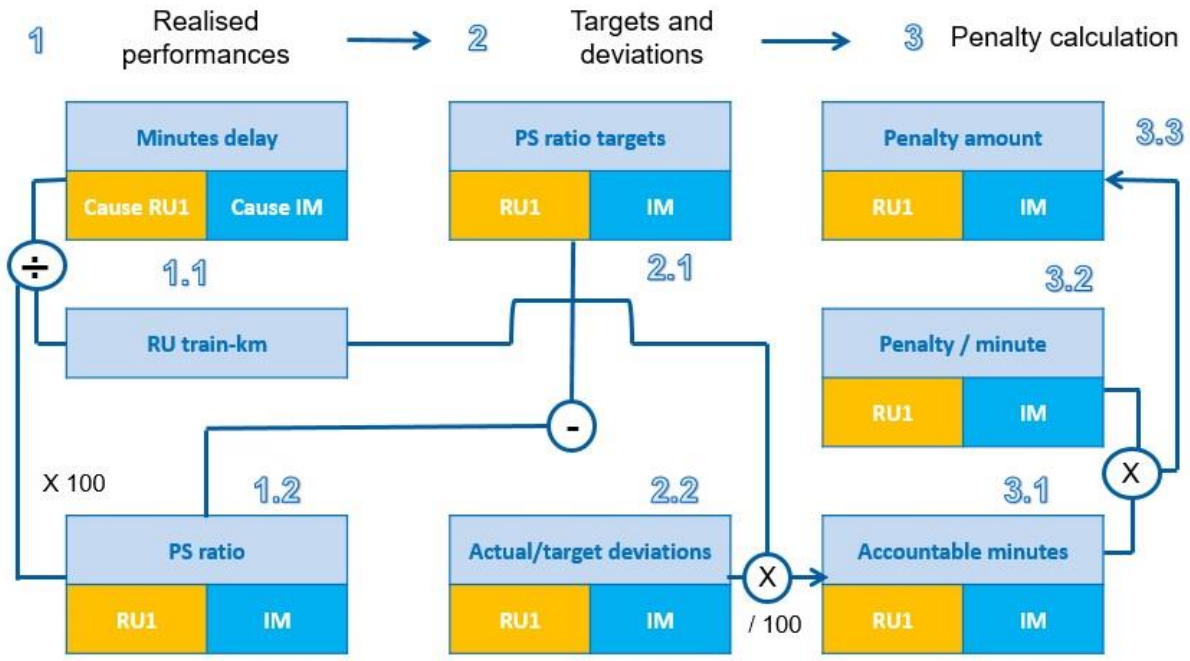
Part 1: Description of the bilateral model



1. Realised performances

1.1 Minutes delay

The "minutes delay" are calculated according to the following formulas:

- Minutes delay RU[1](i) = the sum of all minutes of delay attributed to RU(i) during the measurement year.

Clarification: all the minutes of delay attributed to the railway undertaking(i) are the minutes of delay included in the reports caused by the RU concerned to all RUs (including itself) running on the Infrabel network.

- Minutes delay IM[2]/RU(i) = the sum of all minutes of delay of RU(i) attributed to IM during the measurement year.

Clarification: all the minutes of delay attributable to the infrastructure manager are the minutes of delay included in the reports caused by the IM to the relevant RU(i) running on the Infrabel network.

Infrabel will communicate to all railway undertakings additional information, such as the data model and the penalty cap, as and when it is determined, by 31/12/2019 at the latest.

[1] RU: Railway Undertaking

[2] IM: Infrastructure Manager

1.2 Performance Scheme ratio

The "Performance Scheme ratio (PS ratio)" is calculated according to the following formulas:

$$\textit{PS ratio RU(i)} = \frac{\textit{minutes delay RU(i) for year (y)}}{\textit{100 train-km travelled by RU(i) during year (y)}}$$

$$\textit{PS ratio IM(i)} = \frac{\textit{minutes delay IM/RU(i) for year (y)}}{\textit{100 train-km travelled by RU(i) during year (y)}}$$

2. Targets and deviations

2.1 Target PS ratio

The targets are set individually per RU and capped according to the average target of the sector. This avoids a situation where undertakings that perform better than the sector average have to achieve the same level of improvement as their worse performing peers, while their margin for improvement is smaller.

2.1.1 Calculation of average PS ratio based on individual performances

Reference basis: minutes delay

The "minutes delay reference basis" is calculated according to the following formulas:

$$\textit{The minutes delay reference basis RU(i) for year (y)} = \frac{\textit{The sum of the minutes delay RU(i) of the last 3 years (year (y-1), year (y-2) and year (y-3))}}{3}$$

$$\textit{The minutes delay reference basis IM/RU(i) for year (y)} = \frac{\textit{The sum of the minutes delay IM/RU(i) of the last 3 years (year (y-1), year (y-2) and year (y-3))}}{3}$$

The effect of exceptionally good and exceptionally bad years is smoothed out by taking the average minutes delay over the last 3 years.

Reference basis: train-km travelled

The "train-km travelled reference basis" is calculated according to the following formula:

$$\textit{The train-km travelled reference basis RU(i) for year (y)} = \frac{\textit{the sum of the 100 train-km travelled of RU(i) of the last 3 years (year (y-1), year (y-2) and year (y-3))}}{3}$$

Calculation of average PS ratio

The "average PS ratio" is calculated according to the following formulas:

$$\textit{Average PS ratio RU(i) for year (y)} = \frac{\textit{the minutes delay reference basis RU(i) for year (y)}}{\textit{the train-km travelled reference basis RU(i) for year (y)}}$$

$$\textit{Average PS ratio IM/RU(i) for year (y)} = \frac{\textit{the minutes delay reference basis IM/RU(i) for year (y)}}{\textit{the train-km travelled reference basis RU(i) for year (y)}}$$

2.1.2 Calculation of average PS ratio based on sector performances

Two sectors are defined:

- HKV: national passenger traffic + international passenger traffic
- HKM: freight traffic

The "average PS ratio of the sector" is calculated according to the following formulas:

$$\textit{Average PS ratio RU of the sector(y) for year (y)} = \frac{\textit{Sum of Average PS ratios RU(i) for year (y) of all RUs within the Sector(y)}}{\textit{Number of RUs within the Sector(y)}}$$

$$\textit{Average PS ratio IM/RU of the sector(y) for year (y)} = \frac{\textit{Sum of Average PS ratios IM/RU(i) for year (y) of all RUs within the Sector(y)}}{\textit{Number of RUs within the Sector(y)}}$$

2.1.3 Target PS ratio

The improvement percentage is 1%. The improvement percentage can be revised annually by the PSMB based on a realistic margin of improvement based on the performance of previous years.

Target PS ratio RU(i)

The "Target PS ratio RU(i)" is determined on the basis of the average performance of the last 3 years of RU(i) compared to the average performance of the last 3 years of the sector(y) to which RU(i) belongs:

	If	Then
Case 1	Average PS ratio RU(i) for year (y) > Average PS ratio RU of the Sector(y) of the RU(i) for year (y)	Target PS ratio RU(i) for year (y) = Average PS ratio RU(i) for year (y) x (1-improvement percentage [%])

Case 2	Average PS ratio RU(i) for year (y) ≤ Average PS ratio RU of the Sector(y) of the RU(i) for year (y)	Target PS ratio RU(i) for year (y) = Average PS ratio RU(i) for year (y)

Target PS ratio IM/RU(i)

The "Target PS ratio IM/RU(i)" is determined on the basis of the average performance of the last 3 years of IM/RU(i) compared to the average performance of the last 3 years of the sector(y) to which RU(i) belongs:

	If	Then
Case 1	Average PS ratio IM/RU(i) for year (y) > Average PS ratio IM/RU of the Sector(y) for year (y)	Target PS ratio RU(i) for year (y) = Average PS ratio IM/RU(i) for year (y) x (1- improvement percentage [%])
Case 2	Average PS ratio IM/RU(i) for year (y) < Average PS ratio IM/RU of the Sector(y) for year (y) x (1- improvement percentage [%])	Target PS ratio IM/RU(i) for year (y) = Average PS ratio IM/RU(i) for year (y)

Target PS ratio of new RUs:

If a railway undertaking is later included in the PSMB, due to the absence of historical data, the Target PS ratio of this new RU is calculated during the first 3 years using an adjusted formula. The table below shows the calculation per year:

For RU(i):

Year	Calculation
Year 1	Target PS ratio RU(i) for year 1 = Average PS ratio RU of the Sector(y) for year 1 x (1- improvement percentage [%])
Year 2	Target PS ratio RU(i) for year 2 = ((Average PS ratio RU of the Sector(y) for year 2 + PS ratio RU(i) for year 1) / 2) x (1- improvement percentage [%])
Year 3	Target PS ratio RU(i) for year 3 = ((Average PS ratio RU of the Sector(y) for year 3 + PS ratio RU(i) for year 2 + PS ratio RU(i) for year 1) / 3) x (1- improvement percentage [%])

For IM/RU(i):

Year	Calculation
Year 1	Target PS ratio IM/RU(i) for year 1 = Average PS ratio IM/RU of the Sector(y) for year 1 x (1- improvement percentage [%])
Year 2	Target PS ratio IM/RU(i) for year 2 = ((Average PS ratio IM/RU of the Sector(y) for year 2 + PS ratio RU(i) for year 1) / 2) x (1- improvement percentage [%])
Year 3	Target PS ratio IM/RU(i) for year 3 =

	((Average PS ratio IM/RU of the Sector(y) for year 3 + PS ratio RU(i) for year 2 + PS ratio RU(i) for year 1) / 3) x (1- improvement percentage [%])

2.2 Actual/target deviations

The "PS ratio deviation" indicates the extent to which the undertaking's performance is below its target.

- *PS ratio deviation RU(i) for year (y) =*
  PS ratio RU(i) for year (y) - Target PS ratio RU(i) for year (y)
- *PS ratio deviation IM/RU(i) for year (y) =*
  PS ratio IM/RU(i) for year (y) - Target PS ratio IM/RU(i) for year (y)

The Performance Scheme only works with a positive "PS ratio deviation". If the undertaking achieves its target (PS ratio deviation $\leq$ 0), the "PS ratio deviation" is reduced to 0.

3. Penalty calculation

3.1 Accountable minutes

The "accountable minutes" are calculated according to the following formulas:

- *Accountable minutes RU(i) for year (y) =*
  PS ratio deviation RU(i) for year (y) x 100 train-km travelled by RU(i) during year (y)
- *Accountable minutes IM/RU(i) for year (y) =*
  PS ratio deviation IM/RU(i) for year (y) x 100 train-km travelled by RU(i) during year (y)

3.2 Penalty per minute

The "penalty per minute" is a parameter calculated annually by the PSMB.

The Performance Scheme uses 2 penalties per minute, namely:

- Penalty per minute IM for year (y)
- Penalty per minute RU for year (y)

The PSMB calculates the 2 penalties per minute on the basis of:

- Maximum amount (see point 4);
- Maximum PS ratio deviation (see point 2.2).

3.2.1 Determination of the performance limit

The "Maximum acceptable deviation" is 10% of the target:

- Maximum PS ratio deviation RU(i) for year (y) = 10% of the Target PS ratio RU(i) for year (y).
- Maximum PS ratio deviation IM/RU(i) for year (y) = 10% of the Target PS ratio IM/RU(i) for year (y).

This deviation may be reviewed by the PSMB if analyses show that it is not satisfactory.

3.2.2 Calculation of the penalty per minute

The "penalty per minute" is calculated according to the following formulas:

$$\textit{Penalty per minute IM for year (y)} = \frac{\textit{Maximum amount IM for year (y)}}{\textit{sum of (Maximum PS ratio deviation IM/RU(i) for year (y) x 100 train-km travelled by RU(i) during year (y)) of all RUs}}$$

$$\textit{Penalty per minute RU for year (y)} = \frac{\textit{Sum of Maximum amounts RU(i) of all RUs for year (y)}}{\textit{Sum of (Maximum PS ratio deviation RU(i) for year (y) x 100 train-km travelled by RU(i) during year (y)) of all RUs}}$$

3.3 Penalty amount

The "Penalty amount" is calculated according to the following formulas:

- *Penalty RU(i) for year (y) = Accountable minutes RU(i) for year (y) x Penalty per minute RU for year (y)*
- *Penalty IM/RU(i) for year (y) = Accountable minutes IM/RU/(i) for year (y) x Penalty per minute RU for year (y)*

If Penalty IM/RU(i) > Penalty RU(i) => Penalty IM/RU(i) - Penalty RU(i) = Amount for year (y) that IM pays to RU(i) (limited to the Maximum amount IM/RU(i))

If Penalty RU(i) > Penalty IM/RU(i) => Penalty RU(i) - Penalty IM/RU(i) = Amount for year (y) that RU(i) pays to IM (limited to the Maximum amount RU(i))

If IM/RU(i) and RU(i) both meet their targets, no amount will be paid.

4. Determination of the maximum amount for an undertaking

The "Maximum amount" that the IM must pay to the RU or the RU to the IM is capped. It is also the financial risk that each undertaking bears in the Performance Scheme.

The "Maximum Amount" is calculated according to the following formulas:

- *Maximum amount IM for year (y)= 0.40 of total usage charges in year (y-1)*
- *Maximum amount IM/RU(i) for year (y) = 0.40 of total usage charges in year (y-1) x allocation ratio RU(i)*
- *Maximum amount RU(i) for year (y)= 0.40 of total usage charges in year (y-1) x distribution key RU(i)*

Where "allocation ratio RU(i)"= train-km RU(i) during year (y) / train-km all RUs during year (y)

5. Stepwise introduction of financial leverage

As this is a new system, it will be tested during the first few years. Financial leverage will be gradually increased to reach the agreed financial conditions after 5 years. In the first 5 years, a discount will be applied to the financial conditions according to the table below:

Year	Discount on the financial conditions
2020	90%
2021	90%
2022	75%
2023	50%
2024	25%

This will limit the impact on undertakings of unforeseen effects with major financial consequences.

Part 2: Organisation and operation of the Performance Scheme Management Body

1. Role and tasks of the PSMB

The Performance Scheme Management Body (PSMB) is the sole point of contact for information, consultation and decision-making between the IM and the RU regarding the Performance Scheme.

The PSMB meets at least twice a year to take decisions on the implementation and development of the PS:

- It makes proposals for decisions concerning the development of the economic model of the PS, which it also validates (developing the values of the minutes delay, raising or lowering the penalty cap, etc.)
- It defines and validates targets relating to the PS Ratio
- It defines and validates objectives for improving PS indicators;
- It lays down rules for the dissemination of information.

2. Composition of the PSMB

The PSMB consists of two separate parts:

- infrastructure manager
- railway undertakings.

The general underlying principle of the PSMB is essentially based on parity of votes between the two parties, the infrastructure management and the railway undertakings.

The Regulatory Body for Railway Transport will act as arbitrator in the event of disagreement between the two parties in accordance with the role assigned to it by the Rail Code.

3. Establishment of the PSMB

3.1. Until the end of 2021

Until the end of 2021, any railway undertaking, regardless of its sector, has the opportunity to participate in the PSMB in order to represent its own interests.

The PSMB consists of two parts:

- infrastructure manager;
- railway undertakings wishing to join;

The number of votes allocated to the infrastructure manager is equal to the number of railway undertakings wishing to join the PSMB.

3.2. From 2022 onwards

From 2022 onwards, the PSMB can define and specify a minimum number of train-km per undertaking or per group/organisation of undertakings to be eligible to join. The composition is described in point 2.

This system allows smaller undertakings to set up an organisation of railway undertakings in which they can be represented.

Where an organisation of railway undertakings is established, it can join the PSMB if the sum of the number of train-km of all affiliated railway undertakings reaches the minimum number of train-km required by the PSMB.

To avoid the exclusion of certain sector(s) based on the above measure, the Management Body will lift the entry requirement if no undertaking or group/organisation of undertakings meets the criterion. PSMB will then invite the undertaking or group/organisation of undertakings with the most train-km in this sector, or the next largest number of train-km in case of refusal.

If no undertaking or group/organisation of undertakings in a certain sector wishes to join the PSMB, the PSMB will operate without that sector and take decisions on that sector's behalf with due care and diligence.

The number of votes allocated to the infrastructure manager is equal to the number of railway undertakings and organisations of railway undertakings belonging to the PSMB.

If no organisation of railway undertakings is established before 2022, the PSMB will have the option, as mentioned in point 5 of this document, to review the entry requirements of the PSMB.

4. Operating / decision-making process of the PSMB

It is essential for the validity of the decision-making process that the parity of votes between the two parties, i.e. the infrastructure manager and the railway undertakings, is respected.

The decision-making process is based on the following principles:

- Each item on which a decision is taken shall be put to the vote
- Each party has an equal number of votes
- Each party has a weight of 1
- Each party supports a single position within its party.

⇨ Once both parties, the infrastructure manager and the railway undertakings, have defined their position within their party, they can vote.

Infrabel, for its part, will adopt majority voting within its party.

Railway undertakings are free to determine the decision-making process within their own party.

To ensure that all actors within the PSMB have a solid working basis at meetings, Infrabel nevertheless proposes to proceed according to the dynamic decision-making model described below.

Decision-making model for dynamic majority:

If unanimity cannot be reached, the dynamic majority principle will be applied.

Dynamic majority voting is based on the principle that no undertaking is subject to discrimination within the decision-making process.

The concept of sector blocks is used. A sector block combines all undertakings from the same sector. Each sector block has one vote.

The sector blocks are divided into three arbitration levels:

- The primary sector blocks are "infrastructure manager" and "railway undertaking"

- The “railway undertaking” sector block can then be further broken down into the secondary sector blocks of “freight transport” and “passenger transport”;
- Finally, the “passenger transport” sector block is divided into the tertiary sector blocks of “national passenger transport” and “international passenger transport”.

A discussion topic dealt with at a particular arbitration level can only be arbitrated at that level if mediation has already taken place at the lower arbitration level.

In other words, if a discussion topic between the sector blocks of “infrastructure manager” and “railway undertakings” is to be mediated, agreement should already have been reached between the sector blocks at tertiary level (national passenger traffic and international passenger traffic) and the sector blocks at secondary level (railway undertakings passenger transport and railway undertakings freight transport).

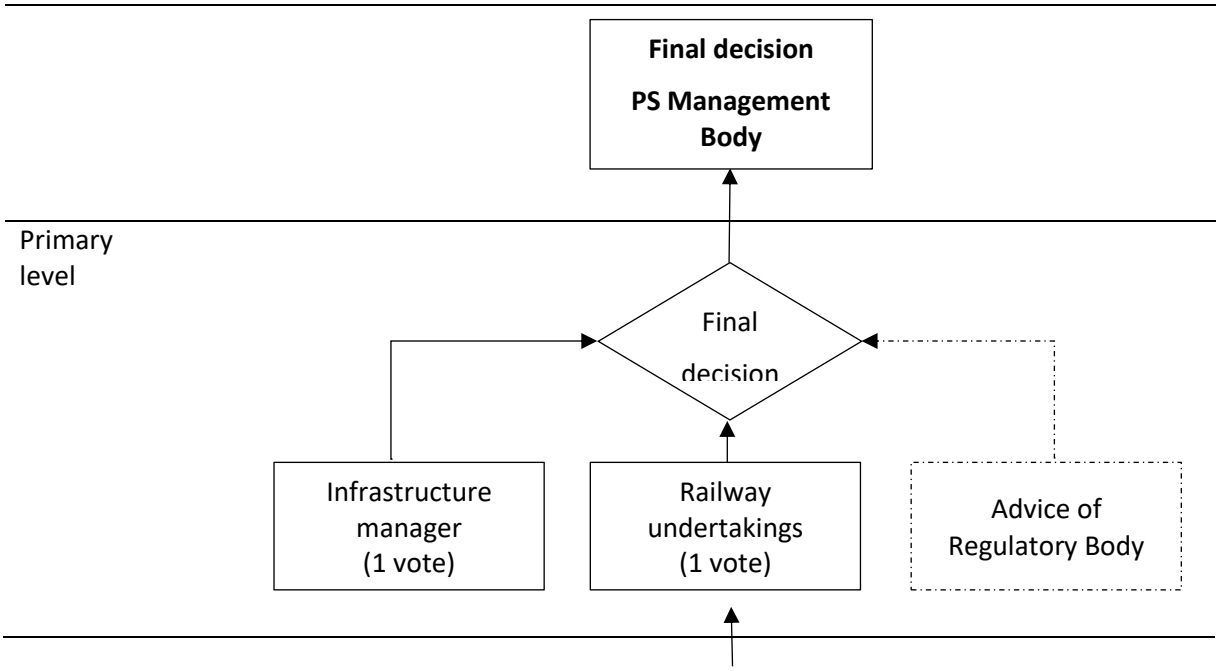
Each arbitration level has two sector blocks, each with one vote. If no agreement is reached between the two sector blocks, there is a risk of deadlock.

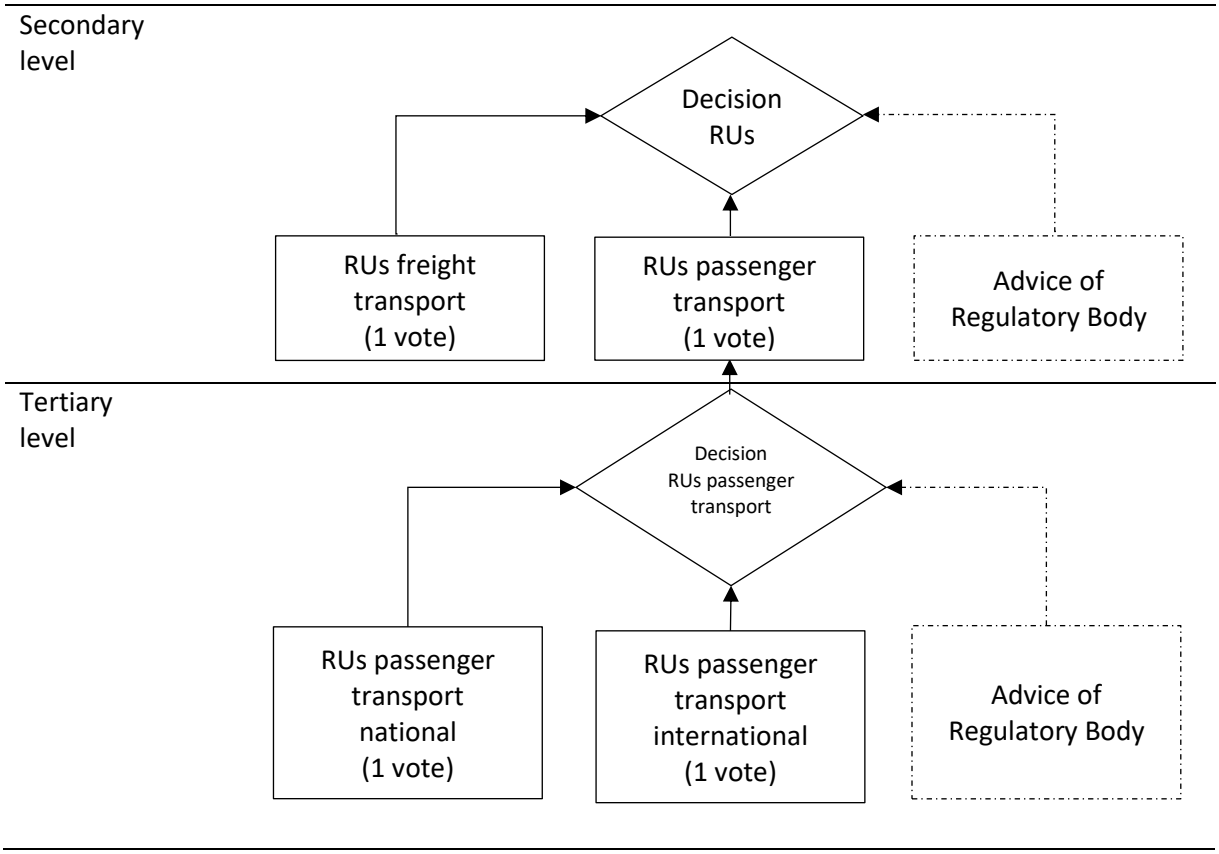
To prevent such a deadlock from obstructing a decision, the PS Management Body will seek the Regulatory Body’s advice in case of stalemate:

1. First, the PSMB requests non-binding advice in writing from the Regulatory Body (pursuant to Art. 62 Sec. 2 of the Rail Code).
2. If this advice does not lead to a solution, an RU or IM belonging to the PSMB applies to the Regulatory Body for administrative settlement of a dispute. The Regulator's advice is binding (according to Art. 62 Sec. 4 of the Rail Code).

The foregoing is without prejudice to Article 62, §5, 3° of the Rail Code.

The illustration below shows a graphic of the different levels:





The PSMB will have the option of reviewing all the rules in this document. This will allow the PSMB to have an evolutionary and corrective character if the need arises.

5. Appointment of members

Each railway undertaking and/or organisation of railway undertakings appoints a permanent representative and a deputy to represent it in the PSMB.

A titular representative of the infrastructure manager may represent more than one vote within his "infrastructure manager" section. This measure is introduced in order to limit the number of members made available to the PSMB by the infrastructure manager.

If the titular representative cannot participate in the PSMB, his deputy will take his place. If a titular representative or his deputy is not present at a meeting of the PSMB, his vote is considered and void and is not taken into account, except in the case of justified absence.

In the justified absence of a titular representative or his deputy, he may grant proxy to another titular member of the same party (IM or RU) to represent his interests. A copy of the proxy must be sent to the General Secretariat before the general meeting, otherwise it shall be invalid.

Other persons called for consultation must also sign the attendance list. They have no voting rights, but attend in an advisory capacity.

6. General Secretariat

6.1 Role

A unit of the IM assures the General Secretariat of the PSMB. It is responsible for the entire organisation of the PSMB.

6.2 Tasks

It has the following tasks:

- It defines the agenda for each of the PSMB meetings, based on proposals from its members;
- It prepares the necessary files for the smooth running of meetings;
- It convenes and leads sub-working groups (see point 7);
- It prepares quality indicators for the PS (e.g. cancelled trains) and analyses these
- It draws up the minutes of PSMB meetings
- It draws up the annual report on the activities of the PSMB.

7. Sub-working group

At the request of the PSMB, the General Secretariat proposes sub-working groups to analyse/address specific topics before they are discussed by the PSMB.

The PSMB validates these working groups as well as their organisation (composition, topics covered, etc.)

8. Invitation

The General Secretariat convenes the titular members of the PSMB by written or electronic invitation.

The provisional agenda, including all documents relevant to the meeting, will be sent by e-mail.

9. Agenda and minutes of the meeting

The General Secretariat determines the agenda based on the tasks that the PSMB has to carry out.

PSMB members wishing to include an item on the agenda must submit their proposal to the General Secretariat for consideration at least one month before the meeting.

The General Secretariat shall draw up the minutes of each PSMB meeting.

These are submitted for approval to all members present. They are deemed to be approved if members have not objected within 15 days of the date of dispatch of the minutes.

The final minutes shall be sent to the committee members no later than one month after the date of the meeting.

10. Communication

Each year the General Secretariat prepares an activity report which is sent to all members of the PSMB.

The report is subsequently sent to the various RUs as well as to the Federal Public Service Mobility and Transport.

11. Confidentiality and secrecy of the deliberations

Each member or guest attending PSMB meetings is subject to the obligation of secrecy with regard to all documents and information received, as well as the content of discussions.

Members of the PSMB are obliged to keep the deliberations secret.