



# **Network statement – Appendix E.4.2**

**General conditions of use for the Antwerp-North  
marshalling facility for the provision of  
marshalling services to third parties**

**INFRABEL**



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## 1. Definitions

- **Connection plan:** the overview for one timetable for the wagons to be handled by the user-operator between arriving and departing trains.
- **Facility:** the marshalling facility at Antwerp-North consisting of 2 sub-facilities (on the one hand the C-facility: yard C1 + yard C2 + intermediate hump, and on the other, the B-facility: yard B1 + yard B2 + intermediate hump), including the equipment for these yards and humps.
- **Implementing Regulation 2017/2177:** Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services
- **Railway Code:** Law of 30 August 2013 *on the Railway Code*.
- **The user-operator:** the railway undertaking using the facility to offer services to third parties as an operator.
- **Service facility description:** the document as defined in Article 3, point 3 of the Implementing Regulation (EU) 2017/2177.
- **Network Statement:** the document as defined in Article 3, 22° of the Railway Code.
- **Marshalling services:** single hump shunting and/or *sequencing* and/or *order picking*.
- **Marshalling slot:** a time period when a collection of wagons are pushed up to the hump and marshalled onto the destination tracks.
- **Hump shunting:** pushing the wagons over the hump.
- **Railport:** subsidiary of *Port of Antwerp-Bruges*.

## 2. Subject

The Belgian infrastructure manager Infrabel owns and operates the Antwerp-North marshalling facility, and manages access to it in accordance with Implementing Regulation 2017/2177. Infrabel's tasks are listed in point 3 below.

Each licensed railway undertaking can make use of this facility for self-supply on the condition that it provides the necessary personnel and adequate traction equipment (see local protocol and service facility description in Appendix E.4.1 of the network statement) and signs the local protocol.

In addition, railway undertakings are free to decide whether or not to offer marshalling services to third parties in the facility. Railway undertakings offering services to third parties are, in accordance with the Implementing Regulation 2017/2177, operators of the service facility (hereinafter referred to as user-operators) and must comply with the provisions of this Implementing Regulation. The duties of the user-operator are listed in point 4 below.

In addition to the obligations described in Implementing Regulation 2017/2177, these general terms and conditions describe the conditions that must be met by the user-operator to use the facility with the view to offer services to third parties.

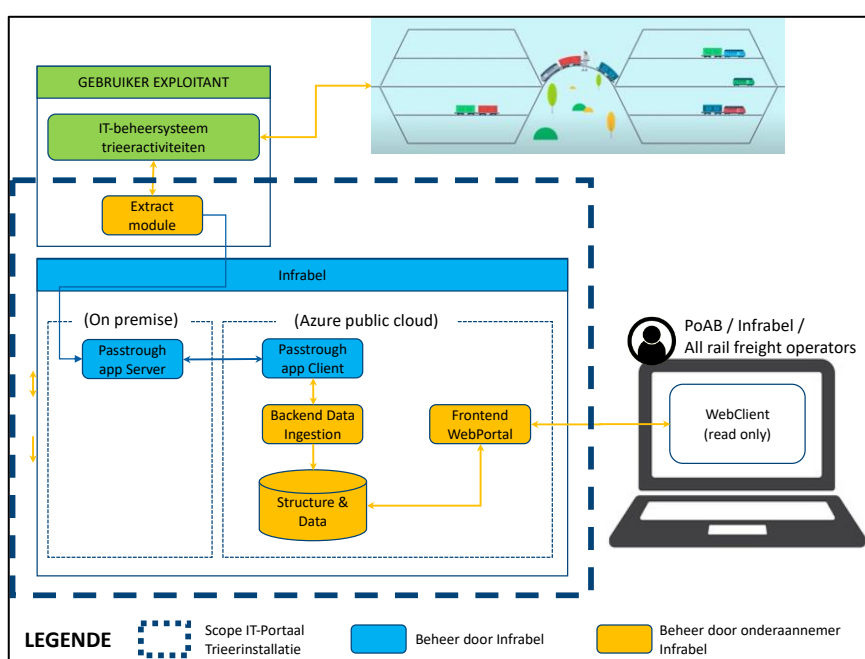
Further operational arrangements may be set out in special terms and conditions.

## 3. Duties of Infrabel

- 1) Capacity management:

- a) Infrabel will organise the train path planning according to the user-operator's connection plan, without prejudice to Infrabel's compliance with its obligations arising from Implementing Regulation 2017/2177, the Railway Code and the network statement;
  - b) Infrabel will manage track capacity (down to the track level) at the reception yards of the marshalling facility (yards C1 and B1) and will reserve, to the best of its ability and according to the volumes to be marshalled, a predetermined quantity of tracks to receive single wagon load transport at yard B1 and C1, in accordance with the connection plan and in accordance with Implementing Regulation 2017/2177 and the network statement;
  - c) Infrabel will allocate the capacity at the facility's departure yards (yards C2 and B2) in accordance with Appendix E.4.1 of the network statement in 1 hour time slots to the user-operator;
  - d) Infrabel will organise the real-time train traffic from and to the reception and departure yards in accordance with the user-operator's connection plan, without prejudice to Infrabel's compliance with its obligations arising from Implementing Regulation 2017/2177, the Railway Code and the network statement;
  - e) In the event of force majeure, as provided for in point 11, Infrabel may deviate from the above points;
  - f) In the event of early arrival (arrival 1 hour before scheduled time in the connection plan) or late arrival (arrival 1 hour after scheduled time in the connection plan) and insufficient capacity at Antwerp North B1, C1, Infrabel will impose diversion to a different yard;
  - g) In the event of late departure (departure 30 minutes after the scheduled time in the connection plan) and insufficient capacity at Antwerp North B2, C2, Infrabel will, in consultation with the user-operator, order the railway undertaking responsible for the departure to divert to a different yard.
- 2) Infrabel will maintain the installation in service, in accordance with the predetermined safety guarantees / regulations, as stipulated in the local protocol "Antwerp-North (marshalling)" (*only available in Dutch and French, Ed.*). Infrabel reserves the right to take all or part of the facility out of service temporarily or permanently if:
- a) Safety cannot be guaranteed;
  - b) Changed market circumstances mean that there is insufficient demand for capacity, whereby it is no longer justified from a business-economic perspective to keep the facility in service.
- The user-operator will, except in the event of works and maintenance as provided for in point 3 5) below, be informed of the decision to decommission at least 18 months prior to the decommissioning, unless there are any urgent safety problems of which Infrabel submits a motivated notification to the user-operator.
- 3) Ensuring the operational availability of the:
- a) B-facility (hump B and yard B2) at 95% monthly during operating hours, with the exception of scheduled track possessions (see point 3 5)).
  - b) C-facility (hump C and yard C2) at 98% monthly during operating hours, with the exception of planned track possessions (see point 3 5)).
- 4) In the event of technical outages in the facility:

- a) within 1 hour after the call from the user-operator, a technical team from Infrabel will arrive on site;
  - b) with the exception of force majeure or disruptions requiring the intervention of a third party (subcontractor), the disruption will be remedied by Infrabel's technical team within 2 hours from arrival on site.
- 5) Works and maintenance: Infrabel reserves the right to take the facility temporarily out of service for maintenance and/or renewal works.
- a) Infrabel will communicate works in the facility with a limited impact (i.e. a section of 1 sub-facility out of service for less than 24 hours): at least 2 months in advance;
  - b) Infrabel will communicate works in the facility with a major impact (i.e. one of both sub-facilities out of service or a section of the facility out of service for at least 24 hours): at least 1 year in advance;
  - c) In the event of urgent works, Infrabel will communicate the works in real-time, as soon as the information is available.
- 6) The marshalling facility IT portal:
- a) Infrabel is responsible for the IT portal that can be used by the user-operator and its clients to monitor activities in the facility;
  - b) Infrabel aims, as of the end of a 3 month evaluation period following the commencement of the provision of services by the user-operator, for a 98% (*best effort*) availability of the IT portal (for scope, see figure below) except in case of:
    - i) force majeure (as per point 11);
    - ii) scheduled intervention windows (these will be communicated by Infrabel at the latest 48 hours prior to commencement of the intervention);
    - iii) outages requiring the intervention of a third party (subcontractor).



7) Incidents:

- a) Infrabel will investigate all incidents occurring in the facility with an impact on operational safety (e.g. derailling, collision, etc.);
- b) Infrabel will make relevant data and information available to the user-operator in a transparent manner;
- c) Infrabel will designate a single point of contact to supply the relevant data and information required to the user-operator;
- d) Infrabel will organise 3-monthly '*Incident Improvement*' consultations where incidents and the measures to be taken will be discussed with the user-operator.

## 4. Duties of the user-operator

1) Capacity management:

- a) The user-operator must annually request capacity from Infrabel, in accordance with Appendix E.4.1 of the network statement, for the use of the marshalling facility. In its request, the user-operator should indicate that it wishes to offer services to third parties, as well as from what point in time.
- b) The user-operator will draw up an annual connection plan in coordination with Infrabel by the 3rd Monday of October at the latest, provided that the information regarding the train paths assigned to the user-operator's client has been communicated to the user-operator by the user-operator's client by 31 August. This connection plan will take into account the following elements:
  - i) the track possessions for the marshalling facility, as determined by Infrabel;
  - ii) the user-operator's predetermined standard times for each operation (half-separating, hump shunting, formation and possibly full technical inspection);
  - iii) the capacity requests / hump slot requests from the user-operator's clients and the associated train paths.
- c) Wagons of trainsets that have arrived on time and have been checked by the user-operator regarding technical and administrative matters are to be included in the scheduled slot for hump shunting (maximum +2h).
- d) The user-operator shall take the necessary measures to make sure that wagons of trainsets can all times be hump shunted from the scheduled marshalling slot onto a marshalling track at yard B2 or C2.
- e) The user-operator will manage the capacity at the departure yards (down to the track level) in the time slots assigned to it in accordance with the connection plan, without prejudice to the user-operator's compliance with its obligations arising from the Implementing Regulation 2017/2177, the Railway Code and the service facility description.

2) Resources: the user-operator will provide sufficient resources (i.e. shunting locomotives and personnel) to ensure the safe implementation of the connection plan.

Specific provisions regarding resources:



- a) Defective locomotives will be repaired or replaced on-site within 8 hours after the defect is reported;
  - b) Sufficiently trained and certified *logistics coordinators, (junior/senior) ground operators* and *(junior) shunting drivers* will be provided.
- 3) Data exchange
- a) The user-operator provides scheduling data and real-time data and will sign for that purpose the confidentiality and data-sharing agreement.
  - b) To ensure the correct operation of the marshalling facility IT portal, the user-operator will provide scheduling data and real-time data in accordance with the functional and technical specifications for the marshalling facility IT portal.
- 4) Incidents:
- a) The user-operator will investigate any incident occurring in the facility having an impact on operational safety (e.g. derailment, collision, etc.) in which it is, directly or indirectly, involved.
  - b) The user-operator will make relevant data and information available to Infrabel in a transparent manner to enable the investigation of an incident at the facility.
  - c) The user-operator will designate a single point of contact to supply the relevant data and information required to Infrabel.
  - d) The user-operator will actively participate in the 3-monthly '*Incident improvement*' consultation organised by Infrabel.

## 5. Performance indicators

Infrabel will measure and share the following performance indicators with the user-operator:

- KPI1: *Overall Equipment Effectiveness (OEE) per productive shift*; measurement based on
  - KPI1.1: Actual hours available / theoretical hours available (*uptime* per day); the calculation of outages takes place pro rata to the number of tracks that are out of service (see formula below): guideline value
    - B-facility (hump B and yard B2): 95% monthly during operating hours, excluding scheduled track possessions (see point 3 5)).
    - C-facility (hump C and yard C2): 98% monthly during operating hours, excluding the scheduled track possessions (see point 3 5)).

In accordance with point 3 3);

### Formula (monthly basis)

$s$  = number of tracks unusable due to outage

$t_{outage\ actual}$  = time between start outage and resolution outage

$t_{outage\ calculated}$  = converted time in function of impact

$t_{total}$  = number of hours installation available per week

$B$  = availability in %

**C2**

$$t_{outage\ calculated} = t_{outage\ actual} * \frac{s}{56}$$

$$B = \frac{\sum t_{outage\ calculated}}{t_{total}}$$

**B2**

$$t_{outage\ calculated} = t_{outage\ actual} * \frac{s}{40}$$

$$B = \frac{\sum t_{outage\ calculated}}{t_{total}}$$

- KPI1.2: Number of incidents due to the system (including insufficient braking with damage): relates to a measurement value;
- KPI1.3: Response time for outages (Duration of arrival of the technical service on site and resolution of outage): Guideline value: Arrival of technical service on site: 1 hour / *Time to normalise*: Guideline value 3 hours; in accordance with point 3 4);
- KPI1.4: Idle time in marshalling facility due to external traffic before the hump: relates to a measurement value.
- KPI2: Number of diverted trains from wagon load transport due to limited capacity at B1 or C1, compared to the number of scheduled trains in accordance with the connection plan: relates to a measurement value;
- KPI3: Number of scheduled works that were not communicated in time, compared to the total number of works communicated: guideline value: 0;
- KPI4: Availability of the hump portal: guideline value 98% as per point 3 6).

The user-operator will measure and share the following performance indicators with Infrabel:

- KPI1: Timely preparation of connection plan (within the agreed deadline): guideline value 100% as per point 4 1) ;
- KPI2: Scheduled *resources* in accordance with the connection plan according to the actual *resources* per shift: guideline value 90%;
- KPI3: *Produced as planned*: Number of wagons that arrived on time, that were correctly hump shunted administratively and technically speaking/ Number of wagons that are to be hump shunted according to plan (Per day): guideline value: 90%;
- KPI4: Number of wagons with transit time at C2 >48 hours (Per day) (excluding wagons for *picking*): measurement value;
- KPI5: *Rework*: Number of wagons hump shunted from the marshalling yard (C2) per day / Total number of wagons hump shunted per day in the C-facility: measurement value.

The monitoring of KPIs will be carried out within the framework of the Audit Committee (see point 6). If the guideline values are not achieved, corrective actions will be discussed.

## 6. Audit Committee

- 1) Objective: The Audit Committee monitors the neutrality of the non-discriminatory services provided by the user-operator, as well as compliance with these terms and conditions. Neutrality



is ensured through data exchange (see point 4.3)) and proper compliance with the procedures and operational rules as described in the service description drawn up by the user-operator.

- 2) Composition: The Audit Committee consists of representatives of the permanent members of the Audit Committee and, as the case may be, observers. The permanent members may admit observers.

- Permanent members of the Audit Committee: Infrabel, Railport, the user-operator.

- 3) Operation:

- The Audit Committee is organised by Infrabel.
- The meeting agenda is drawn up by Infrabel after consulting the members and must be sent to the members prior to the meeting.
- The Audit Committee will meet at least twice a year (in March and September).
- The Audit Committee oversees the neutrality of the management by monitoring the distribution of capacity/volumes per client railway undertaking, compliance with the priority rules and procedures, the use of capacity at yards B2 and C2 and the KPIs defined in the terms and conditions.
- The Audit Committee acts also as forum for discussing any problems or complaints relating to neutral management and determining corrective actions.
- The Audit Committee can only validly deliberate and decide if the full members are present or represented. A member who is unable to attend the committee, may authorise another member of the Audit Committee to represent him/her at a meeting.
- Actions will be agreed upon by consensus of the members.
- The secretary of the Audit Committee (Infrabel/Railport) will take the minutes of the meeting and forward the minutes to all members and observers within one month of the meeting.

## 7. Insurance

Infrabel and the user-operator confirm that they act in accordance with all applicable insurance regulations and certificates and with all applicable legal, judicial and administrative requirements.

Infrabel and the user-operator will provide the necessary insurance (liability insurance and industrial accident insurance) and any insurance they deem necessary and will ensure that any third parties called upon have the necessary insurance.

## 8. Liability

Infrabel and the user-operator will be liable for any damage, or loss, caused by its fault or gross negligence and will be liable for the damage or loss caused by any third parties they call upon.

The user-operator will protect Infrabel against all third-party claims in the context of the use of the facility by the user-operator and the services provided to third parties.

The user-operator and Infrabel will not be liable for any indirect damage, consequential damage, immaterial damage and/or moral damage.

The user-operator and Infrabel are each responsible for fulfilling their obligations as operator of a service facility in accordance with Implementing Regulation 2017/2177.

## 9. Changes to general terms and conditions

Infrabel is entitled to change or supplement these terms and conditions.

Any significant change will be notified to the user-operator 9 months prior to the change, unless this deadline cannot be respected pursuant to the decision or opinion of the regulatory body or any other competent authority. If the latter does not agree to the changes, the user-operator may terminate the marshalling services subject to a notice period (see point 10 2)d) below).

## 10. Suspension and early termination

- 1) In the event of non-compliance with the terms and conditions, a user-operator that fails to comply with the terms and conditions, either in full or in part, within 15 calendar days following the formal notice of default, must submit a plan of necessary actions to ensure that it will act in compliance with the terms and conditions as soon as possible. If the user-operator fails to submit a plan within 15 calendar days, the parties will meet within 7 calendar days to reach an agreement.
- 2) The terms and conditions may be terminated at any time by registered letter with notification of receipt requested in the following cases:
  - a) If the user-operator fails to comply with the terms and conditions, the user-operator must submit a plan of necessary actions, within 15 calendar days of notice of default by the other party by registered letter with notification of receipt, to fulfil its essential obligations as soon as possible. If the user-operator has not proposed a plan within 15 calendar days, the parties will meet within 7 calendar days to reach an agreement. If no solution is found, Infrabel may terminate the general terms and conditions subject to a nine-month notice period.
  - b) If the user-operator were to be involved in proceedings of composition, bankruptcy or liquidation.
  - c) If the user-operator does not or no longer holds one of the licences or permits required to provide the services.
  - d) If the user-operator decides to terminate the hump shunting operations, it must observe a notice period of 9 months so that it can take the necessary measures and actions with a view to organising its operations and preparing the end of its activity in the facility.
- 3) Infrabel is entitled to terminate the use of the facility in accordance with these terms and conditions without any compensation being due. Infrabel will inform the user-operator of this at least 18 months in advance, such that it has sufficient time to take the necessary measures and actions with a view to organising its operations and preparing the end of its activities in the facility.

## 11. Force majeure

Force majeure means the occurrence of unforeseeable events that cannot be attributed to the party invoking force majeure, the consequences of which are unavoidable and which prevent the party invoking force majeure to fulfil its obligation, such as (under the above terms and conditions and not limited to) natural disasters, landslides, war or threat of war, pandemic, riots, hostilities, sabotage, acts or restrictions by public authorities, shortages of energy supply, power failure, breakdown of machinery, accidents, damage to facilities, problems with the railway infrastructure, strikes, lock-outs or labour disputes (hereinafter "force majeure"). Force majeure is an event beyond the reasonable control of a party that delays or prevents the party from performing its obligations, provided that the

party failing to perform is not at fault for causing or failing to prevent the event and the event or its effects cannot be circumvented by the use of commercially reasonable efforts, alternative sources, *workaround* plans or other means.

A party affected by force majeure will promptly notify the other party of the force majeure and of its plans and efforts to find a solution, in which case the affected party will be excused from further performing its obligations for as long as the force majeure continues to prevent the party to perform its obligations and cannot be circumvented. The affected party will continue to use commercially reasonable efforts to fulfil its obligations to the maximum extent possible and will comply with all applicable disaster recovery obligations. The affected party will immediately notify the other party when the force majeure has subsided or can be circumvented.

If a force majeure prevents or will prevent the party to perform its obligations for more than 30 calendar days, each party may terminate the terms and conditions by registered letter with notification of receipt to the other party, subject to a two-month notice period.

## 12. General

### 1) Hierarchy of standards

In the event of any conflicting provisions, the following hierarchy of standards will apply:

1. The Implementing Regulation 2017/2177
2. The Railway Code
3. The network statement
4. The terms and conditions
5. Special terms and conditions, if applicable.

### 2) Changes

Notwithstanding point 9, these conditions cannot be changed or modified except by means of a written document, in accordance with Implementing Regulation 2017/2177.

### 3) Nullity

The potential nullity of any provision of these terms and conditions does not result in the nullity of all terms and conditions.

### 4) Transferability

These general terms and conditions cannot be ceded or transferred, in full or in part, to a third party by the user-operator.

### 5) Applicable law

These general terms and conditions are governed by Belgian law.

### 6) Settlement of disputes

The parties will attempt to resolve amicably any dispute that may arise concerning the application and interpretation of these general terms and conditions.