIR”;
- “Cargo”.

Lastly, the category “Other” includes trains falling within the categories “INV, LIS, CP, NCL, MR Vuoti, non attribuita, TRAD”.

In Opinion No 8/2022 on the 2022-2026 draft PC - Services, between the Ministry of Sustainable Infrastructure and Mobility and the IM, the Authority already highlighted the following: “As regards the indicators of punctuality of transport services (Annex 1b), the draft contract in question maintains the following classification: “Market”, “Long Distance Universal Service”; “Regional”; “Freight”. However, it should be noted that this classification is unclear since, by reference to the support file ‘PIC_MUW_Selection criteria Report PICSA.pdf’ of the IM’s PIC platform:

- 1) the “Market” segment would include all services under commercial category ES, therefore including both high-speed services and conventional network services, but carried out with ETR or AGV/Italo EVO materials;
- 2) the “Long Distance Universal Service” segment would include long-distance services “(EXP, IC, EC, EN)” i.e. express services, intercity, but also eurocity and euronight, i.e. services that are completely different from each other and cannot, in their entirety, be referred to as “universal” services to be understood exclusively as services subject to PSO.”.

Consequently, in the same Opinion, the Authority highlighted that those market segments should be better clarified by introducing “in order to identify punctuality objectives that are consistent with the actual needs of the user community in its different features, a market category including high-speed services only, a market category including non-high-speed services (e.g. international trains or ES trains operated exclusively on a conventional network and with maximum speeds not exceeding 250 km/h), a long-distance PSO category (including both high-speed and non-high-speed services).”.

On the basis of what has been described and observed, and in consideration of the agreement by RFI at the hearing of 21 October 2022, the Authority considers it necessary, to ensure adequate transparency towards the market, and thus confirming its considerations under Opinion No 8/2022, that:

- 1) RFI provide for the following passenger market segments, as an alternative to those currently adopted, for the purpose of the ensuing calculation of the punctuality indicators of passenger services used for the evaluation of the performance of the IM: a market category including high-speed services only, (ii)

- a market category including non-high-speed long-distance services, (iii) a long-distance PSO category, (iv) a local transport PSO category;
- 2) the PIC query filters be updated accordingly.

6.1.2 Indications

No indications are provided.

6.1.3 Requirements

6.1.3.1 In paragraph 6.3.2, “*Management Rules*” the IM is required to:

- a) describe the passenger traffic segments of reference for the calculation of the punctuality indicators to measure the performance of the IM (HS market, non-HS long-distance market, long-distance PSO, Local Transport PSO);
- b) accordingly update the Annex to the NS “*Punctuality Data - No Exclusion and RFI*”;
- c) update, no later than 10 December 2023, according to the market segments referred to under (a), the corresponding PIC query filter “*Categories*” replacing the one currently in use.

6.2 Performance of the IM on scheduled capacity restrictions

6.2.1 Assessment by the Authority

In the consultation referred to in point 4.iii) of Decision No 173/2021, it was observed that “*currently RFI, depending on the type of line, reserves up to 25% of its total capacity for maintenance. In our opinion, the IM should prove the actual need to reserve capacity to that extent for maintenance activities, also declaring the time actually used for such activities. In the same way, an incentive system for maximising the use of capacity for maintenance should therefore be introduced so as to gradually reduce the time diverted from train movements.*”.

The IM replied by highlighting the following: “*Capacity requirements for works arise from maintenance cycles defined with ANSFISA for the issue of safety authorisations.*”

Consideration should also be given to infrastructure conditions, existing enhancement or extraordinary maintenance works and annual planning of the activity on the infrastructure.

However, RFI has the priority objective of ensuring maximum capacity for the rail market, while using all available capacity for planned works to enhance and maintain the efficiency of the railway infrastructure. In this respect, it should be considered that the actual use of planned interruptions of service (PIS) timeframes must take into account, even in the stage of their definition, the overall impact on the line concerned and not on the individual section where the works are carried out.”.

The Authority notes that, alongside the performance dimension of the regularity of the service (assessed through the RFI punctuality indicator referred to in paragraph 6.3.2 “*Management Rules*”), the IM should define an indicator providing a measure of the relationship, per line or homogeneous parts of the line, between opening hours for commercial traffic and hours for scheduled maintenance and development of the infrastructure (i.e. planned capacity restrictions, temporary capacity restrictions or TCR), also referring to the different time slots that may be affected by the planned restrictions; this indicator would therefore provide adequate evidence of the balance to be ensured by the IM between its activities and the interests of the rail market, and could be both a useful reference for the actual use of that capacity and a comparison tool for different situations on the network.

6.2.2 Indications

No indications are provided.

6.2.3 Requirements

6.2.3.1 The IM is required to identify a performance indicator, in addition to the RFI punctuality indicator, to provide a measure of the relationship, per line or homogeneous parts of the line, between opening hours for commercial traffic and hours for scheduled maintenance and development of the infrastructure, also with reference to the different 24-hour time allocation of planned capacity restrictions. The IM shall submit to the Authority its proposal, accompanied by appropriate numerical application, by 31 March 2023, for approval by the Authority’s offices and ensuing inclusion in the consultation draft of the NS 2025; the observed correlation between major traffic malfunctioning over the last three years and performance of punctuality indicators by market segment and traffic routes should be reported as well.

6.3 Information to be guaranteed in case of strike

6.3.1 Assessment by the Authority

The IM shall specify, in paragraph 6.2.7, “*Strikes*” the commitment by the IM and the RU to comply with the information obligations towards passengers, in accordance with the provisions of Regulation (EU) 2021/782 and the measures of the Authority’s Decision No 106/2018.

6.3.2 Indications

No indications are provided.

6.3.3 Requirements

6.3.3.1 The IM is required to introduce, in paragraph 6.2.7 “*Strikes*” a reference to the information obligations of IM and RU towards passengers, in accordance with the provisions of Regulation (EU) 2021/782 and the measures of the Authority’s Decision No 106/2018.

7. Service facilities

7.1 Model lease agreements for areas and facilities within passenger stations.

7.1.1 Assessment by the Authority

In the sub-paragraph “Formalisation” of paragraph 7.3.2.5, “*Rights and obligations of the IM and undertakings operating rail passenger services*”, the IM provides that “*The provision to the company operating in railway passenger transport services of the requested area shall be formalised by means of a lease arrangement (see annexes 1 and 2 to this section), alongside the access contracts, which shall be tacitly renewed at the end of each year, unless terminated in advance by either party.*”.

In fact, GS Rail and GS Retail commercial operators (other than RFI) use their own model agreements rather than those published in the NS.

In order to ensure adequate market transparency, on account of the agreement expressed by RFI at the hearing on 21 October 2022, the Authority considers it necessary that the sub-paragraph in question specifies:

- that the model agreements set out in Annexes 1 and 2 to Chapter 7 are used only where the commercial operator of the station is RFI;
- that the model agreements, to be used in the case of areas under the management of GS Rail commercial operator (which is subject to a specific obligation as referred to in paragraph 4 (i) of Article 2 of Implementing Regulation (EU) 2017/2177) are published on the corporate website.

7.1.2 Indications

No indications are provided.

7.1.3 Requirements

7.1.3.1 The IM is required to specify in sub-paragraph "Formalisation" of paragraph 7.3.2.5, "Rights and obligations of the IM and undertakings operating rail passenger services", that:

- the model agreements set out in Annexes 1 and 2 to Chapter 7 are used only where the commercial operator of the station is RFI;
- the model agreements, to be used in the case of areas under the management of GS Rail commercial operator (which is subject to a specific obligation as referred to in paragraph 4 (i) of Article 2 of Implementing Regulation (EU) 2017/2177) are published on the corporate website.

7.2 Maintenance centers. Obligations and rights of the RUs

7.2.1 Assessment by the Authority

With the draft NS 2024, RFI introduced a number of additional provisions in terms of obligations for the RUs that have access to the maintenance centres made available by the IM and in terms of compatibility of conflicting access requests by several RUs. The content of the additional obligations of the RUs seems to be attributable to the complete delivery of a part of the maintenance centre to a given RU that is formalised through a special statement of delivery. The NS provides that this delivery is exclusively in favour of a given RU (while the latter may not grant access to any other entities other than its own service contractors), which is fully responsible for compliance with the existing legislative and regulatory provisions.

However, in paragraph 7.3.6 *"Maintenance facilities, except for heavy maintenance facilities reserved to high-speed trains or other types of rolling stock requiring specialised facilities"*, the Authority noted that the IM underlines that *"the service consists in **providing areas** (buildings, sheltered areas and open areas) and the related functional equipment used thereat, **for non-exclusive use** and without the obligation to ensure the safe-keeping of any equipment owned by the RUs."* (emphasis added), while under the sub-paragraph *"Formalisation"* of paragraph 7.3.6.5 the IM may provide for *"a rearrangement of the allocated areas to be delivered to the various RUs within the maintenance centre"* as well as the allocation to the RUs concerned *"of shifts on a daily or hourly basis for access to the same Maintenance Centre"*.

In the opinion of the Authority, these provisions appear to be contradictory because:

- on the one hand, they provide for delivery of a part of the maintenance centre (and its responsibilities) to a given RU through a statement of delivery (therefore for exclusive use and with no possibility of allowing access on request to other RUs which are interested in using that part of the centre);
- on the other hand, the IM reserves the right to allow mixed use of the same centre or part thereof through shifts.

Therefore, on the one hand, it seems that the management of part of the facility is assigned to a given RU (in incomplete form as it does not appear to be provided for access by other RU concerned upon direct agreement with the assigned RU), on the other hand, the management remains under the responsibility of the IM (because the entity ensuring access is also, in fact, the operator of the facility).

At the hearing, the Authority's offices asked the IM to clarify its organisational and management model for access to maintenance facilities (including with reference to the express prohibition of access to other RUs concerned subject to agreements with the contracting RU) in order to justify the new obligations that the IM intended to propose in the consultation on the NS 2024. The IM specified that:

- in the allocation of capacity at a delivered service facility, RFI qualifies as a facility operator;
- neither the NS nor the statement of delivery mentions the concept of *"awarding to a RU for exclusive use"*;
- the awarding of part of the facility to a RU corresponds to the role of Facility Operator played exclusively by RFI in the facilities directly managed by the latter, which, therefore, defines the tracks where each RU can perform the service, under "self-service" regime (as in the case of any other facility service);
- RFI is responsible for maintenance and safety obligations falling under its remit. The obligations of the RUs are those relating to the activities carried out within the maintenance centre based on the self-service regime (through its own resources or through its own service contractors).

Based on the information specified by RFI, the Authority considers it necessary to note that the drawing up of a statement of delivery of the areas would not seem consistent with RFI's intentions; with reference to the delivery of the areas, paragraph 7.3.6.5, *"Rights and obligations of IM and RU"* and its sub-paragraph *"Formalisation"* provides that:

- *"The RU is expressly prohibited from subletting, in whole or in part., the assigned Area, without prejudice to the possibility of authorising access to its service contractors (hereinafter "service contractors") to carry out maintenance-related activities."*;
- *"At the beginning of the working timetable, the RU and the IM shall draw up a statement of delivery of the areas reserved for the service, certifying the provision of the open area and/or sheltered area and/or building by the IM to the RU, that is automatically renewed at each timetable change, unless changes are made to the use of the system, even during the time slot."*;
- *"In order to be able to satisfy the request for use of the Maintenance Centre submitted by another railway undertaking during the time slot, RFI may, if necessary, ensure the compatibility on the basis of the remaining capacity of the allocated areas between the requesting railway undertakings, in an equitable and non-discriminatory manner, establishing the perimeter of several areas to be delivered to the different railway undertakings inside the Maintenance Centre or by allocating shifts on a daily or hourly basis for access to the same Maintenance Centre"*;
- *"When the areas are returned by the RU to the IM another statement shall be drafted regarding the conditions of such areas delivered to the RU"*.

Therefore, with the statement of delivery, the RU takes over the management of an area of the maintenance centre, which can also be accessed by its contractors, and has to comply with the obligations related to the traffic and work safety, as well as environmental protection, without, however, being able to use this area for industrial activities for third parties where adequate capacity is available. The return of the area is usually expected at the expiry of the access contract or may be extended with the conclusion of another access contract. Therefore, while providing that the IM is responsible for managing the capacity available in the facility (understood as parking capacity on the tracks of the maintenance centre and not as production capacity of a given maintenance service), the service facility management scheme provides for delivery, for non-exclusive

use, of a part thereof to the RU concerned for maintenance-related activities, including through its contractors. Furthermore, it should be recalled that Article 13 (2) of Legislative Decree 112/2015 includes maintenance centres among the service facilities with guaranteed access, including the services provided therein; according to the definition referred to in Article 3 (1) of Legislative Decree No 112/2015, “operator of service facility” is *“any public or private entity responsible for managing one or more service facilities or supplying one or more services to railway undertakings referred to in article 13 (2), (9) and (11);”*

The Authority considers, in general, that, in the context of its self-service activities inside the service facilities owned by the IM, the RUs should state whether they plan to sell rail services (in this case also qualifying as service facility operators) that the IM does not intend to make available on the market; in addition, if the RU turns to contracting undertakings for the performance of such railway services, since those undertakings are service facility operators operating inside the IM’s facility where they sell rail services to a given RU, those contracting undertakings must comply with the obligations of any service facility operator, including the provision of information on the services provided in the facility through the RNE statement that is drawn up and later supplemented by the IM for that purpose.

In conclusion, the Authority considers it necessary, for a better use of the available capacity in the maintenance centre (as for other service facilities with guaranteed access) and for adequate market development, that the IM:

- includes in the NS a draft statement of delivery to and return from the RUs of the areas of the maintenance centres;
- provides for the procedures by which the RU must declare whether it is willing to provide to other applicants for capacity —and the modalities to effectively provide them, within the limits of its own resources — railway services supplied under self-service regime in the delivered part of the maintenance centre and on the tracks assigned by the IM on a case-by-case basis;
- provides for type and manner whereby contracting undertakings entrusted by the RUs to carry out rail services inside the IM’s maintenance centre shall provide their services to other RUs as service facility operators within the IM’s maintenance centre;
- includes, in the description of the facility of each managed maintenance centre, an indication of the availability for sale of the maintenance service by the RUs which are assigned the areas in the maintenance centre, as well as of the contractors of the RUs in general, operating therein in the context of the provision of railway services and therefore as operators of service facilities.

7.2.2 Indications

No indications are provided.

7.2.3 Requirements

7.2.3.1 The IM is required to specify in paragraph 7.3.6 *“Maintenance facilities, except for heavy maintenance facilities reserved to high-speed trains or other types of rolling stock requiring specialised facilities”*:

- a) that a RU, where it takes over or intends to take over an area inside the IM’s maintenance centre, must declare its willingness to sell rolling stock maintenance services also to other capacity applicants (i.e. qualifying as service facility operator) already at the time of the conclusion of the infrastructure access contract;
- b) for the purpose of the correct update by the IM of the facility descriptions referred to in Regulation (EU) 2017/2177:

- i. the arrangements whereby the RU states its availability and ensures the effective availability to other applicants for capacity, within the limits of its resources, of railway services provided under self-service regime (by using its own resources only) in the part of the maintenance centre that has been taken over, as well as on the tracks allocated by the IM on a case-by-case basis;
- ii. the way in which the contracting undertakings, operating at the request of a RU inside a maintenance centre of the IM as service facility operators, should report to the IM, through the RU for which they operate, the railway services provided and the way they are provided, with a view to the ensuing update of the facility description of the maintenance centre by the IM.

7.2.3.2 The IM is required to define, by 31 March 2023, in the annex to Section 7, "*Service Facilities*", sending a copy to the Authority, the model statements of delivery to and return from the RUs of the areas of the maintenance centres, providing for their publication in the first extraordinary update of the NS.