

The French railway regulatory body
ensures fair and transparent
access to the national railway
network

Annual report 2013



**French railway
regulatory body**

Autorité de régulation des activités ferroviaires





Pierre Cardo
president of ARAF

Editorial

ARAF (Autorité de régulation des activités ferroviaires in French i.e French railway regulatory body) is now four years old and I'm happy to present this annual report. Over the years, ARAF has built up rail regulation in France, we have developed our field of competence and increased our knowledge of the sector.

2013 saw a certain number of changes in rail regulation in France concerning "cabotage" (international passenger service involving domestic stops), accounting separation for long-distance national trains, etc.

In 2013 we also reiterated our recommendations for a more efficient use of the rail infrastructures.

ARAF's opinions and dispute settlement activities have contributed to the improvement of train path allocation and optimization of the service facilities. We have done this with the sole objective of improving the efficiency of the national rail network.

ARAF has been questioned by French and European parliamentary delegates and representatives of the European Commission in order to explain our role, our observations and recommendations, and to share and deepen our knowledge of the French rail sector.

The regulator also listens to railway companies, experts and user representatives so as to understand the concerns of rail operators. In order to achieve that, we organized our first conference on economic regulation in 2013, and the second one took place last May 2014.

I am also pleased to report the regular exchanges between ARAF and the other European railway regulators, as well as with representatives of the European Commission who came to Le Mans (our head office) in July 2013.

2013 was also a very important year since the French government submitted its draft law regarding rail reform to the French Parliament.

The French government chose to enforce a vertical rail system which results in reinforcing the field of expertise of the regulator.

When the draft law was introduced, I expressed my surprise on reading the initial text because ARAF was meant to lose its binding opinion on infrastructure charges. This measure was in total contradiction with the asserted will of the government to increase the power of the regulator. Working with parliamentary delegates, including Gilles Savary, the auditor ("rapporteur") of the law at the French National Assembly whom I would particularly like to thank, allowed our arguments to be taken into account. In the end, not only did the parliamentary delegates re-establish ARAF's binding opinion on infrastructure fares but also extended this to all service facilities.

I also would like to thank Frédéric Cuvillier, who was Minister for Transport at that time, for helping to initiate this matter.

ARAF also asserted its competences with statements on various economic and financial aspects which will allow us to express our opinions on other crucial subjects concerning the future of the rail system.

This editorial is for me an opportunity to warmly thank Dominique Bureau and Henri Lamotte who left ARAF's board of experts in July 2014 after a term of four years. Thanks to their hard work and expertise, they helped to give both credibility and efficiency to our actions from the very outset of our decision-making body.

I hope the content of this third annual report will help you to understand our opinions and decisions, to grasp our growing knowledge and the development of our principles regarding all that is at stake in the railway sector, as well as our ability to meet the challenges of intermodal competition.

Pierre Cardo
President of ARAF

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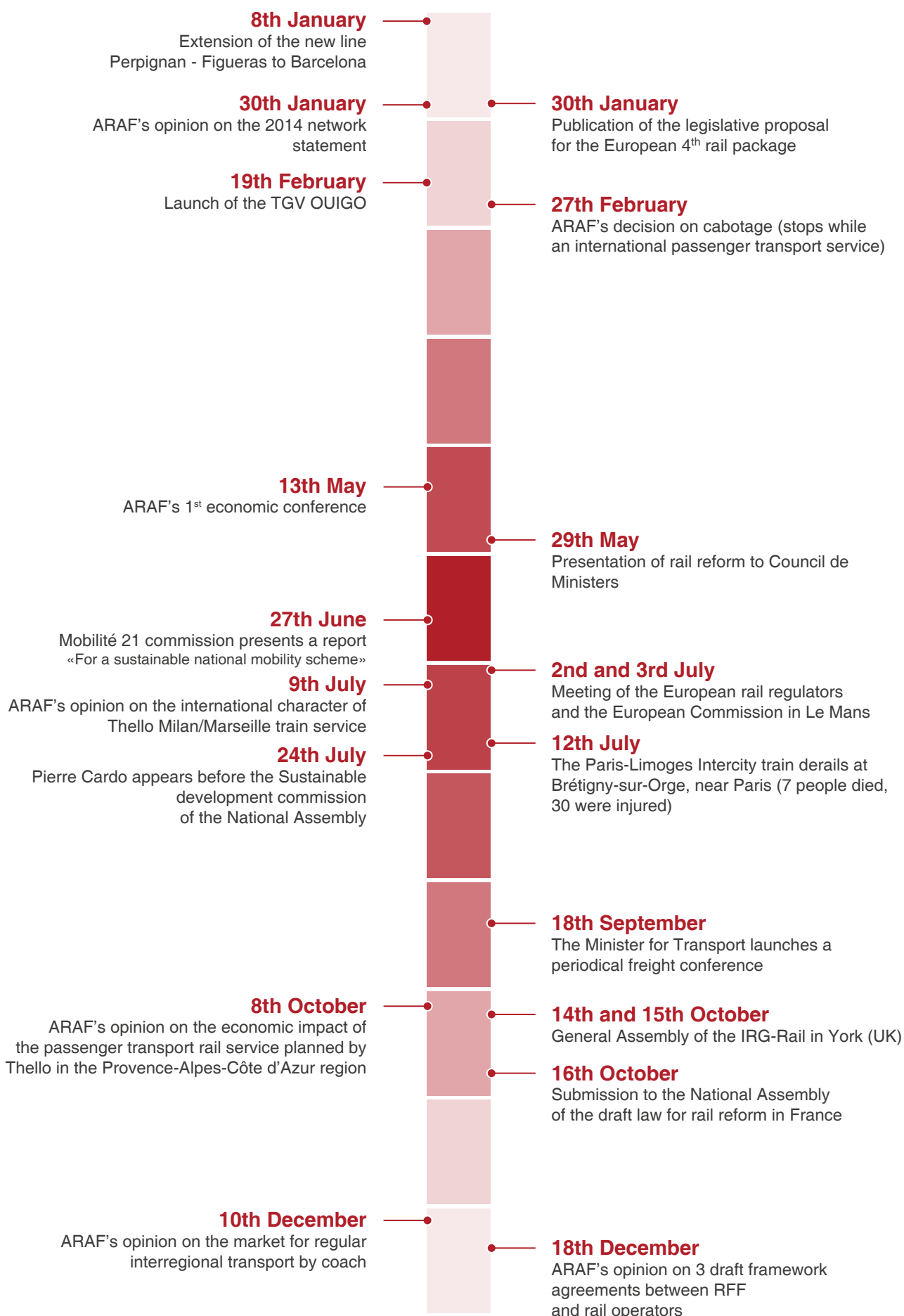
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PART 1

ARAF's
missions and
operations



French Railway Regulatory body, ARAF (*Autorité de régulation des activités ferroviaires - ARAF*), is an independent public authority created by the law of 8 December 2009 to ensure the correct operation of public rail services and competitive rail transport activities to the benefit of the users, passengers and industrial companies.

Its mission is to ensure that rail operators have fair access to the rail network and associated service facilities (stations, freight terminals, power supply), and also to help to increase the efficiency of the rail system in terms of service quality, safety and costs.

ARAF acts on behalf of the State, under court and parliamentary supervision. It controls the conditions of access to the national rail network, i.e. the allocation of train paths by the infrastructure manager, Réseau ferré de France (RFF), to rail operators; access to services; tolls applied by RFF; compliance with the rules of competition between the undertakings already on the market and the "newcomers".

ARAF issues opinions on the provisions that govern the operation of the sector. In particular, these opinions cover :

- ✓ draft regulatory texts regarding access to the rail network and the design, construction and use of the infrastructures and the rail transport equipment;
- ✓ the network statements of the national rail networks, which gather together all the economic, technical and administrative rules, for access to the different networks managed by RFF;
- ✓ the infrastructure charges paid by rail operators for using the network; these charges can only come into force after ARAF's binding opinion;
- ✓ the appointment or the early termination of duties of the rail traffic director, within SNCF, on behalf of RFF.

ARAF settles disputes

Disputes that may arise between railway undertakings or between railway undertakings and the infrastructure managers regarding the right of access to network and related services. The Authority must also issue an opinion on the decisions of the public rail safety establishment (Etablissement public de sécurité ferroviaire - EPSF) that an operator deems to be discriminatory.

ARAF shall ensure the international character

of a passenger rail service introduced between France and other European countries within the context of the opening up to competition of international passenger services in operation since December 2009. It will also issue an opinion on whether the economic balance of a public service contract is compromised as a result of national cabotage operations carried out during an international passenger train service.

ARAF has wide powers granted by law to enable it to fully carry out its missions:

- ✓ the power to conduct extensive investigations, enabling it to access the accounts of the infrastructure managers and railway undertakings : the Authority's accredited agents may collect information, carry out inquiries, inspections and seizures and provide official reports;
- ✓ An "auxiliary regulatory power" which enables the regulator (after approval by the Minister for Transport) to set the rules that specify the conditions of access to the network and the service facilities, i.e. passenger stations, freight terminals, sidings and power supply, etc.,
- ✓ Sanction powers in the event of breach of the network access rules i.e. the regulator may carry out inquiries and impose sanctions, including fines of up to 5% of the undertaking's turnover. The sum of these fines shall be re-paid to the Financing Agency for French transport infrastructures (Agence de financement des infrastructures de transport de France - AFITF). It may also restrict the access of a railway undertaking to all or part of the network, for one year maximum.

Dispute settlement: how can I refer to the Authority?

Who can refer to ARAF?

Anybody who is authorised to request rail infrastructure capacity or any infrastructure manager may refer to the French regulator if they consider they are being treated unfairly, discriminated against or subject to any other prejudice associated with access to the rail network.

Types of dispute

The dispute must relate to accessing the national rail network or railway lines opened to public traffic that are connected to it, including port access lines and lines to terminals that serve or could serve more than one end user.

The transport code provides a non-exhaustive list of eight areas to which the dispute may relate:

- 1 The content of the network statement
- 2 The procedure for railway infrastructure capacity allocation and associated decisions
- 3 Particular conditions
- 4 Exercising the right to access the network and the charges to be paid for the use of the network under the rail charging structure
- 5 Rail safety monitoring
- 6 Exercising the right to access service infrastructure, as well as the provision and charging of services
- 7 The implementation of framework agreements and contracts for the use of the infrastructure
- 8 The creation of internal passenger transport services carried out during an international passenger transport service (cabotage).

Legal forms ?

Legal representation is not compulsory when referring to ARAF and the procedure is free, in order to allow all undertakings to appeal.

ARAF's rules of procedure (see website regulation-ferroviaire.fr), which set out the different stages of procedure, state that any appeal must be submitted in French and sent to ARAF's head office in as many copies as there are parties plus three copies, either by registered mail or delivery with receipt.

The appeal shall describe the facts at the root of the dispute, the grounds for appeal and the specific content of the claims.

The aim of the dispute settlement procedure is to guarantee the parties a "fair hearing", by respecting the "adversarial" principle.

The Paris Court of Appeal ensures that this principle is being respected and can set aside any decision by the Authority based on information not submitted to the adversarial process.

Focus

The Court of Appeal issued a decision on 6th December 2012 confirming ARAF's practice regarding several points of procedure :

- ✓ The existence of previous discussions between the parties prior to ARAF being called upon for dispute resolution is not a requirement for receipt, but allows ARAF to decline an appeal if it appears that previous discussions would have enabled the parties to resolve the conflicts themselves.
- ✓ ARAF shall not uphold sanction requests that are part of a dispute settlement request.
- ✓ ARAF may identify and suggest modifications to the applicable regulations during dispute settlement.

Any party who wishes to refer to ARAF for dispute settlement may apply to the regulatory body's registry office in order to obtain the information required for the correct appeal procedure.

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Sanction procedures, necessary reforms

Like most sector-regulating authorities, ARAF has powers of sanction:

- ✓ A financial sanction of up to 3% of the undertaking's turnover or 5% in the event of a repeated offence,
- ✓ or a temporary access ban for all or part of the rail network for a period of time not exceeding one year. This applies to railway undertakings and infrastructure managers who, after official notification by the regulator, do not remedy the problems they are being accused of.

In order to set the legal framework for ARAF's power of sanction, the legislator was largely inspired by the provisions applicable to ARCEP (*Autorité de régulation des communications électroniques et des postes* – French Postal and electronic communications regulatory authority).

After a decision of 5th July 2013 issued on the occasion of a priority preliminary ruling on constitutionality, the Constitutional Council deemed that the legislative provisions for ARCEP's powers of sanction did not comply with the Constitution. The members of the Council considered that this procedure caused confusion between the pursuit and investigation functions on the one hand, and the judgement functions on the other hand.

The sanction procedure that can be applied by ARAF could lead to the same criticisms: the Authority's board effectively combines the function of official notification and judgement of breaches, which is problematic with regards to the constitutional principle of impartiality.

The ARCEP sanction procedure was modified by the ordinance of 12th March 2014. From now on, four members of the board including the President of ARAF, will make the decisions on official notification to comply, and three other members of the board will make the

sanction decisions.

Concerning ARAF, the debates on the draft rail reform law before the Sustainable development commission of the National Assembly in late May 2014 came down in favour of the creation of a Sanction Commission.

This solution would consist in entrusting the judgement function to a sanction commission that is completely independent from ARAF's board and operational services, so as to respect the principle of impartiality. The board shall retain the ability to give the operator prior notice to comply.

Key facts

- ✓ ARAF guarantees free and non-discriminatory access to the national rail network for all operators.
- ✓ ARAF intervenes in dispute settlement between railway undertakings or with infrastructure managers.
- ✓ ARAF has the power to impose financial sanctions or temporary access bans to all or part of the rail network.

¹ Law 2009-1503 of 8th December 2009 regarding the organisation and regulation of rail transport and setting out various provisions regarding transport contained in Articles L.2135-7 and L.2135-8 of the Transport Code.



From left to right: Jean-François Bénard, Henri Lamotte, Daniel Tardy, Anne Bolliet, Pierre Cardo, Michel Savy, Dominique Bureau.

The board is the decision-making body of ARAF. It defines ARAF’s strategies, and adopts the decisions and opinions of the majority of the members present, based on a quorum of at least four members of the board. In the event of a tie, the president holds the deciding vote.

The six members of the board and their president are selected for their expertise in rail, economic or legal matters, or for their expertise regarding competition.

The members of the board cannot be dismissed, so as to guarantee the independence of the regulator. Their mandate is for six years and cannot be renewed. They cannot have any interest in a company in the rail sector, either directly or indirectly, nor decide on an affair in which they have or have had an interest during the three years prior to the deliberation.

Four members of the board, including the president, are

appointed by the government. The three other members are appointed respectively by the President of the National Assembly, the President of the Senate and the President of the Economic, Social and Environmental Council.

A third of the board is renewed every two years. The president was appointed for six years on the creation of ARAF and the length of the mandate of the other members was set at two, four or six years by the drawing of lots.



Pierre Cardo,
President,
appointed in 2010
by the French President
His mandate will expire
in July 2016.



Anne Bolliet,
appointed in 2012 by the
President of the Senate,
whose mandate will
expire in 2018.



Jean-François Bénard,
appointed in 2012 by
the government as a
replacement for Claude
Martinand (deceased),
his mandate will expire
in July 2016.



Michel Savy,
appointed in 2012
by the government,
his mandate will expire
in 2018.



Dominique Bureau,
appointed in 2010 by
the President of the
National Assembly,
his mandate expired
in July 2014.



Henri Lamotte,
appointed by the
government in 2010,
his mandate expired
in July 2014.



Daniel Tardy,
appointed by the
President of the
Economic, Social and
Environmental Council,
until July 2016.

The board activity in 2013

36 is the number of sessions held by the board in 2013

22 is the number of rail operators heard by the board in 2013

35 is the number of opinions (16) and decisions (19, of which 6 regard dispute settlement), adopted by the board in 2013

+ visits of rail sites

The board regularly visits rail sites. In 2013, it focused its visits on the maintenance of rolling stock. Traffic management and electrical traction installations.



European Technicentre visit (TGV-East train maintenance centre) by ARAF's members of the board and department directors.

Rail equipment maintenance: the East European Technicentre

This maintenance centre for the 52 trains of TGV-East (23 000 square metres, 62 km of tracks, 5 km from the Paris-Est train station) carries out maintenance on both the intercity and the TGV trains going to the East of France, Germany and Switzerland. Two types of maintenance are carried out in this Technicentre: the corrective maintenance on trains that have broken down or been in an accident, and preventive maintenance for the examination and inspection of the trains.

Transit and traffic regulation

Traffic management is a central subject for ARAF; its visit to the signalling and control centre of the Paris Gare de Lyon substation centre enabled the Authority to see the signalling station (for track equipment control) and traffic regulation operations in action.

Electrical traction installations

The board also visited the substation centre of the power equipment production unit for the Paris Sud-Est region. This unit manages the operation and maintenance of the electrical traction equipment in the Paris Sud-Est region.

Key facts

- ✓ With its 7 members, the board is the decision-making body of ARAF.
- ✓ The members of the board cannot be dismissed and hold no interests in any railway undertakings.
- ✓ The members of the board held regular sessions for rail-sector operators to better understand their concerns.



ARAF's technical departments provide their expertise for the preparation of the board's recommendations, opinions and decisions. They investigate the disputes submitted to the Authority and the sanction procedures.

ARAF's organization

ARAF's operational departments are under the responsibility of the general secretary appointed by the president. They have been structured in three operational directorates :

✓ Legal Affairs directorate

which is in charge of all legal matters. It conducts dispute settlement and sanction procedures and ensures the legal reliability of the board's decisions. It also prepares the legislative and regulatory proposals and opinions formulated by the Authority and bears responsibility for dispute files.

✓ Network Access directorate

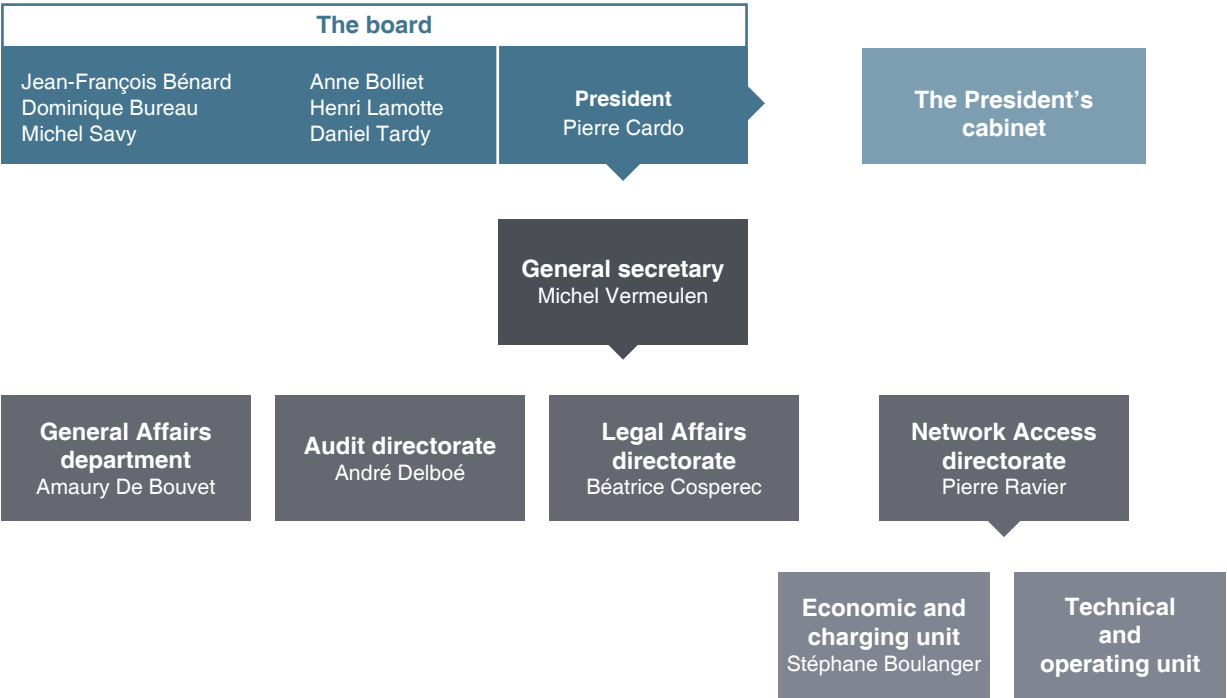
which is in charge of economic and technical matters. It regulates the access of undertakings to the infrastructures and rail-related service facilities.

✓ Audit directorate

which is in charge of all activities relating to accounting separation and the control of the costs of regulated services. It carries out the accounting control of SNCF.

✓ General Affairs department deals with all the Authority's resources and means, i.e. human resources management, accounting and financial management, information systems and documentation.

ARAF organization chart



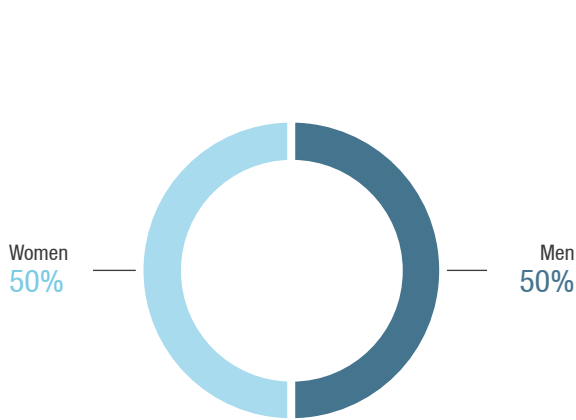
ARAF's agents

On 31st December 2013, 36 agents were working at ARAF, excluding the board. Average age is 39 years. ARAF's mission requires it to have access to a high level of expertise in the fields of railways, regulatory law, transport economics or audit analysis. ARAF may employ seconded civil servants and magistrates to meet its needs. It may also recruit fixed-term contract workers within the civil service.

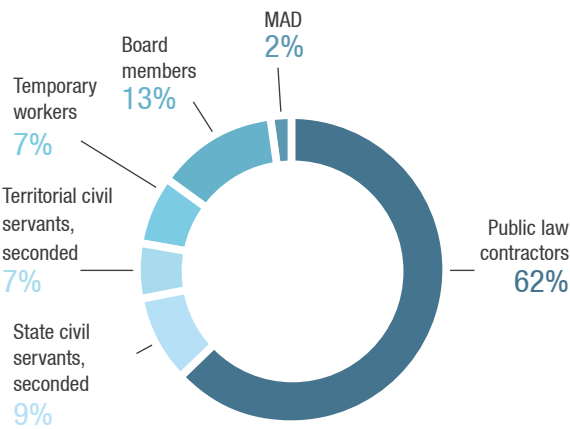
80% of ARAF's agents have been directly allocated to regulatory positions. They mainly come from the private sector (companies, audit offices, consultancies, universities and other regulators, etc.) or have been recruited on graduation with a very high level of qualification and technical expertise.

With the aim of increasing its authority, ARAF should have around sixty employees in the long term.

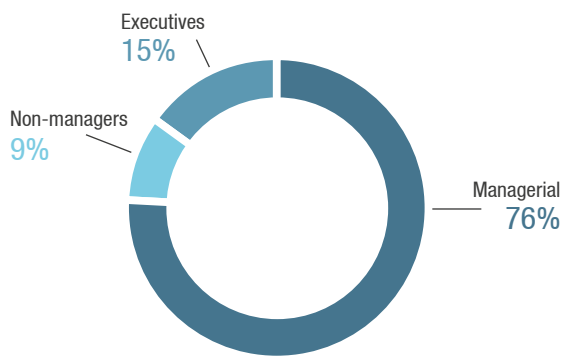
Gender distribution of the workforce on 31/12/2013



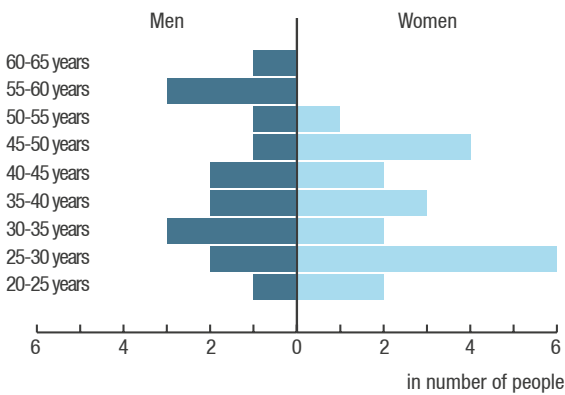
Distribution of the workforce on 31/12/2013 by type of contract



Distribution of the workforce on 31/12/2013 by socio-professional category



Age pyramid on 31/12/2013 (excluding board members)





ARAF's financial resources

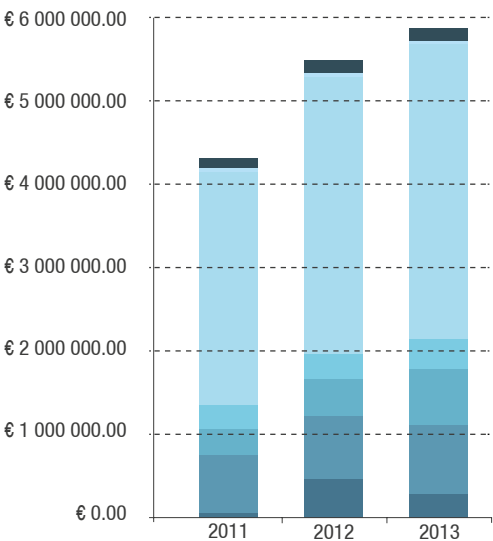
As an independent public body, ARAF has financial autonomy. It is subject to post-audit control by the Court of Auditors.

Its resources come from a duty paid by railway undertakings: 3.7 thousandths of the charges for the use of the national rail network paid to RFF. In 2013, these charges amounted to approximately €12.8 million.

However, following the legislative provision introduced by the 2012 Finance Act, ARAF's budget is capped at €11 million. This cap was not modified in 2013, with the surplus being paid into the State budget.

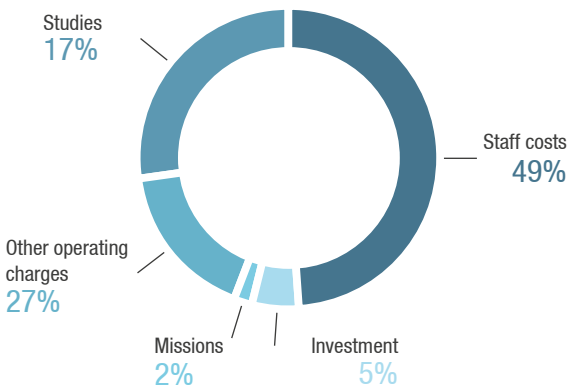
Given its progressive development, ARAF has operating funds that exceed its current requirements. These may be reduced without compromising its operation. This is why, on 10th April 2013, ARAF proposed to the Transport and Budget Ministers that this duty would not be collected for one year in 2014. Consequently, it set its rate at 0 for 2014. This proposal was accepted by the government.

Trends in operating expenses from 2011 to 2013



- Depreciation expenses and provisions
- Other day-to-day management costs (board expenses, etc.)
- Staff costs (salaries, social security charges, etc.)
- Taxes, levies and similar charges (salary tax, property tax, etc.)
- Other external services (public relations, travel costs, training, cleaning, etc.)
- External services (rents and hire charges, servicing, maintenance, insurance, documentation, etc.)
- Purchases (purchase of studies, administrative supplies, power, etc.).

Budget approved in 2013



Key facts

- ✓ ARAF's resources come from the payments made by the railway undertakings to RFF: € 12.8 Billion in 2013
- ✓ ARAF's budget is capped at €11 million. The excess is paid into the State budget.
- ✓ ARAF proposed that no charge would be collected in 2014. The government accepted this proposal.



Regular consultation of rail operators

Since its creation, the ARAF's board has organised regular meetings with all those involved in the sector. In 2013, it consulted six rail operators that carry out passenger and freight transport activities in France and in Europe.

RFF, the infrastructure manager, was questioned on various subjects, particularly regarding the introduction of the recommendations and observations about the Network Statement.

Questions regarding train paths allocations and charging caught its attention. ARAF also consulted representatives of the users and customers of the rail system.

These exchanges provide ARAF with useful information on the conditions and difficulties encountered in operating rail services, and on the state of the rail market and its prospects for the future.

As part of a dispute settlement between four freight operators and RFF (regarding train path allocation and monitoring, invoicing and the reimbursement of the reservation charge), ARAF decided to start discussions to specify the methods for a lump-sum penalty system in the event of cancellation of a certain train path without provision of an alternative solution.

The aim is to create a financial mechanism providing an incentive for RFF to minimise the number of certain train paths cancelled and to propose alternative solutions when it has to cancel them. The aim is also to enable better use of the network by encouraging the operators to abandon train paths that they are not going to use at the earliest possible moment.

These consultations should allow all the parties involved to analyse the suitability of the proposed solutions. ARAF will set the penalty system during 2014, ready to be applied to the 2015 timetable, at the latest.

Institutional relations

ARAF regularly meets with French and European institutions. These exchanges are essential to feed into its work, develop its expertise and ensure that the objectives and tools of regulation, which are relatively new in France in the rail sector, are better understood.

In France, the president of ARAF regularly appears before the Sustainable development commission at the National Assembly and at the Senate. He speaks with senators and deputies.

The importance of the role of the regions, as transport authorities in particular, justifies frequent contact between ARAF, regional authorities and the French Regions Association (Association des régions de France - ARF). Pierre Cardo thus gave a presentation at the ARF conference in October 2013.

Exchanges between the rail regulator and the Competition Authority (*Autorité de la concurrence - ADLC*) are also frequent. ADLC gives its opinion on the accounting separation rules submitted to the regulator. This was the case in 2013, in particular for the rules regarding the accounting separation for Gares & Connexions and the long distance domestic trains activities (Trains d'équilibre du territoire).

The Competition Authority asked for ARAF's opinion on three occasions:

- ✓ a complaint by Veolia Transdev regarding practices likely to constitute an abuse of dominant position during a call to tender for technical assistance in the city transport sector;
- ✓ regarding the separate analytical accounting rules, proposed by Fret SNCF, for its "full-train loads" business, on the one hand, and its "isolated wagon" business on the other hand; this accounting should ensure that the charges for the full train services offered to the loaders by Fret SNCF cover the avoidable costs associated with rail freight by full-train loads;
- ✓ regarding a public consultation launched by the Competition Authority on passenger interregional transport by coach (see opposite)

Finally, the Competition Authority consulted Pierre Cardo, president of ARAF with regard to the opinion that it was to issue on the draft law for rail reform.

Focus

Towards the deregulation of coach long distance transport in France

The Competition Authority launched a public consultation after its first recommendations with a view to more competition in interregional transport by coach and the rewording of the conditions for the operating authorisation for these lines.

The main limit on the development of this market in the opinion of the Competition Authority, is the regulatory framework, i.e. domestic long distance coach lines are only authorised if there is an agreement between the organising and transporting authorities or if it is a cabotage line (national services on international lines).

The Competition Authority recommended to change regulatory framework and to introduce an independent administrative authority responsible for the multimodal regulation of the sector.

The Competition Authority formulated the following recommendations on completion of the public consultation:

- ✓ to remove the cabotage constraints on international lines;
- ✓ to implement a regime of entitlement for connections more than 200 km long;
- ✓ to clarify the impact test for the economic balance of subsidised lines less than 200 km long;
- ✓ to clarify the access to long-distance bus stations;
- ✓ to introduce an independent administrative authority responsible for integrated multiple-sector regulation (rail and road transport).

Key facts

- ✓ To develop its expertise, ARAF regularly meets with the French and European institutional bodies involved.
- ✓ ARAF is part of the association of European railway regulation authorities and is in charge of the group working on network charges.
- ✓ On three occasions, the Competition Authority asked for ARAF's opinion.



In view of the latest developments in European railway affairs, especially the discussions regarding the 4th rail package, the President of ARAF met the main European rail operators, parliamentary delegates and members of the European Commission (DG Move).

Apart from these meetings, the Authority has pursued exchanges and joint work with its European counterparts so as to share best practices and ensure reliable and coherent regulation throughout Europe.

In addition to the bilateral contacts which were able to exist between ARAF and the other European rail regulators, these exchanges are essentially based on two particular structures:

- ✓ the official network for rail regulators (European Network of Railway Regulatory Bodies - ENRRB), set up by Directive 2012/34/EU;
- ✓ the association of independent European regulators, IRG-Rail.



The members of the European network of railway regulatory bodies (ENRRB) met in July 2013 at the Château de la Groirie, near Le Mans, the city that hosts ARAF's head office.

Network regulators hosted by the European Commission

The official network of rail regulators (European network of railway regulatory bodies, ENRRB) aims to achieve better coordination between the European regulatory bodies, i.e. to improve the exchange of information on their activities and decision-making principles.

The ENRRB is a forum for discussions between the Commission, on the one hand, and the regulators, who present the reality of regulation and present the decision-making practices in their respective countries, on the other. They met three times in 2013 and the second network meeting was organised by ARAF, on 2nd and 3rd July 2013 in Le Mans.

The ENRRB also plays an expert role in the preparation of the secondary legislation widely provided for in Directive 2012/34/EU. Three meetings were therefore organised in March, April and October to present the regulators' experience on the principal purpose test and economic balance test for a new international passenger transport service (cabotage).

IRG-Rail

Together with the work of the ENRRB, ARAF was a founding member, in June 2011, of IRG-RAIL, an association with now 25 European railway regulatory bodies. IRG-Rail expresses the regulators' point of view on the major issues at the European level and also on matters associated with railway regulation. It plays an active role in the preparation of the European implementing acts to be used as part of the application of Directive 2012/34/EU.

Anna Walker, President of the Office of Rail Regulation (ORR), the British regulator, chaired it in 2013. Its vice-president, Jacques Prost, President of the Luxembourg Rail Regulation Authority, will succeed her in 2014.

The first plenary session of IRG-Rail, in London on 24th April 2013, approved the position of the association on the European Commission's legislative proposal of the 4th rail package. A second plenary session was held mid-October 2013 in York (UK) and enabled several positions to be adopted, in particular the implementing act regarding the calculation of the directly imputable costs and the 4th rail package.

Four working groups have been created within IRG-Rail in order to discuss the following subjects:

- ✓ network access and the introduction of rail freight corridors, in particular;
- ✓ the development of a common approach or the market monitoring of rail contracts (statistical indicators);
- ✓ the development of common positions on the European legislative proposals and on the 4th European rail package, in particular;
- ✓ the development of common approaches for charging matters.

In 2013, the European legislative landscape was in fact marked by the discussions on the 4th rail package proposed by the European Commission so as to re-work the existing directives and regulations in order to create a single European rail area. Its proposals focus on three objectives - to separate the main functions of the network manager, to set a deadline for the liberalisation of national passenger transport, and to improve interoperability between the European rail systems (by introducing a One-Stop-Shop for safety certifications, in particular).

IRG-RAIL looked first at the European Commission's proposal, presented on 30th January 2013. The first common position underlines the risks associated with the lack of clarity, in the definitions in particular, which could lead to diverging interpretations in the different Member States. IRG-Rail advocated a pragmatic approach

to the questions of governance, given the diversity of approaches of its members. It did, however, recognise that an integrated model was only acceptable in the presence of a strong regulator. The association underlined the limits of the mechanism for verifying compliance with the obligations introduced to ensure the independence of the infrastructure manager.

A second common position evaluated the amendments proposed by the auditors El Khadraoui and Grosch, responsible for the draft amendment of Directive 2012/34/EU rail and the re-working of the PSO regulations. IRG-Rail insisted on a more balanced approach between open access and public service contracts, being concerned about amendments that would protect public service contracts too much (restrictive understanding of the economic equilibrium, limiting competition on the lines covered by a contract).

Among the proposed amendments, it noted with interest those which propose giving more ex-ante powers to the regulator. The association reiterates its opposition to the idea of creating a European regulator which does not have sufficient flexibility at the national level to take into account the specific characteristics of each national rail network.

The IRG-Rail working group dedicated to charging matters is managed by ARAF. It aims to define a common approach on subjects associated with the charging of and access to the rail network. It is, for example, a question of issues associated with the implementation of charging at a "directly imputable cost" (Article 31.3 of Directive 2012/34/EU), the verification of the sustainability of the increases to be collected under Article 32.1 of the same directive or even the unit charging given the rarity of the capacities listed in Article 31.4.

In 2013, the working group finalised a position in reaction to the strategies proposed by the European Commission for drafting the implementing act regarding the "methods for calculating the directly incurred cost" (Article 31.3 of Directive 2012/34/EU). This document was adopted during the IRG-Rail general assembly held in York on 14th and 15th October.

In 2014, the working group will be pursuing its work on directly incurred costs, scarcity charging and the definition of market segments.

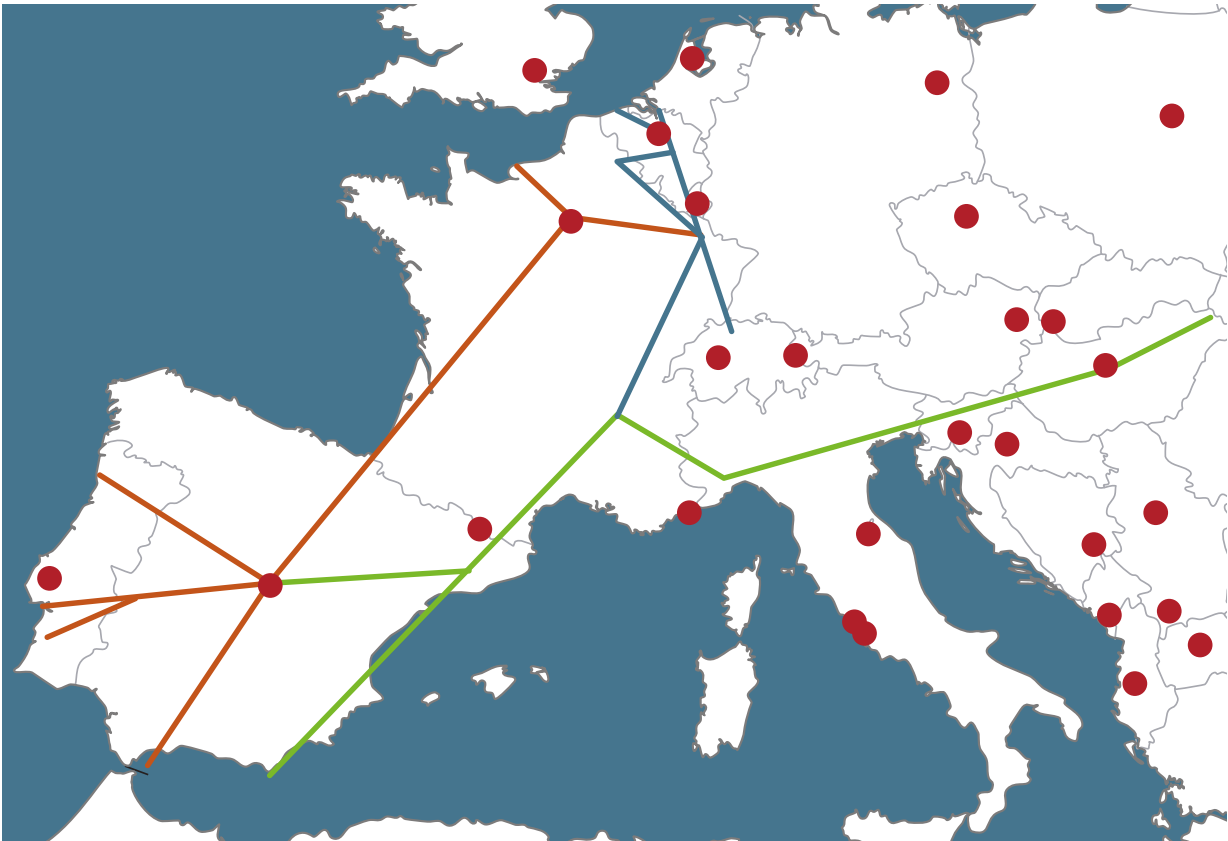
The implementation of rail freight corridors

The rail freight corridors aim to promote cross-border rail freight by offering guarantees to railway undertakings. The countries and infrastructure managers in question must introduce unified management structures for each corridor, known as a One-Stop Shop, which deliver international train paths pre-constructed for freight.

Corridors 2, 4 and 6 run through France (see map below). ARAF signed an agreement for each of them with its European counterparts in 2013 so as to define the methods of cooperation for the regulation of the corridors and for the investigation and settlement of disputes that may arise.

Besides, IRG-RAIL continued to discuss the role of regulators in the ex-ante regulation of the corridors i.e. the monitoring of the work of the one-stop shop and the non-discriminatory nature of the documents that it produces (e.g. the corridor information document which sets the rules for the allocation of the pre-constructed train paths on the corridors).

There are three freight corridors running through France



Corridor 2
Rotterdam & Anvers to Lyon & Basel, via Belgium, Luxembourg, France

Corridor 4
From Lisbon/Oporto (Portugal) & Algeciras (Spain) to Le Havre & Metz

Corridor 6
From Almería and Madrid (Spain) to Hungary via France, Italy and Slovenia



Jean Tirole, president of the Toulouse School of Economics and Pierre Cardo during the 1st Economic Conference held by ARAF in May 2013.

ARAF's contribution to intellectual debate

Although the intervention of a regulation body in the rail sector is new in France, the same is not true for other sectors and for other countries.

Starting in the 1980's, the opening up of the railway, finance and health markets to competition has paved the way for the creation of independent sector regulators whose job it was to ensure fair access conditions to new entrants and oversee relations between the operators and the users.

Their originality comes from the fact that these regulators are responsible for developing the rules and carrying out inspections, applying sanctions for discriminatory behaviour and settling disputes.

These independent regulatory bodies are faced with the same challenges, i.e. avoiding breaches and unnecessary duplication of investment, ensuring that the political and social objectives are met (as regards social cohesion, the environment and the preservation of resources, in particular). Indeed, regulation acts on the competitive nature of the tender and the methods for the distribution of productivity gains between the different entities involved in the sector.

The regulators are also faced with the same institutional and organisational challenges i.e. means of intervention; overlapping competencies; articulation of their action on the European level with their counterparts and the European institutions; organisation of relations with the different parties involved in regulation; cooperation issues with the competition authorities; relations with the executive and judiciary powers, etc.

Over the last 30 years, the regulatory bodies have developed their own concepts and tools that the academic world has sought to exploit and theoreticise.

Based on this observation, the French railway regulator established in 2010 has chosen to develop several initiatives in order to:

- ✓ Capitalise on the experience of regulation in the other sectors of the economy, both in France and abroad;
- ✓ Contribute to research on subjects associated with regulation, for example by studying the pertinence of the transposition of these experiences to the rail sector.

In addition to the immediate benefits that ARAF may obtain on a daily basis, these initiatives will help to increase the visibility of the French regulatory body.

ARAF thus organised its first economic conference on 13th May 2013. Introduced by Jean Tirole, from the Toulouse School of Economics, this conference brought together around 200 participants to discuss the subject of rail network capacity constraints and economic regulation.

The speakers debated the issues of the definition of congestion and the scarcity of train paths, arbitration between robustness and capacity of the rail traffic diagram, the cost of network congestion and the economic signals sent out by infrastructure charging.

The conference documents can be downloaded from ARAF's website (www.regulation-rail.fr) and are available on request.

ARAF organised a first conference on legal matters at the end of March 2014, followed by a new economic conference, on 26th May.

In addition, ARAF's staff have participated in conferences organised by other institutions, including:

- ✓ **"IPF Conference 2013"**, mid-June 2013 in Milan.
- ✓ **"The single European rail area : What are the realities?"**
end of September 2013 in Valenciennes.
- ✓ **"European transport conference 2013"**,
early October 2013 in Frankfurt .
- ✓ **"7th Florence rail forum"**, end of November 2013
in Florence.

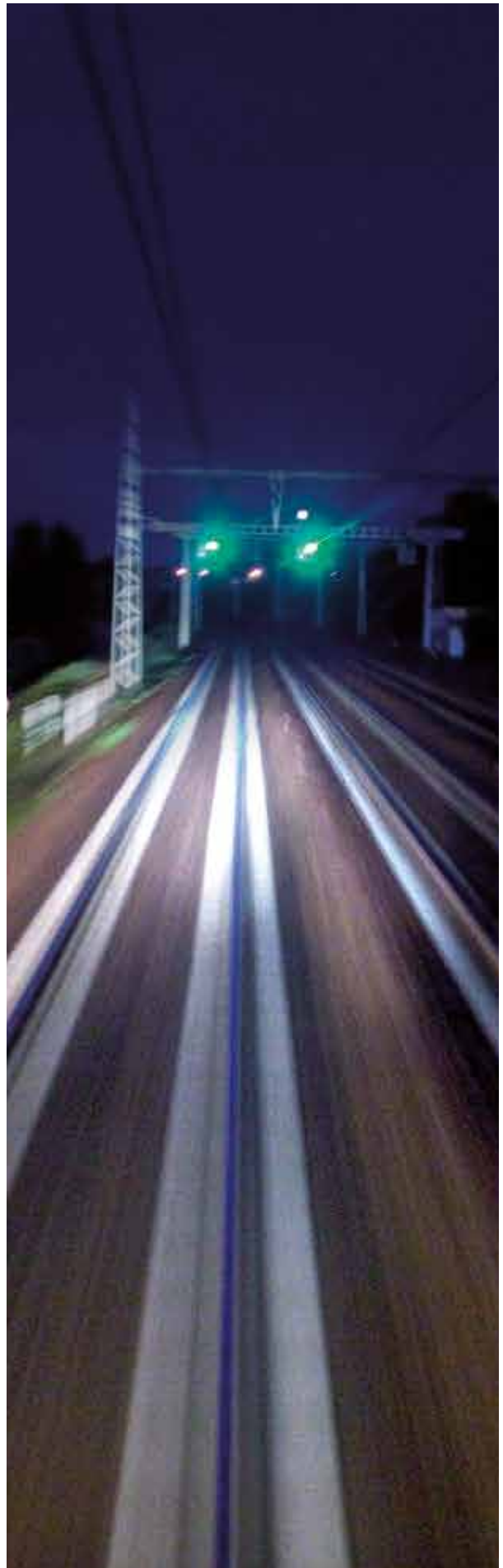
ARAF's staff also wrote several articles which are to be published in the near future :

- ✓ **"Vertical Separation in Rail transport: How do Prices Influence Coordination?"** by Miguel Amaral and Jean-Christophe Thiebaud, published in the scientific review "Network Industries Quarterly".
- ✓ **"Economic (co)regulation of network industries: The case of rail infrastructure charging in Europe"**, by Miguel Amaral and Nina Danielowitzova, soon to be published in the European Meetings Collection by Bruylant-Larcier Publications).
- ✓ **"The contractual conditions for freight transport company access to rail infrastructures"**, by Julien Geffard, soon to be published in the same collection.

Finally, within the framework of a CIFRE agreement (*Convention industrielle de formation par la recherche* - Industrial Convention for Training via Research), ARAF initiated a partnership with Paris 1 Panthéon-Sorbonne University. The purpose of this agreement is to prepare a doctoral thesis in industrial economics which aims to study the performance of the methods for organising the management of rail infrastructures in Europe.

Q Key facts

- ✓ The intervention of a regulatory body in the rail sector is quite new in France.
- ✓ ARAF capitalises on the experience of regulation in the other sectors of the economy, both in France and abroad.
- ✓ ARAF organises economic and legal conferences.



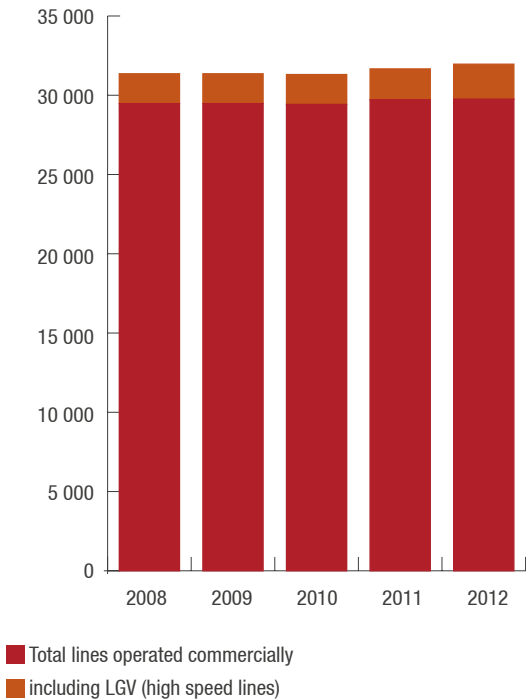
PART 2

The development of traffic and competition

The rail network

Network consistency

With approximately 30 000 km of lines open to commercial traffic, the French rail network is the second largest in Europe after the German network (which has a little over 40 000 km).



Source : key figures RFF-SNCF Infra

This rail network serves a wide range of users. Thus in 2012, 80% of the traffic was concentrated on one-third of the 29 756 km of operating lines.

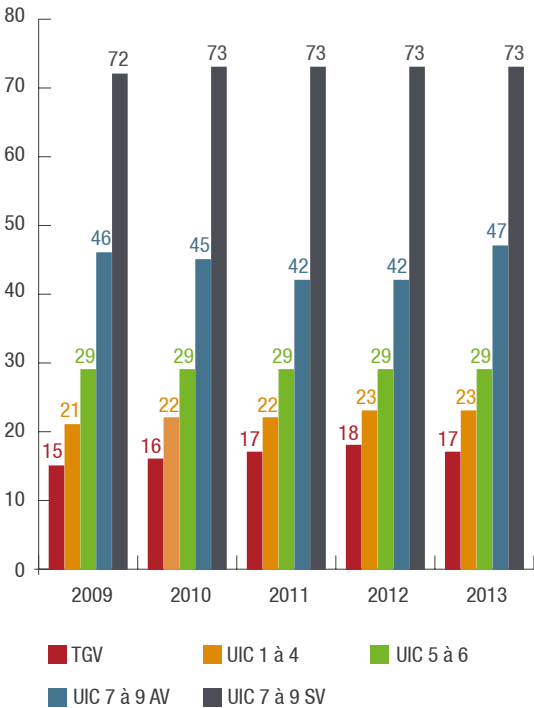
Even though efforts have been made on the regional lines in recent years, the network as a whole is still ageing due to insufficient maintenance over the last few decades. The need to make up for lost time has a penalising effect on freight and passenger traffic, and also on on-going development work.

- ✓ The average age of the high speed lines rose by three years between 2009 and 2012 because the network renewal operations have not yet had a sufficient effect. The reduction of the average age in 2013 can be explained by the service launch of the Rhin-Rhône high speed line. The renewal work must be intensified on the high speed South East and Atlantic lines over the next few years;
- ✓ The development of UIC lines 1-6 is quite slow but their age continues to increase each year. More specifically, the age of the UIC 5-6 lines is almost constant whereas that of the UIC 1-4 lines is increasing. This can be explained for the most part by the difficulty of carrying out renewal operations on the dense network (higher costs and capacity constraints) but also by the priority given to the UIC 5-6 lines which remain very old.

The renovation of the rail network

Freight and passenger traffic operates on a network which is undergoing considerable renewal and development work.

Average age of the track components



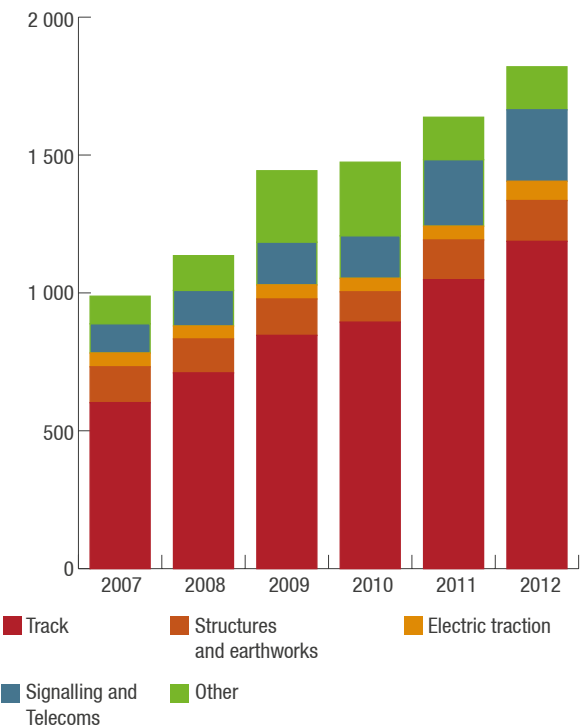
Source : key figures RFF-SNCF Infra

The growth in the renewal work is a direct result of the decisions that the State and RFF made in 2006 following an audit carried out by the Lausanne Federal Polytechnic (the "Rivier audit"). This audit highlighted a worrying ageing of the network and the need to invest a considerable amount of money in its renewal. Two reports that appeared in 2012, the Audit report on the upkeep of the national rail network and the update of the Rivier audit, traced the increase in maintenance and renewal expenses over recent years. They consider that this effort has not brought about enough of an effect on the standard lines (UIC 2-6) which continue to age.

Following these reports, RFF has been tasked with introducing a major network modernisation plan (Grand plan de modernisation du réseau) so as to make the network "modernised, reliable and comfortable".

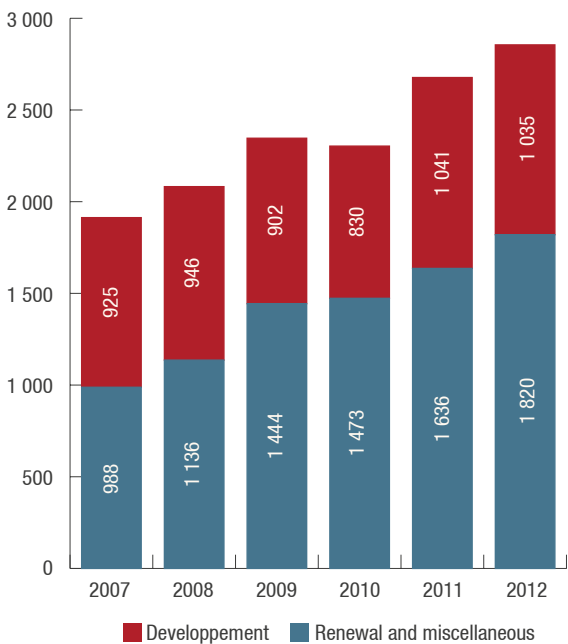
This plan is centred on a new approach, based on the needs and demands of the users, to propose the most efficient responses as regards the maintenance and modernisation of the network, in association with the different parties involved and with the regions and transport-organising authorities in particular. This plan must be updated every three years.

Renewal expenditure by type of asset
2007-2012 (in M€)



Sources : SNCF infra

Renewal and development expenditure



The development of the network

Over the next few years, passengers will benefit from a new rail offer, thanks to the introduction of several new high speed lines.

Spring 2016, will see the service launch of the second phase of the LGV Est between Baudrecourt and Vendenheim (€2 100 million excluding tax).

Three other new lines will be completed in 2017, the Bretagne Pays-de-la-Loire LGV from le Mans to Rennes and Sablé (€3 000 million excluding tax), the South Europe Atlantic high speed line from Tours to Bordeaux (€3 000 million excluding tax) and the Nîmes and Montpellier bypass (€6 700 million excluding tax).

On 27 June 2013, the Mobilité 21 commission, chaired by Philippe Duron, delivered its report for a national sustainable mobility scheme, requested by the Minister for Transport. The commission proposes to establish priorities for State projects that are not intended to come under multi-year programmes.

Mobilité 21 divided the infrastructure projects into three groups:

- ✓ Highest priorities - the projects which should be carried out from 2014-2030. The studies and procedures for these projects must be carried out with a view to them being started before 2030.
- ✓ Secondary priorities - the projects which must be envisaged for between 2030 and 2050. The projects concerned must be studied in order to deepen their definition and allow them to be carried out between 2030 and 2050.
- ✓ The very long-term projects to be carried out after 2050 and for which the studies must be stopped until such time as a new element justifies them being re-launched.

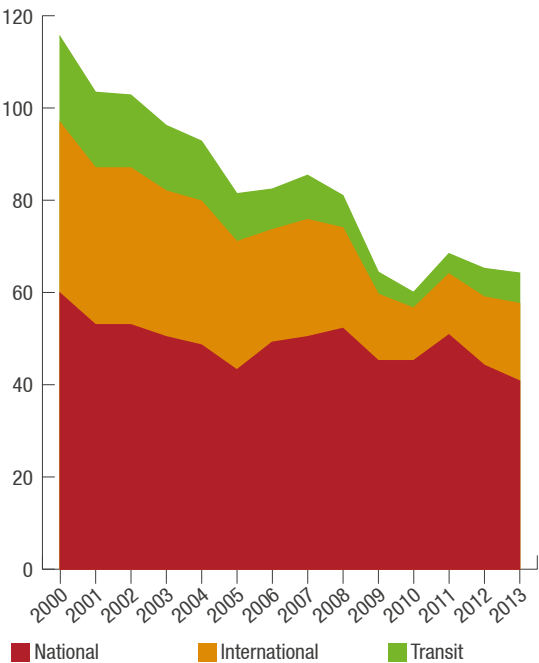
Rail freight transport

Rail freight traffic

After an exceptional increase of 14.1% in 2011, rail freight traffic dropped by 4.9% in 2012. The initial figures available from the statistical department of the Ministry of Transport show a stabilisation of the traffic, in the shape of a slight reduction of 1.6% between 2012 and 2013. With 32.1 billion tons-km transported, it will probably return to its 2009 value. This reduction is associated with national transport alone, since international freight transport (+14.4%) and transit (+5.8%) have both continued with their inexorable growth since 2010.

This reduction in national rail freight transport can be explained, in particular, by the depressed state of French industrial production - the activity of the agri-food and construction industries, the two sectors which were heavy users of rail transport, took a downturn even if this reduction was limited by the good performance of the transport of agricultural products and other products, such as ores and oil products.

Rail freight in France

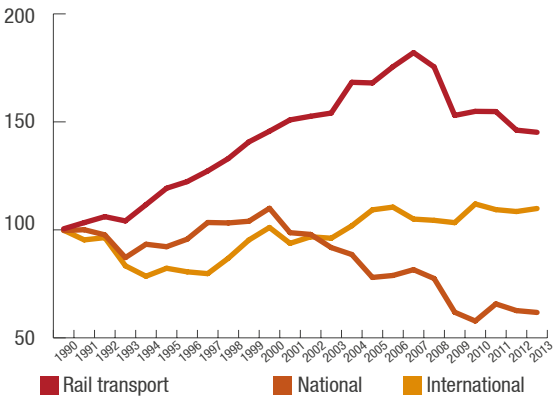


Source : SOeS – transport key figures February 2014

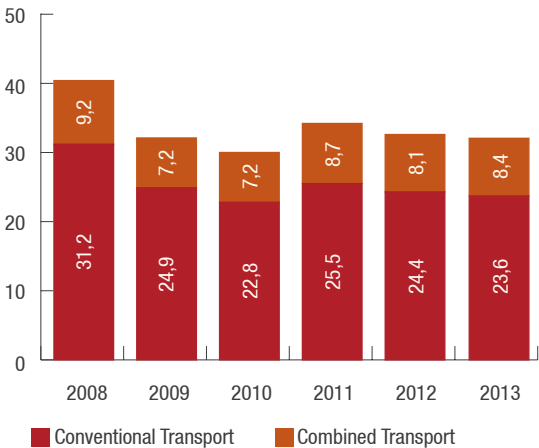
Evolution of intermodal competition

Rail freight transport figures for intermodal competition are stable. Road freight transport remained dominant between 2007 and 2012 with 87.8% of the market share, followed by rail (9.8%) and water (2.4%). We see a very slight reduction in road and freight in favour of water between 2007 and 2012.

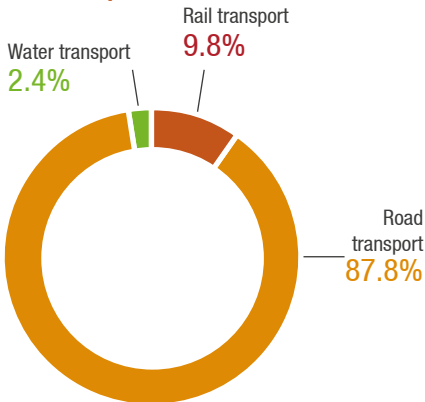
National transport trends
(base 100 in 1990)



Combined transport share in rail freight activity
(billions of t-km)



Land transport shares in 2013



The combined transport share of rail freight transport between 2008 and 2013, increased by three points to reach 26%.

Sources : SOeS provisional figures

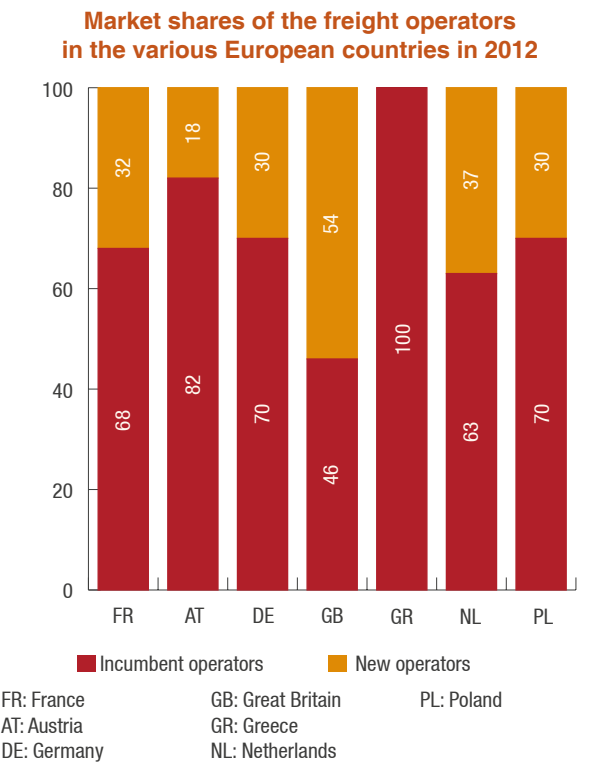


The development of rail competition

The arrival of new operators has made this sector more dynamic since the opening of rail freight to competition in 2006 and their share of the market has undergone rapid growth. While less than 1% in 2006, their market share rose from 11% in 2008 to more than 33% in 2013.

The rail freight operators

On the 1st January 2013, 26 rail operators held a safety certificate allowing them to operate rail transport services on the national rail network. 24 of these are in freight transport, four of them only carry out services on border sections.



Source : IRG-Rail

The new operators’ market share in Europe, excluding Great Britain, continues to grow in relation to the incumbent operators. It is often the case that the longer the activity has been opened to competition, the more this market share increases. This is the case in the UK, where this deregulation dates from the 1990s. France’s case is atypical, with a new operator market share that is slightly higher than in Germany, where the freight market was fully opened up to competition in 1994, 12 years before France.

Launching of commercial service	New rail freight operators
2005	Europorte France
2006	Euro Cargo Rail
2007	SNCB Logistics Colas Rail VFLI (SNCF) Europorte Channel
2008	CFL Cargo (Luxembourg, Arcelor Mittal)
2009	TSO
2010	TPCF CFR (OFP Morvan) OSR (On site Rail) France RENFE
2011	SNCB Logistics (Benelux) EFT Services Crossrail
2012	Comsa Rail Transports TX Logistik AG RDT 13 SVI ETMF
2013	Egenie TMR Securail Nordcargo Normandie Rail Services Fer alliance

Focus

Short-haul rail operators

The recently emerged proximity freight operators (OFP in French) transport batches of wagons in ready-consolidated trains over short distances, to and/or from a handover point with a long distance rail operator. They operate in limited geographic areas. In actual fact, OFPs are not only positioned on the niche markets, but also on the longer distance markets, which gives them a certain dynamic.

List of OFP operating in France	Start of operations	Geographic area
TPCF	1st August 2010	Rivesaltes, Perpignan, Narbonne
OFP Atlantique	8th October 2010	Grand maritime port of La Rochelle and Nantes Saint-Nazaire
CFR	21th October 2010	Bourgogne-Franche Comté
Regional Rail Company (<i>Compagnie Ferroviaire Régionale - CFR</i>)	End of November 2010	Morvan
Normandie Rail Services	1st April 2011	Grand port maritime of Le Havre
Brocéliande Fret Entreprises	Mid-2011	Great West
OSR France	December 2011	The Port of Strasbourg
RDT 13	11th June 2012	Major maritime port of Marseille
Ferovergne	9th July 2012	Major maritime port of Le Havre and Marseille, Clermont-Ferrand
Agenia	Early 2013	South of France
Regiorail	December 2013 (TCR registration 6th January 2014)	Lorraine

Passenger transport

Traffic growth in 2013

France is the leading European country for passenger rail transport. In 2012, it accounted for 26% of European traffic, with 104.3 billion passenger-km.

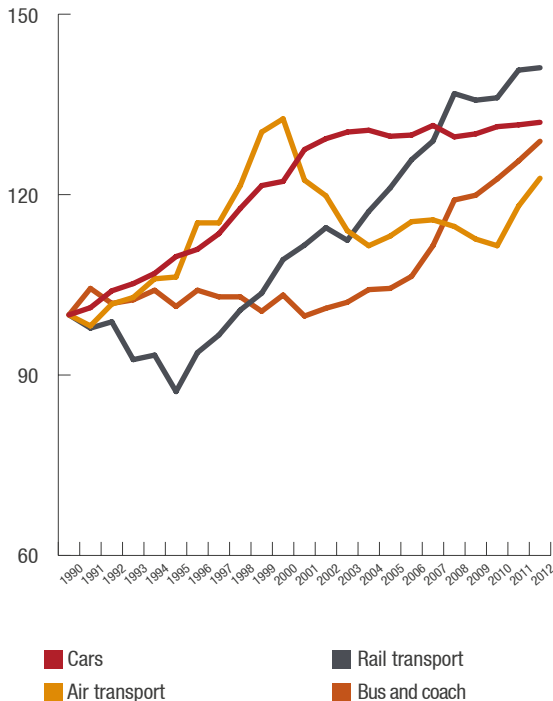
Passenger rail traffic decreased by more than 1% in 2013 to stand at 103.2 billion passenger-km, ending five years of growth. This situation can be explained, in part, by the bad weather conditions in spring 2013, a reduction of the buying power of households and a change to less expensive alternative modes of transport, i.e. car-sharing and coach.

The reduction in traffic affects all the activities - TGV (high speed train), TER (regional train), Transilien (Paris suburban train) and TET (long distance domestic train). The TGV traffic therefore shows a slight reduction of 0.5%, which represents a reversal as this activity had always shown growth over the last 20 years (other than in 2009 with the crisis effect).

In 2012, regional transport (TER and Transilien), occupying an important place in daily work and study commuting, continued to grow and drive the growth of rail passenger transport. This trend ended in 2013 since TER and Transilien are also down by 1.2%.

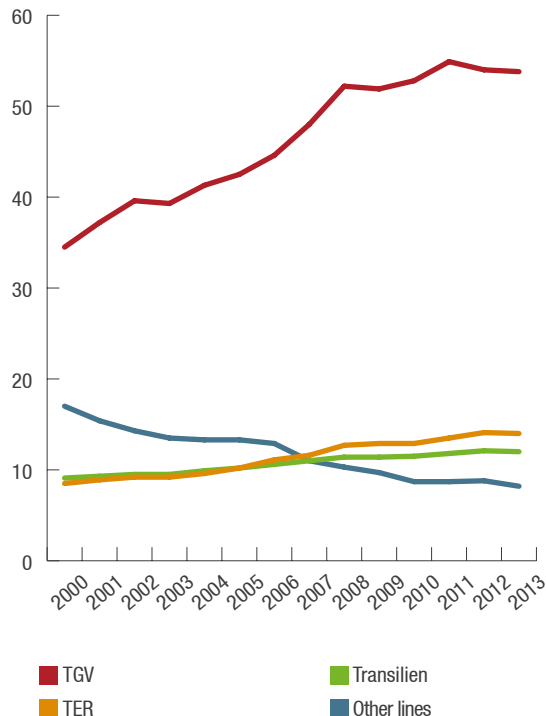
Although the road mode remains dominant for the transport of passengers with 82.9% of the modal share of national transport, rail has shown a strong performance for fifteen years or so, when compared with the other modes, with more than 10% of the modal share in 2013.

Evolution of national passenger transport by mode of transport (base 100 in 1990)



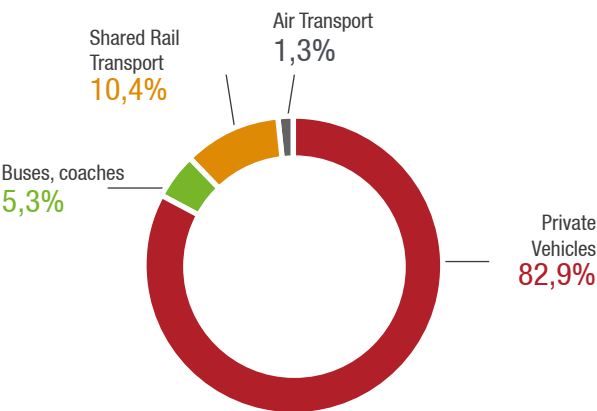
Source: SOeS – Transport key figures February 2014

Passenger transport operated by SNCF



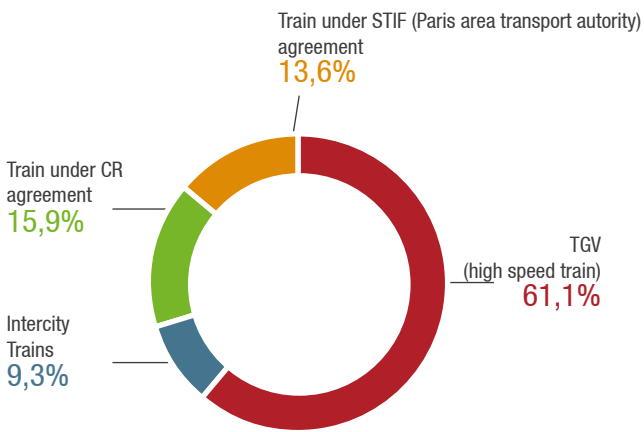
Source: SOeS - Transport key figures February 2014 - Monthly transport statistics bulletin by SOeS May 2014

National passenger transport in 2013
by mode (%)



Source : SOeS - Provisional figures

Distribution of SNCF passenger activities
(in % of passenger-km)



- Including international trains
- Including RER (suburban train) excluding RATP
- CR - Regional council (excluding Paris area)
- State-subsidised and unsubsidised, excluding high speed trains

Source: Monthly Statistical Bulletin for Transport – May 2014



Assessment of the opening of international passenger transport to competition

International rail passenger transport services have been open to competition since December 2009. This activity, however, remains almost exclusively carried out under cooperation agreements between the SNCF and the incumbent operators of the other European countries:

- ✓ Thalys: services operated by SNCF and SNCB between France, Belgium, the Netherlands and Germany;
- ✓ Aleo: services operated by SNCF and DB between France and Germany;
- ✓ Lyria: services operated by SNCF and CFF between France and Switzerland;
- ✓ Elipsos: services operated by SNCF and RENFE between France and Spain, including direct connections from Barcelona launched in December 2013.

The services from London to the European continent are operated by Eurostar, a fully fledged rail company, which is an SNCF subsidiary. Thalys should also become a railway undertaking soon.

Finally, the opening up to competition did not bring about much change in the international passenger services offer, other than the arrival of the first newcomer - Thello, a subsidiary of Transdev and Trenitalia. Thello is proposing a night service between Paris and Venice. The Paris-Rome night service launched in December 2012 was stopped a year later. Thello has, nevertheless, seen its turnover grow by about 31% between 2012 and 2013.

PART 3

Train path allocation



The on-going difficulties encountered by Réseau ferré de France (RFF) in allocating quality train paths is a major source of disruption for freight activities and for some passenger services. This is a barrier to the development of competition on the liberalised markets and constitutes a loss of income for both the rail operators and the infrastructure managers.

This situation is the result of external causes, such as track renewal work carried out on the network, and also of internal causes inherent in the train path allocation process (coordination of works/operation, outdated systems).

The performance of this allocation process is therefore one of the main points of focus for the Authority. Several appeals on this particular subject were submitted in 2013, including four dispute settlement requests. These settlements covered requests for specification or modification of the general conditions for network access rather than the resolution of geographically limited allocation problems, as had been the case in 2012.

These disputes show that, although the users of the network recognise that RFF has taken dynamic action to resolve some of the problems encountered, they consider them to be insufficient as regards the requirements of quality, reactivity and economic performance. The same observation was made in the rail freight working groups gathered together on the initiative of the Minister for Transport.

Train path allocation process in 2013

The undertakings must have a train path in order to use the rail network, i.e. the possibility of moving from one point on a rail network to another at a given point in time. The train paths used in 2014 were, for the most part, requested between December 2012 and April 2013. The regulations forced RFF to reply to these requests in September 2013.

The regulatory schedule for the allocation of train paths by RFF

The timetable path allocation system introduced by RFF is articulated in four main phases (Y = year of travel):

- ✓ Y-5 to April Y-2: structuring of the capacity of the diagram
- ✓ April Y-2 to December Y-2: pre-construction of the basic train diagram grid
- ✓ December Y-2 to September Y-1: construction of the service timetable
- ✓ September Y-1 to December Y: adaptation of the service timetable

As for each year, RFF provided ARAF with information concerning train path replies given in September 2013. This information is a good indicator of the difficulties railway undertakings encounter in accessing the network. About 99.8% of demands for train paths were answered in September 2013.

A train path request may receive one of three replies: certain train path allocated, uncertain train path allocated, regime slack time (when a train path-day has not been allocated).

Clear increase in train path requests

	Number of time path-days requested			Percentage of fixed time path-days allocated		
	2012	2013	2014	2012	2013	2014
Passenger paths	5 364 648	5 368 972	5 236 000	89%	90%	93%
Freight paths	661 579	621 325	519 721	69%	73%	80%
SNCF FRET	211 148	301 268	287 665	48%	57%	68%
Others						

Source: RFF - ARAF reprocessing

The number of certain train paths allocated has increased significantly, to the benefit of the new railway undertakings - the "newcomers" - in particular.

There are still, however, several major problems, including the processing of uncertain train paths and developments introduced during the service timetable, particularly for rail freight undertakings.

Appointment of the director of the DCF
(Direction de la circulation ferroviaire - Rail Traffic Department)

The Law of 8th December 2009 created a specialist department within SNCF, DCF, which carries out the traffic and transit management missions on the national rail network on behalf of RFF and in accordance with RFF's defined objectives and principles.
DCF draws up the train path diagram and carries out the day-to-day management of traffic and incidents.

There are special legal provisions to guarantee free and loyal competition between railway undertakings and to prevent any discrimination:

- ✓ Hierarchical autonomy: appointed for five years by the government, following ARAF's opinion, the director of the department that manages traffic and transit can only be removed from office after a binding opinion from ARAF. The department does not receive any instructions so as to maintain its independence and its agents receive instructions only from the department.

- ✓ Budgetary autonomy: the department that manages traffic and transit has its own budget, funded by RFF.

- ✓ DCF staff members are bound by confidentiality.

ARAF gave a favourable opinion, on 10th April 2013, for the appointment of Jean-Claude Larrieu as Rail traffic director.



Maintenance and renewal work on the rail network

The traffic timetable is established in a context that is constrained by the extent of the network renewal and track development work, which will continue for a few years. With nearly 900 000 works possession days, the priority given to train paths for carrying out this work has a significant effect on the organisation of train traffic.

Aware of the amount of work envisaged on the network and the economic stakes involved, RFF has chosen to introduce an industrial policy aiming to define the desired level of performance for each line and provide a better balance between the needs of maintenance and operating requirements.

ARAF has, however, pointed out the limits of the current process to RFF on several occasions by its recommendations on the Network Statements, highlighting the following, in particular :

- ✓ The lack of indicators for assessing the impact of the train paths allocated for works on the network capacity;
- ✓ The lack of indicators for measuring SNCF Infra's actual use of the train paths allocated to it;
- ✓ The lack of incentive in the contractual relations between RFF and SNCF Infra to make the delegated manager financially accountable for the correct initial dimensioning of its train paths needs and faster return of unused train paths.

As a result, ARAF has asked RFF to study the introduction of an incentives system based on the appraisal of the infrastructure downtime for works and a system promoting faster return of unused train paths.

Uncertain train path procedure

Since the constraints on the network do not allow RFF to take into consideration all the work scheduled at the time the service timetable is established, RFF has introduced a procedure known as "uncertain train paths".

A request is subject to conditional allocation if the train path requested is in conflict with one or several work sites on the national rail network, on specific traffic days. The train path is called "uncertain" for each of the days concerned.

ARAF has stated on several occasions that the uncertain train path procedure can only be maintained on a temporary basis, and that the infrastructure should offer companies a minimum of visibility on their train paths. This is why the Network Statement calls for the removal of the uncertainty at least two months before freight movements and four months before passenger train movements. Failure by RFF to keep to the confirmation deadlines in the Network Statement and the lack of customer information on the day-to-day development of their train paths attract particular criticism by rail operators.

Key facts

- ✓ With 900 000 work-day windows in 2013, RFF must reserve a very large number of train paths during which it can carry out its maintenance and renewal work.
- ✓ ARAF asked RFF to study a financial incentives system based on an assessment of the amount of time the train paths are out of action for works to be carried out.
- ✓ ARAF asked RFF to develop its day-to-day communication regarding the development of the train paths allocated to the railway undertakings.

Information system improvement

The improvement of its information systems must be a priority objective for RFF in order to:

- ✓ provide full traceability of the setting of a train path-day from the request for the path to the actual circulation on the network;
- ✓ establish links between the computer applications, allowing the maintenance and renewal work and train paths to be monitored without losing any information and without requiring any manual processing;
- ✓ to improve productivity by providing the timetable writers with new design and decision-making tools.

One-off improvements were made to several computer applications in 2013, specifically those intended to facilitate the ordering of train paths.

These improvements must go on, so as to meet the injunctions of ARAF (Decisions No. 2013-016, 2013-017, 2013-018 and 2013-019) which force RFF, as of September 2014, to offer the undertakings the opportunity to monitor the dates when the uncertain paths are lifted and other train path developments.

RFF launched a call to tender in 2013 for the deployment of an "industrial scheduling system". This system will eventually replace all the applications associated with train path management, including the THOR application, the central tool for building the graphical timetable, which dates from the 1980s. RFF intends to roll this system out in three phases, as of the 2016 timetable.

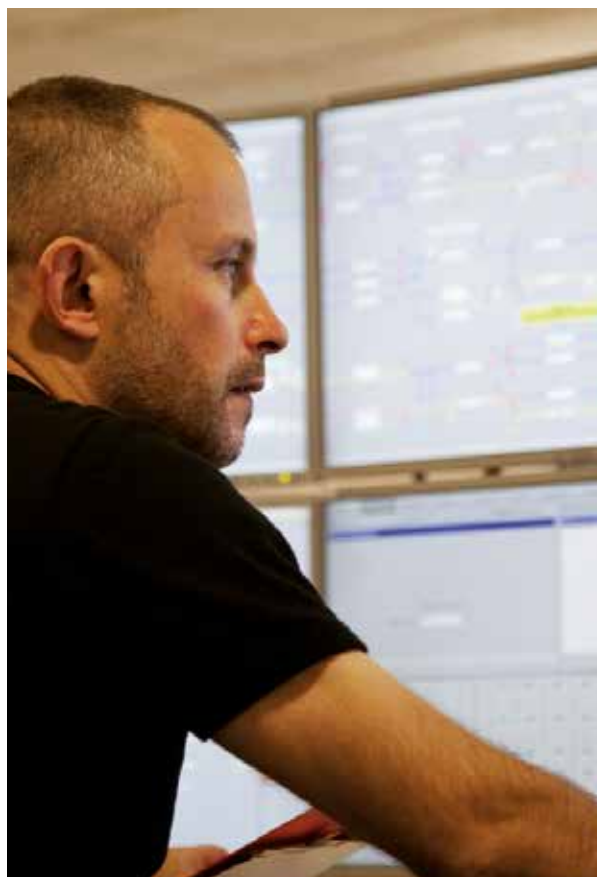
Given the limits of the current applications, ARAF will closely monitor compliance with the schedule presented.

Framework agreements

A framework agreement is a multi-annual contractual agreement between RFF and a railway undertaking. It regards an infrastructure capacity that the railway undertaking or the applicant commits to ordering and that the infrastructure manager commits to providing for a set period of time beyond that of the service timetable. On the request of the parties, ARAF may issue an opinion on a draft framework agreement, regarding its charging section in particular.

In 2013, ARAF issued a favourable opinion on three projects regarding combined freight transport links between RFF, on the one hand, and Froidcombi and Novatrans and T3M, on the other hand.

The conditions for using a framework agreement should be provided in 2014 by an implementing act in respect of Directive 2012/34/EU. ARAF is participating in the discussions, both by collaborating with the Ministry for Transport and coordinating with the other European railway regulators, within IRG-Rail.



Dispute settlement between railway undertaking and RFF

Four freight companies - Euro Cargo Rail, VFLI, Europorte and T3M - referred to ARAF in 2013 to contest the conditions for the invoicing of the charges for the reservation, allocation and monitoring of train paths.

At the end of the examination of the twelve requests submitted, the decisions issued by ARAF on 22 October 2013 asked RFF to improve several of the train path allocation conditions.

Reasons for refusal of a train path

ARAF told RFF to notify the companies of the reasons why a train path-day could not be allocated, in a specific and intelligible manner ("unavailable path").

This requirement aims to respect the principle of transparency which is imposed on the manager and also to enable the undertakings to request train paths again, taking the identified difficulties into account.

Key facts

- ✓ RFF must develop a new industrial schedule production system which will replace all the applications associated with train path management.
- ✓ RFF must keep the undertakings informed at all times concerning the development of the status of their train paths.

Improving the information provided concerning maintenance

The improvement of the train path allocation conditions also depends on the clarity of the information regarding the maintenance and renewal work that RFF is carrying out on the tracks and which disrupts the transit of the trains. This is particularly true in the current context of massive network renovation.

RFF has been told to produce an updated map of the work, so as to help the companies formulate and monitor their train path requests.

Improving Train Path Information

ARAF told RFF to respect the deadline of September 2014 announced for the introduction of an enhanced information system, for displaying the status of the train path-days (certain and uncertain) and the changes to the schedule.

Such summary information is not currently available and train path monitoring requires manual checks to be carried out.

Limiting the consequences of RFF's modification of allocated train paths

As of September 2014, RFF must inform applicants in real time as of the moment it modifies or cancels a train path. ARAF has, moreover, reminded RFF that it should propose an alternative solution in the event that a path is cancelled.

RFF has also been asked to improve the undertaking consultation conditions for opinion before the manager decides to allocate work train paths.

Introducing incentives for better use of train paths

Two requests concern the implementation of economic incentives aiming to do the following:

- ✓ Penalise RFF in the event of modification or cancellation of allocated train paths;
- ✓ Relax the conditions for the reimbursement of reservation charges when an undertaking cancels a train path.

Since such incentives are to be applied to all the entities involved, ARAF has decided to organise discussions in order to be able to specify the terms of the measures that comprise these incentives. These discussions were started in early 2014.

Network performance Improvement incentives

The Directive 2001/14/EC, amended and clarified by Directive 2012/34/EU, imposes the introduction by the infrastructure manager of a performance scheme, encouraging railway undertakings and the infrastructure manager "to reduce failure to a minimum and improve the performance of the rail network".

This system is mainly based on the application of penalties for late implementation. It is based on incentive mechanisms and does not aim to compensate for any prejudice suffered.

In its Ruling of 18th April 2013, the European Union Court of Justice ruled that France had not met its obligation to introduce a performance scheme, stated in Article 11 of Directive 2001/14/EC.

In 2013, RFF, in discussions with the railway undertakings, defined the first deployment of such a system which will be tested in 2014. It concerns delays of more than five minutes and applies to all the railway undertakings that operate on the national rail network.

PART 4

Passenger
train services

Cabotage services carried out during international passenger services

The legal framework

International passenger services have been opened to competition in France since December 2009. This opening up is a result of the implementation of the 3rd European rail package which includes Directive 2007/59/EC, Ruling No. 1371/2007 - the "PSO" and Directive 2007/58/EC of the European Parliament and the Council of 23 October 2007.

The latter authorises the possibility of cabotage, i.e. the possibility of marketing national services within an international journey.

Under the terms of the directive, this option must enable "it to be guaranteed that these operations have a real chance of being economically viable", without however "being used to open the market for national passenger transport services".

Two limits:

- ✓ Cabotage must not be a means for circumventing SNCF's monopoly for national passenger transport; to this end it must be ensured that international service is the main aim of the service,
- ✓ Cabotage must not compromise the economic equilibrium of public service contracts that may be affected by the new service.

The tests carried out by ARAF

ARAF is in charge of ensuring that the main purpose of the service is actually international transportation. If not, the Minister for Transport may limit the national services.

ARAF must also evaluate the impact service has on the economic equilibrium of a public service contract. The transport organising authority in question may limit or ban national services if the analysis concludes that equilibrium has been compromised.

What is more, the law requires ARAF to set and advertise in advance the procedures that it will use to carry out these two tests.

This is what ARAF did by its Decision No. 2013 004 of 27 February 2013. This specifies the methods and the criteria to be used for carrying out the two tests which may be requested before a cabotage link is authorised.

With regard to the principal purpose test, ARAF's purposes is to offer companies predictability by proposing thresholds. To supplement this mechanism, a multi-criteria analysis, taking the qualitative aspects into account, will be used to treat special cases.

For the economic balance test, ARAF wanted to take the diversity of public service contracts and situations into consideration and has not proposed thresholds.

The principal purpose of the service

In order to verify that the principal purpose of the service proposed is actually that of international transport, ARAF will act in two stages :

- ✓ If the new service project meets all of the following thresholds at the same time, its purpose will be considered to be international transport:
 - the turnover share coming from national services is less than one third of the total turnover
 - the traffic share of national services expressed in passenger-km is less than one quarter of the total traffic
 - the length of the longest international service must be more than one quarter longer than the longest national service
- ✓ If the project does not meet the above criteria, ARAF will carry out a multi-criteria analysis taking into account, in addition to turnover, traffic and length of the serviced, planned schedule, the type of service and the populations of the cities or zones served.

The economic balance test

In order to examine whether the cabotage proposed on the occasion of the new service compromises the economic balance of a public service contract, ARAF will conduct an analysis based on the following criteria:

- ✓ the measures specified in the public contract regarding its economic balance
- ✓ the loss of income and any additional costs, over the short and medium term
- ✓ any profit over the short and medium term
- ✓ changes in the profitability of the services operated by the public service contractor.



Accounting separation of subsidised public rail services

SNCF and subsidised passenger train services

In application of the European PSO regulations and with a view to guarantee the passenger transport services of general interest, a transport authority has to sign a public service contract with an operator to which it shall delegate the operation of the services.

The transport authority shall pay the operator "compensation", including reasonable profit, to cover the net impact on the costs and income created by the respect of the charging obligations established with the general rules. The public service contracts and general rules define the following:

- ✓ the Public Service Obligations (PSO) that the operator must fulfil, along with the zones concerned;
- ✓ the parameters which should be taken as the basis for calculating the compensation, along with the type and size of all exclusive rights granted in order to avoid any overcompensation;
- ✓ the cost distribution methods associated with the supply of the services (staffing, power, infrastructure, and maintenance costs, etc.);
- ✓ the methods of distribution of the income associated with the sale of the transport tickets between the operator and the transport authority.

Milan to Marseille Thello train service project

Thello is a rail operator specialising in services between France and Italy. It intends to re-start services between Provence, Côte d'Azur and Lombardy, with three return journeys per day between Milan and Nice, one of which will go to Marseille. In all, the proposed service must stop at 21 cities of which eight are in France and cover some 521 km between Marseille and Milan in a little over seven hours. This service has not been available from Nice since 2009, or from Marseille for over 15 years .

Following the referral of Thello and the Ministry of Ecology, ARAF, in its Opinion No. 2013-013 of 9th July 2013, confirmed the international nature of the planned line.

ARAF studied the impact on the public service contract for regional trains of the introduction of such a service offer having received a referral from the Provence-Alpes-Côtes d'Azur region (PACA).

It considered, in its opinion No. 2013-022 of 8th October 2013, that Thello's project did not compromise the economic balance of the public service contract. PACA appealed against ARAF's decision to the State Council.

The public service contracts are of limited length and shall not exceed 15 years for passenger transport services by railway or other rail-related modes of transport (10 years for bus and coach services).

The regional councils have been redesignated as regional transport authorities since 1 January 2002. Each regional council will sign a public service agreement with SNCF for the operation of its TER. In Ile-de-France (Paris area), the delegation agreement for public rail transport will be signed by the transport authority (*Syndicat des transports d'Ile-de-France - STIF*).

The French State has also become the transport authority for the operation of TET (long distance domestic trains), for which it will sign a public service agreement with SNCF.

Proximités, an SNCF subsidiary, will concentrate all these operated activities in the form of public service delegation agreements.

Accounting separation of Trains d'équilibre du territoire (TET i.e. long distance domestic trains)

In a regulated sector in which the incumbent operator carries out both competitive activities and activities receiving public subsidy, the law requires the Authority to ensure that "the public subsidy received by the railway undertakings for the public service passenger missions entrusted to them cannot be allocated to other activities and must appear in the corresponding accounts" (Article L. 2144-2 of the Transport Code).

SNCF must therefore introduce accounting separation rules that enable the following to be distinguished:

- ✓ On the one hand, that no public support received from public service agreements is used to subsidise another activity, whether monopolistic or open to competition. This is intended to prevent any part of this assistance being used to facilitate the acquisition of market shares in a segment of activity open to competition or to compensate for losses or to block access to the market;
- ✓ On the other hand, that there shall not be any cross-subsidies between the different contracts within the subsidised activities, to the extent that the transport authorities are separate.

These accounting separation rules must enable the appraisal of the actual costs for the missions entrusted to SNCF by the State and the local authorities. They must also, however, allow the overall financial conditions for the operation of subsidised passenger transport to be evaluated in a fully transparent manner.

In particular, Article No. 43-2 of Decree No. 83-817 of 13 September 1983 approving the specifications of SNCF, states the following: "SNCF shall establish a budget and separate accounts for the national services covered by an agreement mentioned in Article 43-1, allowing the monitoring, inspection and audit of these services. The methods of presentation of these accounts shall be defined by the agreement. The accounting separation rules shall be subject to the approval of the Railway regulatory body under the conditions given in Article L. 2133-4 of the Transport code.

It is within this framework that SNCF has submitted a reference document for the accounting separation of only the long distance domestic train business to ARAF. This reference base does not concern TER (regional trains) or Transilien activities (suburban Paris train).

The TET carry out the mission of regional development by contributing to the opening up of regions not served by high speed trains and the accessibility of the greater Paris area. The TET agreement between the State and SNCF covers more than 30 lines which serve 350 cities and 20 regions, for 42 million train-km and 100 000 passengers a day (data from Groupement des autorités responsables de transport - GART).

The operating deficit of TET, excluding investments in rolling stock, requires State compensation so as to cover

the total charges which exceed the commercial income. This compensation rose from 210 million euros for the financial year 2011 to 325 million euros in 2013.

Given the data transmitted, ARAF observed that the TET activity alone represented too restrictive a framework for defining accounting separation rules. In contrast, SNCF Proximités branch has an operational unit and defines a relevant perimeter not only for accounting analysis for monitoring the allocation of the public funds but also for the examination of accounting separation between the different subsidised activities, on the one hand, and between the subsidised and unsubsidised activities on the other hand.

It is therefore necessary to analyse all the supported activities both at SNCF Proximités level and at the level of each public service contract, so as to define the analytical accounting and homogeneous rules. The aim was to prevent public subsidies allocated under one of these contracts subsidising either another contract or commercial activity.

Key facts

- ✓ A transport authority is obliged to sign a public service contract with the operator to which it delegates the operation of the services.
- ✓ The accounting separation rules must guarantee that the public subsidies received in return for public services are not used to subsidise another authority.

PART 5

Infrastructure
charging



Charges for minimum services

Within the framework of its opinion on the network statements, ARAF issued a binding opinion on the charges for the minimum access package, i.e.:

- ✓ the processing of infrastructure capacity requests;
- ✓ the right to use the capacity granted;
- ✓ the use of connections and points on the network;
- ✓ regulation of train traffic, comprising the communication and supply of information on the circulation of the trains or any other information required to operate the service for which the train paths were granted.

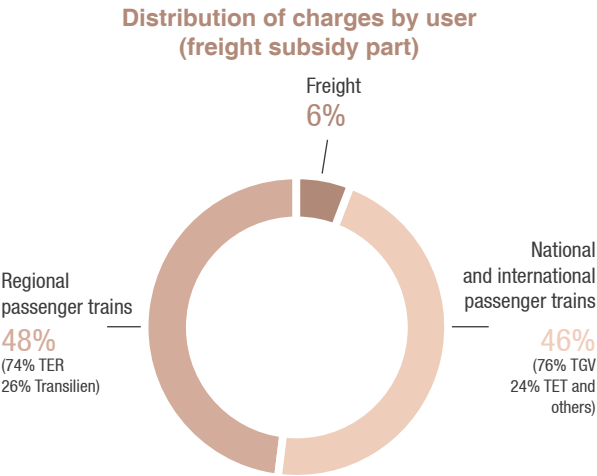
The opinion is binding. It obliges RFF to modify the charging section of its network statement. The modifications made by RFF must, in turn, be submitted to ARAF for approval. Article L.2133-5 of the Transport Code states that ARAF issues this opinion "in light of the charging rules and principles applicable to this network". The fees paid by the rail operators for "minimum services" in 2014, should total € 5.7 billion, i.e. 88% of RFF's expected income. They are divided into three parts:

- ✓ transit charges, paid by all the trains from the moment they move on the network; and which cover the directly incurred cost; the economic theory postulates that charging at the directly incurred cost enables optimum use of the network, but usually causes a deficit for the infrastructure manager; such is the case with the rail sector,
- ✓ the reservation charges, which aim to cover the fixed cost of the infrastructure (within the limit of market sustainability) and therefore reduce the infrastructure manager's deficit; these may be modulated, so as to promote efficient use of network capacity;
- ✓ the access charges specifically for public service contract activities (TET, TER, Transilien) which cover the fixed costs of the infrastructure.

In order to move around on the network, a train must therefore pay a minimum charge equal to the cost directly incurred by its business and a maximum toll charge based on its capacity to cover all the costs borne by the infrastructure manager.

	Subsidised activities	Competitive activities	2014 total
Transit charge	"Directly incurred cost" (Directive 2012/34/EU, Article 31.3) the "variable part of operating and maintenance charges" (Decree 97/446, Article 7)		€ 1 620 millions
Reservation fee	"Scarcity of capacity on the identifiable section of the infrastructure during periods of congestion" (Directive 2012/34/EU, Article 31.4) "All or part of the capital investment cost" and possible modulations (timetable period, quality of paths, scarcity of capacity, etc.) (Decree 97/446, Article 6)		€ 2 106 millions
	-	Increases "When the market allows" (Directive 97/446, Article 6 and Directive 2012/34/EU, Article 32.1)	
Access charge	"Fixed operating and maintenance charges" for lines other than LGV (Decree 97/446, Article 5)	-	€ 1 939 millions

Source: RFF



In its opinions, ARAF endeavoured to verify that the charging rules and principles had been properly respected, i.e. transparency in the compilation and publication of charges, non-discrimination, the relationship with the infrastructure costs and the capacity of the market to bear the size of the charges levied.

Charging for better use of the network

The charging system must enable stakeholders to make choices for the benefit of the users and clients of the rail transport services, with the aim of the smooth running of the public service, on the one hand, and competitive rail transport activities, on the other hand. Although the development of new train paths is particularly expensive, the capacity constraints on the rail network constitute a major factor. The charging must create incentives for the better use of the capacity offered and direct the investments of the infrastructure manager and the railway undertakings. It is therefore crucial that the charges send the right signal regarding use of the network and direct the entities involved to use the train paths in an optimal manner.

A multiple-year view of the charges

It is essential for the infrastructure manager to be able to present the railway undertakings with multiple-year charging principles, as required by law and as applied in other countries. Rail operators need to be able to see how charges will change in order to develop their activities.

Cost reduction incentives for the infrastructure manager

As stated in Article 30 of Directive 2012/34/EU, which adopted Article 6.2 of Directive 2001/14/EC, incentives must be used to encourage the infrastructure manager to reduce the costs of the infrastructures and thus reduce the charges for the use of the network. ARAF considers this to be a major factor, which must be taken into account straight away, without waiting for the announced creation of the unified infrastructure manager.

ARAF's observations on the charging proposed by RFF

Negative opinion on the infrastructure charges initially proposed by RFF for 2014

RFF envisaged an average increase in infrastructure charges of 4.8% for 2014 after an increase of 4.3% in 2013, i.e. an increase of almost 10% over two years. ARAF considers that this proposal, which is very high in relation to inflation and the economic situation, is indicative of insufficient cost control by RFF and SNCF. The service quality and the reduction of infrastructure costs shall, however, shape the future of rail in our country.

In order to establish its opinion on the charges, ARAF carefully verified the compliance with three charging principles defined by European directives and carried over into our law:

- ✓ Principle 1: the existence of incentives to reduce the management costs of the infrastructure. In application of the legal provisions, this must take the form of the setting of productivity objectives and indicators for monitoring compliance, within the framework of contractual obligations between RFF and SNCF, the delegated infrastructure manager.
In spite of the work started on this in early 2012 by RFF and SNCF, ARAF could only note the absence of a reliable basis for the definition of these objectives, which are, however required as a reference for the charge calculation.
- ✓ Principle 2: the possibility for any rail activity to access the network as of the point at which it is able to pay the directly incurred costs related to its traffic.

This takes the form of the payment of a minimum charge and the transit charges which directly cover the variable costs and must evolve with them. RFF, however, proposed changes to these costs between 2013 and 2014 in accordance with a fixed price indexing formula which did not reflect the changes in of the costs incurred.

- ✓ principle 3 : the efficiency and transparency of the additional charges (reservation charges) that RFF collects for high speed lines. RFF intended to increase these charges in a very heterogeneous manner on high speed lines, with variations from 6% to 75%, not offering companies the predictability they need to develop their activities. RFF also intended to increase some of the busiest sections of the network to a lesser extent, thus risking the creation of negative incentives that work against better use of the network.

ARAF issued a negative opinion on the charging of the infrastructure tolls proposed by RFF. Its opinion was a binding opinion, this charging could not enter into force as it was and RFF should submit a new proposal.

RFF did so on 18th April 2013, submitting new price proposals for the minimum services of the 2014 Network Statement. These modifications covered the following:

- ✓ The definition of the productivity targets for 2013 and 2014; in addition to the draft agreement for the maintenance of the national rail network in 2013, RFF and SNCF Infra sent an agreement dated 26 March 2013, signed by both the entities and laying down the conditions for the development of the same agreement for 2014, as well as a "productivity dashboard" for monitoring the productivity goals.

- ✓ The consideration of the changes in RFF's real costs and the productivity targets predefined in the scale of charges for rail traffic;

- ✓ The standardisation of the increase in reservation charges for high speed lines.

ARAF issued a favourable opinion on the charging of minimum services for the 2014 service schedule on 24th April 2013.



The new cost model

The calculation of the direct cost of a journey is based on an econometric model that seeks to explain the expenditure incurred by RFF on the different sections of the rail network by the characteristics of the infrastructure and the different variables that measure the demands supported (number and type and tonnage of the trains, etc.).

RFF mobilised the results from a new costs model in 2014 in order to update the transit charges for TGV, TET and Transilien activities. On the occasion of its opinion on the 2014 Network Statement, ARAF highlighted that the new cost models was substantially better than the previous one. This new model allows more robust and rigorous measurement of the direct costs owing to the fact that it mobilises more recent and richer data and also because it is based on more rigorous econometric techniques for the estimation of the maintenance and operating costs.

ARAF did, however, highlight that the model should also be improved for the estimation of the renewal costs. A working group gathering together the RFF and ARAF teams has been instated to monitor the improvement of the cost model.

This group must also examine the conditions for updating the model, since this model must be updated in accordance with recent data in order to maintain the close relationship between the charges and costs required by the law. ARAF estimates that an update shall be required every four or five years.

Charging the capacity constraints

The charging also aims to give the operators incentives to modify their behaviour in order to combat certain failures. This is why the charging must integrate the capacity constraints of the network and translate them into an economic signal.

On the occasion of its opinion on the 2014 Network Statement, ARAF highlighted the fact that RFF's commitment to "re-examine the valuation of congestion/rarity" had not been upheld. The regulator understood that the charging must provide incentives for an optimum use of the capacity offered on the network. ARAF therefore asked RFF for an accurate implementation schedule for these charging mechanism-based incentives.

Key facts

- ✓ Charging infrastructures must be transparent, non-discriminatory and "bearable" for the entities involved in the market.
- ✓ ARAF achieved the consideration of the productivity goals in RFF's charging of the minimum package for the 2014 service schedule.

PART 6

Service facilities



Service facilities are a cause of conflict

Access to rail related service facilities is an essential stake for rail operators and for newcomers, in particular, for which access difficulties may be a barrier to entry onto the market.

Despite the regulations (Decree No. 2012-70 20th January 2012) which specified some technical and price-related principles for network access, the management framework for these facilities remains incomplete or unapplied. This can then cause conflicts between the managers and their clients. Some of these have been brought before the regulator:

- ✓ In 2012, ARAF was asked to settle a dispute regarding the conditions for the supply and invoicing of the traction current on the national rail network;
- ✓ In 2013, ARAF was asked to settle a dispute regarding the conditions for the allocation of sidings and their charging;
- ✓ In 2013, ARAF followed the infringement procedure initiated by the French rail association for new entrants (AFRA) regarding the supply of diesel and sand and access to the inspection walkways;
- ✓ In 2013, the Authority also followed the investigation of a sanction request initiated by AFRA regarding access to freight terminals.

Finally, based on the contributions of the sector stakeholders during the examination of the stations' network statement, ARAF noted that there were still frequent disputes over the management and charging of passenger stations .

Evolution of the regulatory framework

Decree No. 2012-70 of 20th January 2012 regarding passenger stations and other rail network service facilities gives the railway undertakings and authorised applicants a right of access to service facilities under transparent and nondiscriminatory conditions.

Apart from passenger stations, this right of access concerns the power supply and traction power distribution installations on tracks open to public traffic, marshalling or train-formation yards, holding sidings, the freight terminals including the combined transport sites, fuel and sand supply infrastructures and the roof inspection walkways and maintenance centres.

The provisions of Decree No. 2012-70 also specify the regulated services proposed for each service facility (basic service and additional services).

The implementation of Directive 2012/34/EU of the European Parliament and the Council of 21 November 2012 establishing a Single European Rail Area (reworded) shall reinforce the transparency of the management of service facilities and services provided. It requires service facility providers under the direct or indirect control of an entity or an undertaking which occupies a dominant position on the national rail transport markets to be structured in such a way as to ensure their organisational and decision-making independence from this undertaking.

What is more, the treatment of access requests shall be better supervised and the manager shall have to process the request within a reasonable deadline set by the regulatory body. Finally, the directive contains provisions making it possible to avoid the closure of service facilities.

Thus, when a facility has not been used for at least two consecutive years and if railway undertakings have notified the operator of their interest in accessing the facility, on the basis of proven need, its owner must publicly declare its availability for hire or leasing.

General principles of access to service facilities

When investigating appeals, ARAF has set out several principles for governing access to service facilities that it wishes to be observed.

Information transparency

The transparency of access to service facilities as stated by the regulations, requires that the managers publish the following information:

- ✓ the exhaustive list of facilities, along with their main characteristics;
- ✓ the type of regulated services offered, distinguishing the basic service from the additional services;
- ✓ the general conditions for the provision of the regulated services;
- ✓ the general conditions for the contracts to come into effect between the manager and the rail company;
- ✓ the level of charges and the principles and methods used to construct the prices.

Contractual conditions

As regards the contractual aspects, ARAF expressed several recommendations intended to ensure greater equity, to the benefit of the railway undertakings.

It began by pointing out that charging fees for investigations, carrying out a preliminary joint inspection and preparing a risk prevention plan payable only by third party rail operators was discriminatory. It called for this charging to be abolished and for the corresponding costs to be incorporated into the basic service charge.

In order to guarantee a more satisfactory balance of the rights and obligations of the contracting parties, ARAF recommended that some clauses of model contracts be specified (cases in which the contract may be terminated on concurrency management grounds), or standardised (definition of confidential information; compensation of rail operators).

ARAF also spoke of the importance it placed on the introduction of a confidentiality control mechanism which must be communicated to it, under the terms of Article 10 of Decree No. 2012-70. It stated that this mechanism must provide precise and specific measures for the staff covered by the obligation of confidentiality and define the operational methods for monitoring its application.

In 2013, ARAF endeavoured, within the framework of the examination of the network statement and within the framework of the dispute procedures, to encourage the operators to produce information that better satisfies the transparency requirements, i.e.:

- ✓ SNCF has been led to supplement the information in its reference offer and in the specific documents;
- ✓ Réseau ferré de France (RFF) has been told to publish an allocation procedure for access to the sidings;
- ✓ ARAF has addressed its first recommendations to the managers of the combined transport terminals.

Focus

Settlement of disputes regarding sidings

ARAF issued a decision on 3rd December 2013, aiming to settle a dispute between Euro Cargo Rail (ECR) and RFF regarding the conditions for the allocation of sidings and the charging for their use.

Having noted the lack of publication of an allocation procedure for sidings in the network statement, ARAF recalled that "the effective exercising of rights of access to the network assumes (...) that the infrastructure manager specifies the schedule for the allocation process so as to guarantee the railway undertakings a clear view of the sidings to be allocated to them before the start of the timetable.

As a result, the regulatory body requested RFF to define and publish a procedure in the Network Statement for the allocation of sidings, defining the main deadlines for the allocation process, the allocation criteria and a breakdown of the possible causes for the refusal of allocation.

RFF therefore introduced a siding allocation procedure into the revised Network Statement 2015. ARAF shall be attentive to any difficulties regarding the implementation of the procedure and any improvements that may be made to the same.

In order to verify whether RFF's charging complied with the relevant regulatory provisions, ARAF asked RFF to establish a database of its costs and a calculation method that complied with the applicable regulatory provisions and set a price for the use of the sidings using said method. This work is still under way.

Charging

Charging principles and methods used by the managers

Decree No 2012-70 states that "the provision of regulated services gives rise to the collection of a charge associated with the cost of the service calculated on the basis of actual use."

The charges must therefore be based on the costs actually borne by the service infrastructure managers. ARAF considers that these may only comprise costs that are as follows:

- ✓ justified, with the managers being obliged, to provide sufficiently supported justification for each one, so as to demonstrate that they correspond to costs they actually incur, as regards both the type and the total;
- ✓ relevant, with the costs needing to have a causal link between the service provided and the costs taken into consideration.

The charges must also encourage the service infrastructure managers to aim for the costs of an efficient operator, i.e. optimally use its resources and the available technologies.

What is more, ARAF highlights the fact that founding charges on "the degree of actual use" must form an incentive for the managers to optimise the management and the use of their infrastructures in consensus with the operators.

In 2013, ARAF endeavoured to deepen the understanding of the charges used by the service infrastructure managers. This firstly led to an audit of the costs the managers take into consideration. In 2013 these audits covered the costs associated with the supply of diesel and those associated with access to the freight yards. ARAF told RFF to establish a database of the costs associated with its sidings by the end of March 2014.

What is more, ARAF also started to examine the methods the managers apply when developing the charges. A first formalisation of these analyses gave rise to recommendations within the framework of Opinion No. 2014-001 on the network statement for the 2015 service schedule. This opinion insists, in particular, on the progress to be made in order to respect the principles of pertinence and efficacy, as regards the structure costs taken into consideration, for example.

Transparency and predictability of charges

The construction of the charges must meet the requirements of transparency and predictability for the users. These requirements are to be implemented in accordance with Directive 2012/34/EU. In 2013, ARAF issued more specific recommendations for the practical implementation of these requirements.

The price transparency requirement obliges the service infrastructure managers to provide the multiple-year data used to constitute the charges, i.e:

- ✓ The amounts observed over the last three years known from operational and capital charges;
- ✓ The hypotheses on which the forecasts of these same costs are based, along with the corresponding amounts,
- ✓ With all this data detailing the main operational cost items, the base for the regulated assets, the level of the average weighted capital cost and the analysis justifying same, along with the investment programme;
- ✓ The past and forecasted amounts for the work units taken into consideration (frequentation, etc.).

The price predictability requirement for its part obliges service infrastructure managers to supply the cost development perspectives - for at least two additional years - and their consequence on the charges. This information must be supplemented with more detailed items on the investment operations that affect the level of service or the charges.

Key facts

- ✓ In 2013, ARAF endeavoured to deepen the understanding of the charges used by the service infrastructure managers.
- ✓ ARAF requested RFF to compile a database of its costs in the dispute between a railway undertaking and RFF on the conditions for the allocation and pricing of sidings.

Passenger stations

Defining transparent and non-discriminatory access conditions for passenger stations is a crucial factor in the opening up passenger services to competition, international services today, and national services tomorrow.

However, although the stations belong to the State, they are currently managed by SNCF, via Gares & Connexions, a subsidiary created in 2010. Only the platforms belong to RFF and are managed by the infrastructure manager. The Transport Code covers the management of passenger stations in order to ensure that such a structure does not harm the new railway undertakings:

- ✓ by obliging SNCF to manage the passenger stations that the State or other public entities entrust to it in a transparent and non-discriminatory manner;
- ✓ by stipulating that the use of the stations by a railway undertaking shall give rise to the signing of a contract with the station managers;
- ✓ by imposing accounting separation between the station management, carried out by Gares & Connexions, and the operation of SNCF transport services, so that none of the public subsidy paid to one of these activities may be assigned to the other.

ARAF issued the following four opinions and decisions on passenger stations during 2013:

- ✓ Opinion No. 2013-003 of 20th February 2013 regarding the Gares & Connexions' Code of Ethics;
- ✓ Decision No. 2012-014 of 9th July 2013 on the maintenance of separate accounts for SNCF passenger station management activities;
- ✓ Opinion No. 2013-024 of 22nd October 2013 on the WACC for the regulated services in passenger stations for the 2014 and 2015 timetable.
- ✓ Opinion No. 2013-026 of 12th November 2013 regarding draft reference documents for passenger stations for the 2014 and 2015 timetables.

The station reference document

ARAF has, in particular, issued a negative opinion regarding the draft station network statements that Gares & Connexions and RFF have drawn up for 2014 and 2015. These documents aim to specify the technical conditions and charging for access to passenger stations.

ARAF has examined them in regard to the transparency and non-discrimination principles and the charging regulations.

As regards the transparency principle, it has noted the absence of important information such as performance and productivity commitments, insufficient description of the investment programmes, the difficulty of access to documents and the lack of clarity.

As regards the non-discrimination principle, it noted unfair contractual conditions, as well as the invoicing of study and administrative costs that SNCF does not pay.

What is more, Gares & Connexions has maintained the level of payment of its capital at 11.9% before tax, a level that ARAF deems to be unjustified. It unduly increased the charges and indirectly leads the passenger station management activity to subsidise SNCF's competitive activities.

Gares & Connexions code of ethics

Article 10 of Decree No. 2012-70 of 20th January 2012 regarding passengers stations and other rail network service facilities states that "the employees in charge of processing service requests and the implementation of the same must respect the confidentiality of industrial or commercial information which is given to them by the rail operators". A code of ethics has been drawn up by the station directors so as to remind the staff in question of this obligation.

In its Opinion No. 2013-003 of 20th February 2013, ARAF issued an unfavourable opinion on the Gares & Connexions code of ethics. It noted, in particular, that the proposed mechanism was not specific enough and did not explain the principles to be respected in order to guarantee fair and non-discriminatory access to railway undertakings. What is more, it noted the fact that the sanctions were not specified that may be instigated in the event that an employee does not respect the obligations.



Integrating "Agences Bâtiment Énergie" (Energy Building Agencies) in Gares & Connexions

In November 2012, ARAF approved a first Reference Document for the Accounting Separation of the Gares & Connexions activities presented by the SNCF.

As of December 2012, the SNCF submitted a new version of the accounting separation rules to the Authority for approval. This version aimed to draw the conclusions, in terms of accounting separation, of a significant organisational modification - the integration on 1st January 2013 of Agences Bâtiments Énergie (ABE) in Gares & Connexions.

Previously attached to SNCF Infra branch, ABE carries out the upkeep and maintenance services (owner maintenance, tenant maintenance, work) in passenger stations and in the other buildings of the building stock of the SNCF, RFF and other third parties. In 2012, 47% of these services were carried out in stations, 34% in the buildings for SNCF management and 7% in those of SNCF Infra.

SNCF's intention is to bring ABE operationally closer to the stations, their main client. Integrating ABE into Gares & Connexions involves incorporating approximately 1600 new employees, with a similar figure to the previous workforce of the branch, which was approximately 1100 employees.

Since the passenger station management service scope for which the separate accounts are drawn up does not necessarily coincide with the scope of the Gares & Connexions branch, ARAF decided to measure the impact of the integration of ABE by identifying more specifically the risks associated with the expansion of the Gares & Connexions scope of activity. ARAF is concerned about the financial balance of the ABE activities, since one half of their turnover was obtained from places other than passenger stations, from other activities of the SNCF which may look for other service providers in the future.

ARAF approved the modifications made to the reference base in its Decision No. 2013-014 of 9th July 2013, whilst expressing a certain number of reservations:

- ✓ Guarantees must be made or reinforced by SNCF such that newly integrated activity be supported and does not harm the financial balance of the branch;
- ✓ Rule specifications must appear in the reference base so as to meet the objective of transparency and justification of the invoicing flows and the accounting-related monitoring of ABE's activities.

SNCF's responses to these expressed reservations allowed ARAF to remove them in June 2014.

Key facts

- ✓ Defining transparent and non-discriminatory access conditions for passenger stations is a crucial factor in opening up to competition.
- ✓ ARAF requested guarantees that the integration of "Agences Bâtiment Énergie" will not impact the balance of Gares & Connexions.

Appendices

ABE: *Agences Bâtiment Energie*
(Energy Building Agencies)

Framework agreement: Agreement which stipulates the characteristics of the rail infrastructure capacity offered to a time slot applicant for a period of time determined by the infrastructure manager.

Economic depreciation: The need for the long-term renewal of a given asset in order to ensure it is maintained in its current state.

Cabotage: The possibility of taking passengers in one country to make a local journey during an international service.

Phasing: Repetition at regular intervals of the same service diagram, departure time, stops en route and time of arrival. This structure is constructed by integrating the train paths, from the fastest to the slowest, via a symmetrical diagram (the structure is the same in both directions and the trains connect in all directions).

CAPEX (Capital expenditure): Investment expenditure.

Renewal work site: Works that consist in replacing all or part of the constituent elements i.e. ballast, sleepers, rails and their fixing systems.

Combined transport site: All the fixed installations (comprising rail installations such as specialised tracks and transshipment and storage installations such as gantry cranes and handling yards) enabling the transfer of freight from rail to road and vice versa.

UIC classification: The rail lines are classified from 1 (heavy traffic) to 9 (light traffic).

Rail operation concomitance: Coordination of the presence of several railway undertakings on the sidings on a single rail site.

European freight corridor : These corridors aim to increase European rail freight traffic by providing better interoperability. The infrastructure managers concerned by a corridor shall entrust the allocation and the marketing of the international train paths to a One-Stop Shop.

Paris Court of Appeal: The Court of Appeal is the only competent entity for appealing against the dispute settlement decisions of specific sector-based regulation authorities, including the ARAF.

Full cost: Sum of the average cost and the capital cost.

Directly imputable cost: Cost of a specific rail service.

Marginal cost: The cost of an additional transport unit using the infrastructure. The marginal cost is called a "social" cost when it integrates external costs (dimensions, pollution or accidents).

Average cost: Expenses for one year including operation, maintenance and regeneration costs. The sum of the fixed cost (no matter how much traffic there is) and the variable cost (associated with how much traffic there is).

Weighted average cost of capital: The WACC is the average rate of annual profitability that the shareholders and creditors expect in return for their investment.

Variable cost: The maintenance, upkeep and operating expenditure, associated with the intensity of the traffic. This is similar to the marginal cost, i.e. the production cost for an additional unit when production capacity or train paths, are available.

Decision: Legal act issued by the Council of European Union or the European Commission. All its provisions are compulsory. It is directly applicable, without requiring transposition into national law.

Railway traffic directorate (DCF):

Specialised department of SNCF which carries out traffic and transit management missions on the national rail network, on behalf of Réseau ferré de France (RFF).

Directive: Legal act issued by the Council of the European Union with the Parliament or alone, in some cases. It is binding on the States targeted by the directive as regards the objective to be obtained, and leaves them to choose the means and method for attaining this objective by the deadline it sets.

Network Statement: Document that gives the indepth detail of the general rules, deadlines, procedures and criteria for the charging and capacity distribution systems; this document also contains all the other information needed to enable the infrastructure capacity requests to be introduced.

Grandfather rights: Rule which consists in not questioning the capacity used by an operator, as long as it actually uses this capacity.

Unavailability window: Restriction of established capacity in order to allow work to be carried out on a given section of the network. It is characterised by typical positioning and duration (e.g. 2 to 6 hours) and is established for a period covering either all working days or a number of days in a year or a shorter period. This window is shown by a trapezium on the traffic diagram. The windows are finalised in April of year Y-2, where year Y is the year of the service timetable.

Force majeure: Unforeseeable and unavoidable circumstances which free a person from their responsibilities or obligations.

GOPEQ (major scheduled operation equivalent): Working unit for evaluating the different track and switch renewal operations.

Traffic graph: Space-Time document which graphically translates the progress of each of the trains on a given section of line.

Hub: Transport network platform which incorporates a maximum of connections. IRG-Rail (Independent Regulators' Group-Rail): association gathering 25 independent rail regulation authorities from member countries of the European Economic Community (Germany, Austria, Belgium, Bulgaria, Croatia, Denmark, Spain, Estonia, Finland, France, Greece, Hungary, Italy, Kosovo, Lithuania, Luxembourg, Macedonia, Norway, the Netherlands, Poland, the United Kingdom, Slovakia, Slovenia, Sweden, Switzerland).

Services facilities: Passenger stations open to the public, including the platforms and stops and their buildings; power supply installations and traction electricity distribution on the rail tracks that are open to public traffic; marshalling yards or train formation yards; storage tracks; goods terminals including the combined transport sites and nonrail infrastructures at these terminals; fuel and sand supply infrastructures and roof inspection walkways; maintenance centre installations and other technical installations required to carry out light maintenance services.

Spur terminal installations (ITE): Connections between activity zones and the national rail network.

Intermodality: Combination of several modes of transport in a single journey.

Financial Asset Balance Model (Modèle d'équilibre des actifs financiers - MEDAF): Model for assessing the intrinsic value of the financial assets. This is based on the analysis of the balance between the financial risk and profitability.

"Wall of China": Device that should guarantee separation between the different departments as regards the circulation of sensitive information.

OPEX (Operational expenditure): Operating expenses. Minimum services: comprise the processing of infrastructure capacity requests, the right to use the capacities allocated, the use of network connections and points, the regulation of train transit including signalling, regulation, dispatching, and the communication and supply of information regarding the transit of trains and any other information required to introduce or use the service for which the capacity has been allocated.

Adversarial principle: The ARAF may only include the means, explanations and the documents mentioned or produced by the parties in its decision if these have been available for discussion by both parties.

Price cap: Ceiling below which a company is free to set its price. The price cap is calculated based on the costs and volumes processed by the undertaking. This mechanism is intended to act as an incentive, with any difference between the price cap and the actual costs being a profit for the undertaking.

Access charge: Applied only to passenger trains that operate within the framework of a public service contract (regional passenger trains (trains régionaux de voyageurs -TER), regional passenger trains on the Ile-de-France (Transilien) and Trains d'équilibre du territoire (TET)), the access charges aim to cover the fixed cost of operating and maintaining the rail network (Article 5 of Decree 97-446 of 5 May 1997, amended - The Charging of Minimum Services).

Transit charge: Charge covering the variable part of the operating and maintenance charges for the rail network (Article 7 of Decree 97-446 of 5 May 1997, amended - The charging of minimum services).

Reservation charge: Charge covering all or part of the capital costs and encouraging the efficient use of the network by passing on the cost of infrastructure congestion; this may be increased for certain types of train, insofar as the market allows (Article 6 of Decree 97-446 of 5 May 1997, amended - The Charging of Minimum Services).

Rail infrastructure register: The infrastructure register is used for planning on the design of new trains and the development of new itineraries before service launch. The parameters of the infrastructure register must enable the infrastructure characteristics associated with the use stipulated for the rolling stock to be respected.

Regulations: Legal European Act. All its provisions are compulsory and the Member States are obliged to apply them as defined by the regulations. The Regulations are therefore directly applicable in the judicial system of the Member States.

RFF: Réseau ferré de France, an industrial and commercial public undertaking, is responsible for the maintenance, development, coherence and enhancement of the national railway network.

Rolling road and/or rail highway: The combined transport of entire lorries or trailers only, using the railway and trains consisting of low-bed wagons. The driver loads its lorry onto the wagon platform itself.

BTR: Ballast and Track Renewal (ballast, sleepers, rails).

Train path: Infrastructure capacity required to move a given train from one point on the network to another at a given point in time.

Uncertain train path : Conditional allocation of a train path which is in conflict with one or several allocated sites on the national rail network on which maintenance or renewal work is being carried out.

Last minute train path: Train path constructed between day D-7 and the day D, on which the train makes its journey.

Sub-system: The result of dividing up the rail system. This corresponds either to structural fields (infrastructure, power, command control and signalling, rolling stock) or to operational fields (operation and traffic management, maintenance, telematic passenger service and freight service applications).

Performance improvement system: System intended to encourage the railway undertakings and the infrastructure manager to reduce failures and improve the performance of the rail network. This system may comprise sanctions in the event of failure of the network, compensation for the companies that suffer these failures and bonuses in the event of good performance that exceeds that envisaged.

Combined transport: Movement of goods in individual loading units, using several modes of transport during one journey (rail, road or water).

Train-km: 1 train travelling 1 km = 1 train-km

TREF: Tax on the railway undertakings' profit, payable by passenger rail transport service companies.

UIC: Union internationale des Chemins de Fer (International Railway Union), international union for operators and managers of rail infrastructure.

UTP: French Public Transport and Rail Union

Sidings : Tracks used for traffic management requirements that may serve for manoeuvring and parking the railway undertakings' rolling stock.

Yield management: Technique for optimising overall revenue, which consists in varying the price subject to the deadline for departure and flexibility in demand, in order to attract clients when demand is low.

Decisions

International Passenger Transport Services comprising Cabotage [2013-004 (27/02/2013)].

Adoption of the Financial Account of the ARAF for 2012 and Allocation of the Result [2013-006 (27/03/2013)].

Official Notification of the SNCF for its Non-Respect of its IM supply obligations [2013-007 (03/04/2013)].

Proposal of the fixed amount of the duty set by Article L.2132- 13 of the Transport Code for 2010 [2013-008 (10/04/2013)].

Modification of the Internal ARAF Board Regulations [2013-012 (29/05/2013)].

Holding of separate accounts for SNCF's passenger station management activities - v2 [2013-014 (09/07/2013)].

Decision regarding the request submitted by ECR within the framework of a dispute between it and RFF regarding the conditions for the allocation and monitoring of time slots and invoicing and reimbursement of the reservation charges [2013-016 (01/10/2013)].

Decision regarding the request submitted by EPF within the framework of a dispute between it and RFF regarding the conditions for the allocation and monitoring of time slots and invoicing and reimbursement of the reservation charges [2013-017 (01/10/2013)].

Request submitted by T3M within the framework of a dispute between it and RFF regarding the conditions for the allocation and monitoring of time slots and the invoicing and reimbursement of the reservation charges [2013-018 (01/10/2013)].

Request submitted by VFLI within the framework of a dispute between it and RFF regarding the conditions for the allocation and monitoring of time slots and the invoicing and reimbursement of the reservation charges [2013-019 (01/10/2013)].

Signature of a cooperation agreement between rail regulators on Freight Corridor 2 (as defined by European regulation No. 913/2010/EU) [2013-020 (01/10/2013)].

Signature of a cooperation agreement between rail regulators on Freight Corridor 4 (as defined by European regulation No. 913/2010/EU) [2013-021 (01/10/2013)].

Accounting separation of TET activities (decision not public) [2013-027 (12/11/2013)].

Request submitted by Euro Cargo Rail within the framework of a dispute with Réseau ferré de France regarding the allocation conditions for sidings and the pricing for their use [2013-028 (03/12/2013)].

Request submitted by ECR within the framework of a difference between it and RFF regarding the increased charges for specific use of the sidings at Is-sur-Tille [2013-032 (17/12/2013)].

Opinions

DRR2014 2013-002 - 30/01/2013.

G&C Deontology Code- 2013-0003 – 20/02/2013.

G&C's Ethics Code - 2013-0003 – 20/02/2013.

Request by the Adlc on the Deposition of Veolia Transdev 2013-005 – 28/03/2013.

Nomination of Jean-Claude LARRIEU as Director of the Traffic and Transit Management Department - 2013-009 – 10/04/2013.

Draft decree setting the list of rail networks with operating characteristics comparable to those of the national rail network and draft resolution specifying the specific the methods of application to these networks of the provisions of Chapters II, V and Va of Decree No. 2006-1279 of 19 October 2006 regarding the safety of rail traffic and the interoperability of the rail system - 2013-010 – 24/04/2013.

Pricing of the Minimum Services for the Service Schedule 2014 - 2013-011 – 24/04/2013.

International Character of the THELLO Milan-Marseille Service - 2013-013 – 09/07/2013.

Impact of the passenger transport service envisaged by Thello between Milan, Genoa, Monaco, Nice and Marseille on the economic balance of the public service contract for Provence-Alpes-Côte d'Azur region - 2013-022 – 08/10/2013.

Draft decree on the security and the interoperability of the rail system and on the draft resolution defining the essential requirements applicable to the rail system - 2013- 023 – 22/10/2013.

Opinion 2013-024 of 22 October 2013 on Capital Commitment Costs for Creating the Fees for the Regulated Services in Passenger Stations for the 2014 and 2015 service timetable.

Principles that underlay the separate analytical compatibility of SNCF Fret, within its "massive train" activity, on the one hand, and its "single wagon" activity on the other hand - 2013-025 – 05/11/2013.

Regarding the draft passenger station reference documents for the service schedules 2014 and 2015 2013-026 – 12/11/2013.

Regarding the market for regular interregional transport by coach - 2013-029 – 10/12/2013.

Draft Framework Contract for Infrastructure Capacity between RFF and T3M- 2013-033 – 18/12/2013.

Draft Framework Contract for Infrastructure Capacity between RFF and Froidcombi - 2013-034 – 18/12/2013.

Draft Framework Contract for Infrastructure Capacity between RFF and Novatrans - 2013-035 – 18/12/2013.

This list is not exhaustive.

Regarding ARAF

1986: Decree 86-83 of the Prime Minister of 17th January 1986 regarding the general provisions applicable to non-State contractors used for the application of Article 7 of law 84- 16 of 11th January 1984 on the statutory provisions for public State function.

2009: Law 2009-1503 of 8th December 2009 on the organisation and regulation of rail transport and comprising various transport provisions Decree 2010-932 of the Prime Minister of 24th August 2010 regarding passenger transport by rail.

Decree 2010-1023 of the Prime Minister of 1st September 2010 regarding the organisation and operation of the Railway Regulatory body and regarding various provisions for the rail sector.

Resolution of the Ministry for Ecology, Energy, Sustainable Development and the Sea, in charge of green technologies and climate negotiations of 7th October 2010 setting the rate for the fixed duty collected by the Rail Activity Regulatory body and modifying the Resolution of 24th May 2006 setting the rate for the safety duty to be paid to the Public Rail Safety Establishment.

2011: Decree 2011-891 of the Ministry for Ecology, Sustainable Development, Transport and Accommodation, Decree of the Ministry for Ecology, Sustainable Development, Transport and Accommodation of 26th July 2011 regarding the department managing traffic and transit and comprising several rail-related provisions.

2013: Resolution of the Ministry for Ecology, of Sustainable Development and Energy of 12th July 2013 modifying the resolution of 7th October 2010 fixing the rate of the fixed duty collected Rail Activity Regulatory body and modifying the Resolution of 24th May 2006 setting the safety duty payable to the Public Rail Safety Establishment (EPSF).

France

1982: Law 82-1153 of 30th December 1982 on the orientation of National Transport (Loi d'orientation des transports intérieurs - LOTI).

1983: Decree 83-109 of the Ministry for Transport, Decree of the Ministry of Transport of 18th February 1983 regarding the statutes of Société nationale des chemins de fer français (SNCF - the French national rail company). Decree 83- 817 of the Ministry for Transport, Decree of the Ministry of Transport of 13th September 1983 regarding the approval of the specifications for the Société nationale des chemins de fer français (SNCF - the French national rail company).

1985: Law 85-11 of 3rd January 1985 regarding consolidated accounts for certain commercial companies and public companies. Article 13.

1997: Law 97-135 of 13th February 1997 creating Réseau ferré de France public with a view to revitalising rail transport.

Decree 97-444 of the Prime Minister of 5th May 1997 regarding the missions and the statutes of Réseau ferré de France.

Decree 97-446 of 5th May 1997, regarding the charges for the use of the national rail network.

2001: Decree 2001-1116 of the Prime Minister of 27th November 2001 regarding a transfer of skills for public transport of regional interest.

2003: Decree 2003-194 of the President of the Republic of 7th March 2003 regarding the use of the national rail network.

2005: Decree 2005-1633 of the Prime Minister of 20th December 2005, modifying Decree 2003-194 of 7 March 2003 regarding the use of the national rail network and Decree 97-444 of 5th May 1997 regarding the missions and statutes of Réseau ferré de France.

2006: Law 2006-10 of 5th January 2006 regarding the safety and the development of transport.

Decree 2006-1279 of the President of the Republic 19th October 2006 regarding rail traffic safety and the interoperability of the rail system.

2009: Resolution of 7th December 2009 of the Ministry for Ecology, Energy, Sustainable Development and the Sea, responsible for green technologies and climate negotiations, establishing the list of the basic sections of the national rail network as of 12th December 2010.

2010: Decree 2010-1201 of 12th October 2010 of the Ministry for Ecology, Energy, Sustainable Development and the Sea, responsible for green technologies and climate negotiations establishing the list of the other rail networks with operating characteristics that are comparable with those of the national rail network.

Decree 2010-1388 of the Prime Minister of 12th November 2010 regarding the application of Article 29-1 of Law No.82-1153 of 30th December 1982 on the orientation of national transport.

■ France

2012: Decree 2012-70 of the Ministry for Ecology, Sustainable Development, Transport & Accommodation of 20th January 2012 regarding passenger stations and other service facilities of the rail network.

Resolution of the Minister for Ecology, Sustainable Development, Transport and Accommodation of 19th March 2012 setting out the objectives, methods, safety indicators and the technical safety and interoperability regulations applicable to the national rail network.

Decree 2012-555 of the Prime Minister of 23rd April 2012 regarding access of the State, local and regional authorities and their public establishments to specific information and data regarding rail transport.

2013: Decision of the Ministry for Ecology, Sustainable Development and Energy of 12th December 2013 granting an access right for the operation of an international rail passenger transport service comprising national services.

Decision of the Ministry for Ecology, Sustainable Development and Energy of 24th December 2013 granting a waiver under Point III of Article 124 of the Resolution of 19th March 2012 setting out the objectives, methods, safety indicators and the technical safety and interoperability regulations applicable to the national rail network.

■ Europe

1991: Directive 91/440/EEC of the Council, of 29th July 1991, regarding the development of European railways.

1995: Directive 95/18/EC of the Council of 19th June 1995 on rail company licences, Directive 95/19/EC of the Council of 19th June 1995 on the distribution of rail infrastructure capacity and the collection of charges for the use of the infrastructure.

1996: Directive 96/48 of the Council of 23rd July 1996 on the interoperability of the Trans-European high speed rail system.

2001: Directive 2001/12/EC of the European Parliament and the Council of 26th February 2001, modifying directive 91/440/ EEC of the Council regarding development of European railways.

Directive 2001/13/EC of the European Parliament of 26th February 2001 modifying Directive 95/18/EC of the Council on rail company licences.

Directive 2001/14/EC of the European Parliament and the Council of 26th February 2001 on the distribution of rail infrastructure capacity and the charging of the infrastructure.

Directive 2001/16/EC of the European Parliament and the Council of 19th March 2001 regarding the interoperability of the subsidised rail system.

2004: Directive 2004/49/EC of the European Parliament and the Council of 29th April 2004 regarding the safety of European railways and modifying Directive 95/18/

EC of the Council regarding licences for rail operators and Directive 2001/14/EC regarding the distribution of rail infrastructure capacity and the charging of the rail infrastructure.

Directive 2004/50/EC of the European Parliament and of the Council of 29th April 2004 modifying Directive 96/48/ EC of the Council regarding the interoperability of the trans-European high speed rail system and Directive 2001/16/EC of the European Parliament and the Council regarding the interoperability of the subsidised rail system.

Directive 2004/51/EC of the European Parliament and the Council of 29th April 2004, modifying Directive 91/440/EEC of the Council regarding development of European railways. Regulation 2004/881/EC of the European Parliament and the Council of 29th April 2004 creating an European Rail Agency.

2007: Directive 2007/32/EC of the Commission of 1st June 2007 modifying Appendix VI of Directive 96/48/ EC of the Council on the interoperability of the trans-European high speed rail system and Appendix VI of Directive 2001/16/EC of the European Parliament and the Council on the interoperability of the subsidised trans-European rail system.

Ruling 2007/653/EC of the Commission of 13th June 2007 on the use of a common European format for safety certificates and request documents, in accordance with Article 10th of Directive 2004/49/EC of the European Parliament and the Council, and on the validity of the safety certificates issued under Directive 2001/14/EC of the European Parliament and the Council.

Directive 2007/58/EC of the European Parliament and the Council of 23rd October 2007 modifying Directive 91/440/ EEC of the Council regarding the development of European railways and Directive 2001/14/EC regarding the distribution of rail infrastructure capacity and the charging of the rail infrastructure.

2008: Directive 2008/57/EC of the European Parliament and the Council of 17th June 2008 regarding the interoperability of the rail system within the European Union (re-worked) (Text of interest for the EEE).

2010: Ruling 2010/912/EU of the European Parliament and the Council of 22nd September 2010 regarding the European rail network for competitive freight.

2012: Directive 2012/34/EU of the European Parliament and the Council of 21st November 2012 establishing a Single European Rail Zone.



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