
Subject: HS1 Ltd Consultation on the proposed template Framework Freight Track Access Agreement for access to HS1, Catalogue Paths and amendments to the HS1 Freight Access Terms

Date: 14 February 2012

1. Introduction

- 1.1 The purpose of this document is to consult industry stakeholders on HS1 Limited's ("HS1 Ltd") proposed access arrangements in respect of freight operations on High Speed 1 ("HS1"). HS1 Ltd is consulting upon its proposed template Framework Track Access Agreement and certain proposed amendments to the HS1 Freight Access Terms¹ (the "HS1 FAT").
- 1.2 HS1 Ltd has held extensive informal discussions with the freight operators (including representatives from the Rail Freight Group) as well as the Office of Rail Regulation on the proposed template Framework Track Access Agreement. HS1 Ltd has taken into account the comments from the freight operators and does not foresee any material issues in relation to the formal consultation.
- 1.3 HS1 is available for use for freight operations between the exchange sidings (and connections to the conventional Network Rail Infrastructure Limited network) at Ripple Lane and the Channel Tunnel (with a connection to Dollands Moor freight yard²), in return for the payment of access charges. The HS1 Network Statement³ sets out the charges payable by train operating companies for the reservation of capacity on HS1. Whilst there are connections to the North London Line via the Camden Road Incline Junction and the York Way North Junction, these are not currently operational. HS1 Ltd is currently in discussions with Network Rail Infrastructure Limited in relation to commissioning the interface without any large modifications to the existing infrastructure.
- 1.4 This paper is divided into the following sections:
 - 1.4.1 Section 2 sets out the background and considerations which HS1 Ltd has taken into account when developing its proposed access arrangements;
 - 1.4.2 Section 3 describes the Catalogue Paths concept which HS1 Ltd has developed;
 - 1.4.3 Section 4 describes the assumptions which HS1 Ltd has made to develop the Catalogue Paths set out in Annex 4;
 - 1.4.4 Section 5 describes key features of HS1 Ltd's proposed template Framework Track Access Agreement;
 - 1.4.5 Section 6 describes the proposed Schedule 5 of the template Framework Track Access Agreement, which includes the Catalogue Path system;
 - 1.4.6 Section 7 describes the rationale for HS1 Ltd's proposed amendments to the HS1 FAT; and
 - 1.4.7 Section 8 sets out the consultation timetable and process.
- 1.5 Annexed to this paper are the following documents:
 - 1.5.1 Annex 1 sets out the proposed template Framework Track Access Agreement;
 - 1.5.2 Annex 2 sets out the proposed HS1 FAT;

¹ HS1 Freight Access Terms (Edition Date: April 2011).

² DB Schenker Rail (UK) Limited is the facility owner of Dollands Moor freight yard. Please see the HS1 Network Statement for further information.

³ HS1 Network Statement (Edition Date: January 2012), available at <http://highspeed1.co.uk/regulatory/network-statement>.

- 1.5.3 Annex 3 sets out a comparison between the existing HS1 FAT and the proposed HS1 FAT; and
- 1.5.4 Annex 4 sets out the proposed Catalogue Paths which are intended to have effect from the Principal Change Date in 2012.

2. Background

- 2.1 A Declaration of Specialised Infrastructure exists in respect of HS1. This sets out certain priorities in respect of the allocation of capacity on HS1, being: (i) high speed international passenger trains; (ii) high speed domestic passenger trains; (iii) high speed freight trains; and (iv) other trains.
- 2.2 HS1 Ltd has received expressions of interest from freight operators to operate conventional speed freight trains at night and has entered into a number of short term track access agreements with certain freight operators to accommodate their services. Conventional speed freight trains are regarded as “other trains” for the purposes of the Declaration of Specialised Infrastructure. High speed passenger trains operate, for the most part, during the day. Such trains have priority over conventional speed freight trains and HS1 Ltd considers that it would be difficult to accommodate conventional speed freight trains during the day.
- 2.3 HS1 Ltd believes that “night” should be generally described as the period between 2330 and 0700, which (without prejudice to the detail of the HS1 Rules of the Route) generally is the period where there are fewer or no passenger trains is operating on HS1. This period also provides the opportunity for HS1 Ltd to carry out engineering work (see paragraph 2.5 for more information).
- 2.4 In any event, HS1 Ltd understands that the greatest demand for freight train paths will be at night. To encourage such use of capacity on HS1, HS1 Ltd is currently offering a discount to freight operating at night in order to encourage short and medium-term development. This discounted rate is set at £4.00 per train kilometre for night-time freight on HS1 for a period of five years commencing from 1 April 2010.
- 2.5 At the same time, HS1 Ltd notes that HS1 is a point-to-point railway and, whilst there are freight loops, there are no diversionary routes on HS1. HS1 Ltd (acting through its contractor being, at the date of this consultation, Network Rail (CTRL) Limited (“**NR(CTRL)**”) requires the opportunity to undertake maintenance, repair and renewal work in respect of HS1. The HS1 Rules of the Route (which HS1 Ltd intends to rename to Engineering Access Statement as part of proposed changes to Part D of the HS1 Network Code) sets out the periods in which HS1 Ltd (or NR(CTRL)) is entitled to access HS1 for the purposes of undertaking maintenance, repair and renewal work.
- 2.6 In order to carry out the required maintenance, repair and renewal work, it is necessary to take possessions of one or both of the lines comprising HS1 in accordance with the HS1 Rules of the Route. Accordingly, in considering the access arrangements for freight operators, HS1 Ltd has taken into account the need to take possessions of all or part of one or both lines on HS1 for the effective management of the infrastructure.
- 2.7 HS1 Ltd wishes to encourage freight operations on HS1 and to maximise the use of available capacity on the network, whilst ensuring that there are sufficient opportunities to carry out necessary maintenance, repair and renewal work. This means that capacity at night on HS1 will be constrained. Although HS1 Ltd does not believe, at present, that it will be congested⁴ as freight operations have only recently commenced and demand is only starting to develop.

⁴ For the purposes of Regulation 23 of the Railways Infrastructure (Access and Management) Regulations 2005.

- 2.8 At the same time, HS1 Ltd intends to ensure that the capacity which is available on HS1 is effectively and efficiently used by train operators so that the use of available capacity is maximised. At all times, HS1 Ltd will act fairly when allocating infrastructure capacity⁵.

3. Catalogue Paths

Background

- 3.1 As detailed in Section 2, capacity on HS1 is constrained during nights. Accordingly HS1 Ltd has examined the ways in which capacity can be efficiently utilised, so that the greatest number of train paths are available for use by freight operators on each night.
- 3.2 The concept of a Catalogue Path is one which is used by various infrastructure managers in Europe although it has not been used, to date, in the United Kingdom. A Catalogue Path is a pre-defined train path for freight traffic and the catalogue of paths are planned so that capacity on a particular route is maximised.⁶ In Europe, the set of Catalogue Paths is intended to act as a guide for freight operators in submitting proposals for paths. Whilst freight operators are not obliged to request a Catalogue Path, conflicts with other services are more likely to be avoided if a Catalogue Path is requested and accordingly the chance of such proposal being accepted is increased.

Use of Catalogue Paths on HS1

- 3.3 HS1 Ltd considers a Catalogue Path system to be appropriate for the allocation of freight capacity on HS1 at night. Given the need to take double line possessions of HS1 on weekend nights, HS1 Ltd currently intends to offer Catalogue Paths only on week nights (being Monday to Friday inclusive). However, HS1 Ltd is in the process of investigating whether it is viable for HS1 to be available on a sixth night each week and is in discussions with NR (CTRL) accordingly. HS1 Ltd does intend to keep all freight operators informed and consulted on the progress of discussions with NR (CTRL).
- 3.4 HS1 Ltd believes that the Catalogue Path system is the best way of maximising and effectively utilising the constrained capacity on HS1 at night, as well as giving freight operators the chance to develop their businesses by operating on the HS1 network. It also provides for a minimum number of guaranteed paths which will be available on any week night.
- 3.5 Catalogue Paths would be set on an annual basis⁷ in connection with the development of the HS1 Rules of the Route and subject to a particular freight operator's business requirements and available capacity at a particular time. A freight operator would be granted Firm Rights (as defined in the HS1 Network Code) to a number of Catalogue Paths as well as Contingent Rights (as defined in the HS1 Network Code) to a number of Catalogue Paths. Firm Rights would attract payment of the Capacity Reservation Charge. This is to ensure that freight operators are incentivised to efficiently use capacity,⁸ particularly given that capacity on HS1 is likely to be constrained.
- 3.6 Catalogue Paths will be allocated in accordance with the timetable development process set out in Part D of the HS1 Network Code (as updated from time to time⁹). A freight operator will not be able to reserve a particular path in its Framework Track Access Agreement because the nature of the Catalogue Paths available may vary from year to year and because HS1 Ltd is prohibited from allocating capacity in the form of specific train paths for any period in excess of one working timetable period (a calendar year

⁵ See Regulation 16(11) of the Railways Infrastructure (Access and Management) Regulations 2005.

⁶ This is described on the RailNet Europe website at <http://www.rne.eu/index.php/catalogue-tailor-made-paths.html>

⁷ See paragraph 3.8 for further information.

⁸ In accordance with Regulation 15(1) of the Railways Infrastructure (Access and Management) Regulations 2005.

⁹ See note 5.

commencing at midnight on the second Saturday in December)¹⁰. The Framework Track Access Agreement will instead provide for firm rights to a certain number of Catalogue Paths on particular week nights, see Section 5.9 below.

- 3.7 Following the publication of the First Working Timetable, HS1 Ltd proposes that freight operators will have general rights to Bid (to be renamed as an Access Proposal as part of proposed changes to Part D of the HS1 Network Code¹¹) for any capacity which has not been allocated to a freight operator during the timetabling process. This attempts to maximise the use of the available capacity, as well as allowing a degree of flexibility to the freight operators for short term service planning. Any such capacity would be allocated on a first come, first served basis.
- 3.8 The list of Catalogue Paths will need to be reviewed from year to year to reflect the outcome of discussions in relation to the HS1 Rules of the Route. If, for example, less time is required for the maintenance, repair and renewal of HS1 or if both lines are likely to be available for use by freight operators, it may be that more Catalogue Paths will be available during that particular year. Conversely, if more time is required for the maintenance, repair and renewal of HS1 or if all or parts of both lines are the subject of a possession, fewer paths may be available in a particular year. In any event, HS1 Ltd intends to publish the Catalogue Paths which are available in each year in the HS1 Network Statement, which will be published on its website¹².

Additional Capacity

- 3.9 There may also be additional capacity available on the margins of the period available for engineering access where passenger services are ending or commencing. There is a greater likelihood of HS1 Ltd being able to accommodate freight services in the 45 minute period which falls either side of the “night” period¹³. As such HS1 Ltd would be willing to consider Bids from freight operators for capacity at such times. Subject to the timetabling process set out in Part D of the HS1 Network Code, any such proposals would be considered on a first come, first served basis and allocation of such capacity would be at the discretion of HS1 Ltd. HS1 Ltd recognises that freight operators want regularity of access for their customers. As such, HS1 Ltd will endeavour to identify additional train slots from time to time (in advanced) to satisfy their business needs.
- 3.10 Further, if it becomes clear that, on any particular night, the proposed maintenance, repair and renewal work will not require a possession of all or part of a line, HS1 Ltd proposes to make any such additional capacity available for freight operators. Any additional train paths would be included around the Catalogue Paths, being the minimum number of paths guaranteed to be available for freight operations on a particular week night.

HS1 Ltd's Considerations on Catalogue Paths

- 3.11 HS1 Ltd believes that the Catalogue Path system, as discussed above, together with the Framework Track Access Agreement and the timetabling process set out in Part D of the HS1 Network Code provides a robust and fair method for the allocation of available capacity on HS1. In addition, the possibility of additional paths around the Catalogue Paths seeks to maximise the utilisation of capacity on the HS1 network, as well as providing opportunities for the short term business needs of freight operators.
- 3.12 Subject to the outcome of this consultation, HS1 Ltd intends to introduce the operation of the Catalogue Path system with effect from the Principal Change Date in December 2012. In the interim, HS1 Ltd is happy to continue to discuss short term track access contracts for

¹⁰ See Regulations 16(9) and 3(1) of the Railways Infrastructure (Access and Management) Regulations 2005.

¹¹ Consultation to commence early part of 2012.

¹² www.highspeed1.com

¹³ See paragraph 2.3.

a period under one calendar year with freight operators to allow such operators to utilise the HS1 network.

- 3.13 HS1 Ltd invites consultees to comment on its proposals to introduce the Catalogue Path system for the allocation of capacity to freight operators at night on HS1.

4. Assumptions

- 4.1 In developing the proposed Catalogue Paths set out in Annex 4, HS1 Ltd has had to make certain assumptions about the availability of HS1 and the characteristics of the rolling stock which will be utilised to operate freight services. This is so that HS1 Ltd can establish the maximum number of Catalogue Paths that can be guaranteed on any particular week night. In particular, the following has been assumed:
- 4.1.1 only one line of HS1 will be available on any one week night as the second line will be the subject of a possession (in accordance with the HS1 Rules of the Route). As such Single Line Working will be in operation;
 - 4.1.2 the freight loops at Singlewell and Lenham will be used for passing movements and accordingly the formation and characteristics of a train must be so that it can utilise such freight loops;
 - 4.1.3 the rolling stock will have similar characteristics to class 92 locomotives which, at present, is the only class of rolling stock accepted for use on HS1;
 - 4.1.4 the maximum speed of the service will be 75 miles an hour;
 - 4.1.5 the trailing load of each service will be 1600 tonnes of container; and
 - 4.1.6 any other operational characteristics or assumptions which were taken into consideration when preparing the Catalogue Paths.
- 4.2 Certain amendments may be required to the assumptions set out in paragraph 4.1, if/when that nature of freight operation changes on the HS1 network. Therefore changes to the Catalogue Paths may then be required as a result and the freight operators will be fully consulted in accordance with Part D of the HS1 Network Code

5. Template Framework Track Access Agreement

- 5.1 The template Framework Track Access Agreement is set out in Annex 1. Consultees are asked to consider the template Framework Track Access Agreement and its suitability. This section highlights the key provisions of the template Framework Track Access Agreement (with particular attention to the provisions that deviate from the ORR's model form freight track access contract in respect of Network Rail Infrastructure Limited) although consultees are invited to comment on any of its provisions.
- 5.2 Each Framework Track Access Agreement will incorporate the HS1 FAT. HS1 Ltd will also ensure that all operators of trains using HS1 agree to comply with the HS1 Network Code and each of the HS1 Operational Codes.
- 5.3 Clause 3 will only be included where the Specified Equipment proposed to be used by the train operator satisfies, to a qualified extent, the requirements of the relevant HS1 Standards in relation to compatibility with HS1. In such a case, there is a greater risk of damage being caused to HS1. Accordingly, HS1 Ltd considers that this indemnity should be included because it is within the control of the freight operator as to whether it takes such additional steps to ensure that the Specified Equipment is fully compliant with the relevant HS1 Standards. If it chooses not to do so, then the risk should be with the freight operator rather than HS1 Ltd.
- 5.4 Clause 4 has been adopted from the ORR's model form freight track access contract used in respect of the conventional railway network. HS1 Ltd considers this provision to be particularly important because HS1 is a point-to-point railway and accordingly freight operators are likely to require arrangements to move off HS1 onto adjacent networks. It is

the responsibility of the freight operator to put in place arrangements to gain access to such other networks.

- 5.5 Schedule 2 currently contains each of the operational connecting points to adjacent networks. As noted in paragraph 1.3, HS1 Ltd is currently investigating demand for the connection to the North London Line and the costs of making such connection operational.
- 5.6 Schedule 3 sets out the Collateral Agreements which a freight operator will be required to enter into as a condition precedent to being granted access to HS1. This is to ensure that all parties using HS1 are subject to the same disputes resolution and claims allocation and handling arrangements. It is noted that such arrangement in respect of HS1 are governed by different agreements to those which are used in respect of the conventional rail network.
- 5.7 Schedule 4 includes the current track access charges. This schedule will be updated to reflect the outcome of the freight avoidable costs review¹⁴. Column F of the table sets out a discount factor which, as is detailed in the notes to the table, will apply only in the period up to and including 31 March 2015. After this time there will be a review of the discount ahead of the next Control Period commencing 1 April 2015.
- 5.8 Schedule 5 will be considered in more detail in Section 6 of this consultation paper.
- 5.9 Schedule 6 sets out the performance regime values which will apply in respect of freight operations on HS1. The principle of the performance regime is to incentive efficient performance on the network and compensate customers (both passenger and freight operators) appropriately for the impact of delays on the network. Being a high speed railway network which provides high economic value to its customers (who pay a premium rate to operate on the HS1 network), there exists a performance regime that provides sufficient incentive for all customers to perform efficiently on HS1. HS1 Ltd must therefore ensure that the performance values are set at a level that recognises the impact of delay on all customers.

Schedule 5 of the template Framework Track Access Agreement – Catalogue Paths

- 6.1 In preparing the proposed template Schedule 5, HS1 Ltd has sought to provide freight operators with as much flexibility as possible whilst at the same time seeking to ensure that capacity is available to the maximum number of freight operators possible therefore ensuring that capacity is effectively utilised and fairly allocated.
- 6.2 HS1 Ltd proposes a system whereby a freight operator has Firm Rights to a small number of Catalogue Paths (without specifying which particular paths has such Firm Rights) and Contingent Rights (on a first come first served basis with other freight operators and at the discretion of HS1 Ltd) to: (i) any Catalogue Paths which remain available once HS1 Ltd has satisfied all Bids for Firm Rights; and (ii) any additional capacity which becomes available, whether as a result of maintenance requirements on a particular night or the emergence of available capacity around the margins of when passenger services operate.
- 6.3 This section highlights the key provisions in the proposed Schedule 5. Consultees are invited to comment on any provisions set out in the proposed Schedule 5.

Night

- 6.4 For the reasons detailed in Section 2 of this consultation paper, HS1 Ltd is proposing a system whereby freight operates only at night and on week days. HS1 Ltd considers night to be between 2330 and 0700. There may be however a limited number of freight train paths available on the margins of such a period, where passenger operations are either coming to an end or commencing in respect of a particular day. Therefore, HS1 Ltd has proposed a definition of night which incorporates both of these elements.

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http://highspeed1.co.uk/media/6692/freight_avoidable_costs_review_consultation_document_june_2011.pdf

6.5 Paragraph 1.3 of Schedule 5 sets out the convention which is to be used to ascertain capacity during what period freight operators are granted Firm Rights. Firm Rights to catalogue Paths are to be sold by reference to particular nights. The convention provides that a period of night will be identified by reference to the day on which that period commences. The following examples illustrate how this will work in practice:

- If there is a Catalogue Path with a departure time of 2330 on a Monday and a completion time of 0115 on a Tuesday, in this example, HS1 Ltd would regard the Catalogue Path as being on a Monday night.
- If there is a Catalogue Path with a departure time of 00:30 on a Wednesday and a completion time of 0500 on a Wednesday, in this example, HS1 Ltd would regard the Catalogue Path as being on a Tuesday night.
- If there is a Catalogue Path with a departure time of 00:30 on a Saturday and a completion time of 0500 on a Saturday, in this example, HS1 Ltd would regard the Catalogue Path as being on a Friday night.

6.6 As Catalogue Paths will be sold by HS1 Ltd on week nights only, for the purposes of the Framework Track Access Agreement paths will be sold for Monday to Friday night (inclusive).

Reasonable supporting evidence

6.7 The template provides that when the freight operator submits a Bid or Spot Bid (to be renamed to Train Operator Variation as part of proposed changes to Part D of the HS1 Network Code¹⁵) it must also provide reasonable supporting evidence that it intends to operate a Service using that slot. Further, HS1 Ltd will be entitled to reject such Bid or Spot Bid if either the freight operator has not provided such evidence or the freight operator has provided such evidence but HS1 Ltd (acting reasonably) is not satisfied that such freight operator will operate a Service.

6.8 As the acceptance of a Bid or Spot Bid means that such capacity is reserved in the timetable and given that capacity is constrained, HS1 Ltd wishes to discourage freight operators from submitting speculative Bids or Spot Bids which reduce available capacity if they do not intend to use the Catalogue Path (or other available capacity). This may mean that HS1 Ltd is not able to sell a Catalogue Path (or other available capacity) to a freight operator who would have used the Catalogue Path (or other available capacity). This would not be an efficient use of the available capacity on HS1 and would not see the use of such capacity being maximised.

6.9 HS1 Ltd believes that it is proportionate and justified to seek reasonable supporting evidence from each freight operator that it intends to operate a Service using the capacity which it seeks. Given that HS1 Ltd must act reasonably in making decisions, freight operators with comfort that if they can produce the reasonable supporting evidence should have sufficient, HS1 Ltd will be obliged to consider the Bid or Spot Bid in accordance with Part D of the HS1 Network Code.

Intermodal Wagons

6.10 Consultees will note that the template provides that only Intermodal Wagons (being railway vehicles which convey goods in fully enclosed and sealed containers or compartments) may be used on HS1. HS1 Ltd has made this proposal following discussions with the freight industry regarding the best approach to adopt to deal with an identified problem of large amounts of sand being deposited onto HS1. This came with an associated cost of clearing up such sand.

¹⁵ See note 11.

- 6.11 HS1 Ltd has considered the introduction of a sand spillage charge, akin to the coal spillage charge applicable in respect of the conventional railway network by which HS1 Ltd would accrue a fund which it could use towards the removal of sand spilled onto HS1. HS1 Ltd also considered introducing an indemnity into the Framework Track Access Agreement or the HS1 FAT whereby, if the train operator or operators responsible for the spillage could be identified, such parties would indemnify HS1 Ltd in respect of the costs of removing the spillage. Following such discussions, it was generally accepted that the costs of administering such a scheme could be significant and the freight industry would not welcome the introduction of such a charge.
- 6.12 Freight operators suggested instead that permission to use HS1 was granted only in respect of vehicles which could not spill sand onto HS1. This led to the development of the definition of Intermodal Wagons which is now proposed in the template.

Single Line Working

- 6.13 Paragraph 2.6 of the template provides that the Services will be subject to Single Line Working and timetabled in accordance with the relevant restrictions as required by the HS1 Standards (as updated from time to time). This reflects the assumptions used by HS1 Ltd in preparing the Catalogue Paths, as described in paragraph 4.1.1.

6. Proposed Amendments to the HS1 FAT

- 7.1 Following an extensive consultation in April 2011 the Office of Rail Regulation indicated that having considered the proposed HS1 FAT and without fettering its discretion in respect of future applications, it would be minded to approve a Framework Track Access Agreement which incorporated the HS1 FAT. Accordingly, the first edition of the HS1 FAT was published by HS1 Ltd in April 2011¹⁶. The HS1 FAT has now been in use for over six months and has been incorporated into a number of short term (less than one calendar year) track access agreements with freight operators for access to HS1.
- 7.2 In practice, HS1 Ltd and various freight operators have recognised that a small number of improvements can be made to the HS1 FAT so that it practically works as intended. In the short term track access agreements, a small number of modifications to the HS1 FAT have been agreed with freight operators. Given that HS1 Ltd is now consulting upon Catalogue Paths and the template Framework Track Access Agreement, HS1 Ltd believes it is an appropriate time to propose certain amendments to the HS1 FAT so that arrangements for access by freight operators to HS1 can be finalised.

Liability Cap

- 7.3 At present, the definition of “Liability Cap” refers to the greater of the Aggregate Variable DI Costs in respect of that Relevant Year and £1,000,000 (indexed). Aggregate Variable DI Costs means the variable DI Costs anticipated as being payable by a freight operator during that Relevant Year. In relation to freight operations on HS1, it has been recognised that it is likely to be difficult to calculate the Aggregate Variable DI costs in advance of the start of a Relevant Year because the nature of freight operations means that the number of Services to be operated is unlikely to be known so far in advance. Accordingly, where such information is not known in advance of a Relevant Year, the Liability Cap will be £1,000,000 (indexed).

Light Engines/ Traction Electricity

- 7.4 A new definition of “Light Engine” has been included. This term is used in the calculation of traction electricity under Section 7 of the HS1 FAT and is designed to allow HS1 Ltd to recover the traction electricity costs incurred by a locomotive operating without wagons.

¹⁶ See note 1.

Network Rail Infrastructure Limited standards

- 7.5 The HS1 FAT already refers to the HS1 Standards which apply in respect of operations on HS1. Ripple Lane forms part of the HS1 but was constructed and is operated in accordance with Network Rail Infrastructure Limited standards. As a result, where a Service operates to and/or from Ripple Lane, it must also comply with any relevant Network Rail Infrastructure Limited standards.

Cap on Compensation

- 7.6 The amendments to paragraph 9 of Section 4 of the HS1 FAT recognise that it may not be possible to calculate the aggregate OMRC payable by a freight operator in advance of a Relevant Year. Accordingly, if compensation becomes payable under Section 4 of the HS1 FAT during the course of a Relevant Year, it will be capped at 1.0% of the OMRC payable by a freight operator up to such point in the year, with a wash up mechanism following the end of each Relevant Year.

Gross Tonne Kilometre

- 7.7 A definition of Gross Tonne Kilometre has been added, which is not in the current version of the HS1 FAT. The term is used in the calculation of the traction electricity payment under Section 7 of the HS1 FAT and as such ensures that the definition is clear.

Performance Regime

- 7.8 For the same reasons described in paragraph 7.6, it may sometimes not be possible to calculate the aggregate OMRC payable by a freight operator in advance of a Relevant Year. The additional wording provides for what happens in such an event.

Calculation of Performance Sums

- 7.9 Amendments are proposed to paragraphs 1.1 and 3.2 of Part 2 of Section 8 to ensure that trains making an Ancillary Movement are not taken into account for the purposes of calculating the number of trains operated under the performance regime.

7. Consultation Timetable and Process

- 8.1 HS1 Ltd invites comment on the proposed Catalogue Path system and its template Framework Track Access Agreement as described in this consultation document. Please send any responses by 16 March 2012 to:

Chinua Labor
Regulatory Contracts Manager
HS1 Limited
73 Collier Street
London
N1 9BE

Email: chinua.labor@highspeed1.co.uk

- 8.2 If you wish to discuss any element of the consultation or have more general queries, you can contact Chinua Labor via email (as above), or by telephone on 020 7014 2758. Please indicate if you wish any part of your submission to remain confidential. Otherwise, HS1 Ltd expects to share the response with the ORR and place it on its website.
- 8.3 Following review of consultation responses HS1 Ltd will, if necessary, consider the Catalogue Path system and the template Framework Track Access Agreement further, addressing any issues raised by stakeholders during the consultation period. HS1 Ltd will also publish its final conclusions on these matters in due course and will update the HS1 Network Statement to reflect these matters.

Annex 1
Template Framework Track Access Agreement

Annex 2
Proposed HS1 Freight Access Terms

Annex 3

Comparison between existing HS1 Freight Access Terms and the proposed HS1 Freight Access Terms

Annex 4

Proposed Catalogue Paths with effect from the Principal Change Date in December 2012