



# ET.I.C.A (Eurotunnel Incentive for Capacity Additions)

## Incentive scheme for the development of new Rail Freight services

### ETICA General Conditions of participation

#### 1. ETICA OBJECTIVES

Eurotunnel strongly believes in the development potential for Channel Fixed Link and European rail traffic, thanks to the fundamental strengths of this efficient and environmentally-friendly transport mode. Following the implementation of open-access for cross-Channel rail freight and the application of interoperability standards, Eurotunnel considers that the essential conditions are in place, allowing to envisage the development of new services between the United Kingdom and continental Europe, all the more in the event of positive Government policies in favour of modal shift.

ETICA is a financial incentive scheme for the development of new rail transport services. It is based on Article 9.3 of Directive 2001/14/EC<sup>1</sup> of the European Parliament and Council of 26 February 2001 defining the conditions according to which infrastructure managers may encourage the development of new rail services for specified transport flows through a time-limited incentive scheme open to all railway undertakings.

The central challenge for a rail operator putting together a project resides in gathering the sufficient critical mass of new customers required to reach the economic break-even of the capacities brought into operation. Thus the operator is confronted with the challenge of a double commercial investment, combining launch costs and chiefly the losses resulting from unsold capacity during the initial period of volume build-up, amounting to a barrier to entry of new services into the market. The ETICA start-up incentive is therefore aimed at reducing the cost of creation of new services, and rewarding rail operators for their efforts to develop the market, in line with the purpose of rail Directives.

#### 2. PRINCIPLES OF THE SCHEME

The ETICA scheme is based on payment by Eurotunnel to the successful candidate of a one-off financial incentive on a strictly non-renewable basis, in return for the creation by a railway undertaking of a new rail service using the Channel Fixed Link, distinct from existing services.

This mechanism applies alongside (and without modifying) the pricing system for access to the Channel Fixed Link described in the Eurotunnel Network Statement which is destined for permanent application, unlike the ETICA system which is a one-off, non-renewable payment intended solely for the development of new services for specified transport flows.

In accordance with the abovementioned provisions of Directive 2001/14/EC, this scheme is open to all railway undertakings who submit an application and accept its conditions, and whose projects meet the selection criteria described below.

#### 3. DURATION

The ETICA scheme is proposed for new rail services to be launched until 31/12/2018 (with the start date of the Eurotunnel capacity reservation deemed as proof of the launch date). Eurotunnel makes no commitment and has no obligation to launch any subsequent ETICA calls beyond 2018 (nor any other amended incentive mechanism), and railway undertakings are invited to apply for ETICA grants as soon as possible for the launch of new services as part of the present call for candidate projects.

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<sup>1</sup> or Article 33.3 of Directive 2012/34/EU, not yet transposed to the Channel Fixed Link at the date of publication.

## 4. CRITERIA APPLICABLE TO THE CANDIDATE

This system is open to railway undertakings which have requested and obtained the regulatory permits necessary for access to the infrastructures concerned (licence and safety certificates). These general conditions for access, with regard to the Channel Fixed Link (CFL), are described in the Eurotunnel Network Statement<sup>2</sup>, which the railway undertakings are invited to read. Applications for ETICA grants are open to railway undertakings wishing to take part in the development of new cross-Channel rail services and that undertake to comply with the scheme's principles and abide by its conditions.

The application dossier must be submitted by the railway undertaking which intends to reserve capacity in the Channel Fixed Link and pay the corresponding tolls, which will be bound to Eurotunnel by an access contract, and to which any ETICA grants will be paid. Where the load factor (utilisation) risk for all capacities on the service is assumed entirely by another partner, this developer may be involved in the preparation of the application dossier, and obtain transparent access to all information relating to the ETICA application, including information about the incentive amounts granted for this service. In any case, the Eurotunnel contractual relationship remains strictly with the holder of the CFL train paths, and it is the sole responsibility of this rail operator and its partner (where applicable) to ensure that they establish contractual conditions between them to govern this development project.

## 5. CRITERIA APPLICABLE TO THE PROJECT AND DETERMINATION OF THE INCENTIVE

### **5.1 Frequency of the service**

The principal criterion for determination of ETICA grants is based on the additional weekly frequency of the new service. This frequency is determined as net additional return services per week, and is used to determine the potential amount of the grant, before application of other criteria.

Specific schedules of fixed lump-sum or weekly frequency based incentives will be established for every given year and for specified freight flows.

### **5.2 Novelty of the service (or “net creation”)**

The ETICA grant system is intended specifically for the creation of new direct services designed to satisfy new markets for the CFL, requiring specific efforts of investment, prospection and development. This incentive system for development of new services is not intended for services and flows that already exist in the Channel Fixed Link (or that existed at any point since the launch of the ETICA call for projects, including for services and flows that are restructured with variations in terminal, hub or route, and in particular for any services previously created with an attribution of an ETICA incentive, and later withdrawn, and then relaunched by the same or any other candidate). In the event where a candidate service for an ETICA incentive includes a combination of new and existing flows (or is accompanied by reductions in capacity for a similar service), a reduction coefficient will be applied by Eurotunnel so as to ensure that the grant is applied to the net creation of CFL rail traffic only. This criterion of novelty or net creation of markets and services will be subject to verification of the actual flows using declarations provided by the rail operator, which will be required to cooperate fully with requests for information and/or audit made by Eurotunnel.

In line with rail Directives, and so as to ensure that the principle of non-discrimination is applied, the ETICA incentive is also accessible to additions of frequencies on existing services (but likewise only those providing new markets for the CFL), and in that case, the amount of the incentive is determined on the basis of the net creation of capacity (reduced as appropriate in proportion with any diverted existing flows).

### **5.3 Actual availability**

The amount of the ETICA incentive payable is calculated taking into account the capacity actually produced by the rail operator (and not only on the basis of planned capacity). If the new service runs on at least 80% of the train paths reserved for it, the amount of the ETICA incentive is based on the net creation of reserved weekly frequencies (NB: subject to application of the other criteria). If a new service runs on less than 80% of the train paths reserved for it, the amount of the ETICA grant is reduced in accordance

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<sup>2</sup> The Eurotunnel Network Statement is available via internet at the following address:  
<http://www.eurotunnelgroup.com/uk/eurotunnel-group/Eurotunnel-Railway-Network/>

with traffic actually operated (NB: assessment made by quarter, subject to application of other criteria). If the planned launch of a service does not actually take place, no ETICA incentive is paid.

#### **5.4 Sustainability of the service**

The system of ETICA incentives is intended for projects of creation of services and capacity intended for continuous and permanent operation over time (i.e. three years or more). Therefore, the operator of the service will provide an undertaking certifying that, barring major and unforeseen variations of circumstances, it considers being capable of operating the service profitably over time, including through the renewal or replacement of its own commercial contracts, and does not depend for its survival on speculative variations in one or more factors (apart from the achievement of its reasonable load factor target, for which it also assumes full responsibility). In particular, the operator must recognise the strictly one-off and non-renewable nature of the ETICA incentive for a given service, and must declare that it is not dependant on the ETICA grant to ensure the profitability of its service beyond the initial service launch period. Likewise, the operator will assume full responsibility in the event that the forecasts made in its business plan are not achieved, or for sub-standard performance, reduction or withdrawal of its services for any reason whatsoever.

In exchange for this essential undertaking, in the event of a reduction or withdrawal during the first year of operation, Eurotunnel will not require the reimbursement of the incentive payments already made for full calendar quarters of operation, but will immediately cease payment of the grant from the point when the service is reduced or suspended. Through these terms, the ETICA incentive scheme for the creation of services, which is intended to reduce barriers for entry to the market, is also designed to avoid the creation of barriers to exit, thus reducing commercial risk for the operator.

#### **5.5 Qualitative and geographical criterion**

Each ETICA call for applications for a given year will be subject to a specific schedule of incentives for freight services, taking into account the frequency of service, and defining targeted geographical services and qualitative criteria applicable to freight traffic (eg. intermodal services, automotive transport, etc.). In a spirit of responsiveness to clients' needs and market opportunities, Eurotunnel reserves the right to complete at any time the list of eligible flows for its ongoing or future ETICA calls for applications. In that case, Eurotunnel will publish an updated schedule providing details of the additional eligible flows.

## **6. TERMS FOR APPLICATION AND PAYMENT OF THE INCENTIVE**

### **6.1 Application dossier submission**

For each projected service, the railway undertaking will prepare an application dossier declaring the following information:

- a) formal declaration of acceptance of the Channel Fixed Link access conditions,
- b) description of the railway undertaking and its operational and commercial partners for the projected service,
- c) description of the projected service (departure and arrival point, route, intermediate stops, subsequent routings, frequencies, timetables, capacity, product brochure, etc.),
- d) description of the business plan (calendar, investments, financial support obtained, load factor objectives, forecast build-up, future evolutions expected for the service, etc.),
- e) description of the target markets, main customers or main loads (with, for each customer, a declaration of the preceding cross-Channel transport mode before transfer onto the new service), together with a formal declaration of modal shift to CFL rail,
- f) description of operational constraints (with quantification of the resulting limitations & costs),
- g) formal declaration by the railway undertaking on the economic viability and sustainability of the service

Application dossiers must be communicated to the Railway Network Director, who will examine them in strict accordance with his obligations of confidentiality covering commercial information from railway undertakings. The rail operator may file its application at any time before the effective start-up of the service. Discussions may take place between Eurotunnel and the candidate to ensure that the dossier is properly understood and, in the event that a candidate file submitted is incomplete, the rail operator will be required to submit a complete file within three (3) months after the launch of the service (mandatory deadline after which Eurotunnel may reject any application).

## **6.2 Contractual agreement**

Eurotunnel will examine the application dossier within a period of one month from the date of receipt of the complete file. Following this examination period, a decision in principle will be notified by Eurotunnel, subject to the effective launch of the service as described in the application dossier, and subject to subsequent verifications of the accuracy of the information declared in relation to actual traffic. When the railway undertaking is able to commit firmly to the launch of the service (with reservation of CFL capacity), the award of the ETICA incentive will be formalised through an agreement specifying in particular the commitments made by the railway undertaking in terms of new services created, compliance with the declarations made in the candidate file, and subsequent certification and verification, and the commitment made by Eurotunnel as to the ETICA amount awarded, subject to subsequent verifications of the accuracy of the information declared in relation to actual traffic.

## **6.3 Verification procedure**

At the end of each calendar quarter, the rail operator will prepare a certificate declaring the traffic actually achieved for each service covered by an ETICA incentive, and confirming the portion of traffic new to the Channel Fixed Link (customers and commodities) and of existing Channel Fixed Link traffic (customers and commodities) transported by the new service. Eurotunnel may request for the rail operator to provide additional documents and information for the purpose of verifying the accuracy of the certificates submitted. Eurotunnel may also undertake an independent audit on the certificates, information and systems used by the rail operator to prepare its declarations. The railway undertaking will be required to cooperate fully with these verification procedures, or will run the risk of the pure and simple withdrawal of the ETICA grant for this service (or of an adjustment to the amounts to be paid, subject entirely to Eurotunnel's discretion, intended to reflect its own estimate of new traffic actually contributed by this service, for all periods considered).

## **6.4 Payment terms**

The grant payment by Eurotunnel will take place after each quarter of operation, the global grant amount being phased in time according to the terms specified in the schedule.

Upon completion of the process of certification and verification of the declarations submitted by the rail operator, Eurotunnel will notify the rail operator of its calculation of the amount of the ETICA grant payable for the quarter in question (including any adjustment made by Eurotunnel), and will issue (where applicable) a credit note and the associated payment addressed to the railway undertaking. Under no circumstances may the railway undertaking make its own deductions from toll payments to Eurotunnel. Any such deductions will constitute an automatic basis for cancellation of any ETICA grants awarded to the rail operator in question.

Payments are contingent upon the accuracy of the declarations submitted by the rail operator and the full cooperation of the rail operator with the verification procedures. Any grant paid on the basis of incorrect information declared by a rail operator will be subject to reimbursement in full to Eurotunnel and to the possibility of legal action.

## **6.5 Withdrawal or suspension of the grant**

In the event that the beneficiary fails to meet its obligations during the term of the scheme, Eurotunnel reserves the right to withdraw or suspend unilaterally the corresponding entitlement to incentives without being required to provide any form of compensation, following service of formal notice that has remained without effect.

## **6.6 Miscellaneous provisions**

The ETICA incentive scheme operates separately from and without effect on the scales of the Eurotunnel Network Statement, which are not modified as a result of the application of this system.

The ETICA incentive scheme is an initiative of Eurotunnel, which reserves the right to eliminate, suspend or modify the system without prior notice. In particular, the overall amount of the incentive payments awarded and paid under ETICA may be capped at any time at the initiative of Eurotunnel.

These General Conditions and any agreement to which they are integrated (cf. 6.2 above) are governed by French law. Any dispute arising from the agreement shall be regulated by a mutual agreement procedure. Should the disagreement persist, the parties agree to bring their dispute before the French courts. These conditions are established in French and English. In case of contradiction, the French version shall prevail.

## **7. CONTACT**

The point of contact for any information about the ETICA plan is the Railway Network Director (contact details available in Eurotunnel Network Statement).

# ET.I.C.A (Eurotunnel Incentive for Capacity Additions)

## Incentive scheme for the development of new Rail Freight services

### Schedule & specific Criteria for ETICA 2014-2018 call for applications (Appendix to General Conditions)

#### **A. Frequency of the service:** (cf. ETICA General Conditions par. 5.1)

The indicative ETICA Freight incentive schedule applicable during **2014-2018** is expressed as a maximum amount depending on the weekly frequency of service, subject to the qualitative criteria and specific conditions and compliance with the general conditions:

| <b>Net creation of weekly frequencies of Rail Freight services</b><br>(additional return services per week)                    | +1 rtn/week   | +2 rtn/week   | +3 rtn/week   | +5 rtn/week   |
|--|---------------|---------------|---------------|---------------|
| <b>Amount of ETICA start-up incentive</b><br>(indicative maximum amount before adjustments, one-off & non-renewable incentive) | 150,000 euros | 300,000 euros | 450,000 euros | 750,000 euros |

#### **B. Qualitative and geographical criteria:** (cf. ETICA General Conditions par. 5.5)

The ETICA **2013-2014** call for applications (see ETICA Final1 dated 30/5/2013) remains open until 31/12/2014. The ETICA **2014-2018** call for applications (see ETICA Final2 of [dd/mm/2014]) is hereby open for a period extended to 2018 aimed at the following types of **rail freight services**:

|           |  |
|-----------|--|
| <b>B</b>  | <b>intermodal freight services</b> (combined transport of containers, swap bodies, reefers, etc) |
| B1        | intermodal UK-Northwest Europe (Northern France, Benelux, Germany, Poland)                       |
| B2        | intermodal UK-Italy (North, Central and Southern Italy)  |
| B3        | intermodal UK-Eastern Spain (regions of Valencia, Catalonia)                                     |
| B Amount  | maximum amount of ETICA incentive per weekly frequency   |
| B Phasing | 60% year 1 (=20% Quarter 1 +20% Q2 +10% Q3 +10% Q4) + 30% year 2 +10% year 3                     |

#### **C. Qualitative criteria:** (cf. ETICA General Conditions par. 5.5)

The ETICA **2014-2018** call for applications is widened to the following types of **rail freight services**:

|           |  |
|-----------|--|
| <b>C</b>  | <b>new car transport services</b>                      |
| C Amount  | maximum amount of ETICA incentive per weekly frequency |
| C Phasing | 60% year 1 + 30% year 2 + 10% year 3                   |

|                        |  |
|------------------------|--|
| <b>D</b>               | <b>conventional trainload services</b>   |
| D1                     | conventional trainload services – food & beverage products   |
| D2                     | conventional trainload services – fast moving consumer goods   |
| D3                     | conventional trainload services –permanent logistics for manufacturing & distribution  |
| D Amount               | maximum amount of ETICA incentive per weekly frequency   |
| D Phasing              | 60% year 1 + 30% year 2 + 10% year 3   |
| D3 Specific conditions | The ETICA dossier prepared by the RU shall provide detailed documentation establishing the permanent characteristic of the rail service (minimum duration 3 years), justifying the contractual commitment of the shipper, the specific investments, the permanent modal shift to rail freight, or at least requiring an investment for entry or exit. The RU's dossier shall demonstrate the relevant flow does not constitute a production batch of limited volume or duration (eg. non-recurring order of rails, or construction materials for a one-off building site) nor a flow subject to strong cyclical variations (in which case the start-up incentive will be limited to the permanent portion of traffic justified by the RU). |

|                       |  |
|-----------------------|--|
| <b>E</b>              | <b>permanent rail freight services subject to a barrier (surcharge) outside the Channel Fixed Link</b>   |
| E Amount              | <p>≤ actual surcharge created by the barrier / year &amp; ≤ maximum ETICA amount / 3 years</p> <p>Specific amount to be determined by Eurotunnel on the basis of the dossier established by the RU, which shall document the cost of the barrier outside the Channel Fixed Link. The amount of the ETICA incentive aims to counteract partly or fully this surcharge on a temporary basis, up to the maximum ETICA Freight incentive amount, phased over a period of 3 years maximum, without exceeding the actual surcharge documented by the RU. This partial and temporary counteraction aims to allow the continuation of the service during a reasonable period to be employed for the resolution of the barrier in cooperation with third parties involved (the dossier must establish the existence of reasonable possibilities of resolution).</p> |
| E Specific conditions | The ETICA dossier shall comprise a commitment by the RU to full cooperation with Eurotunnel in order to resolve as soon as possible the barrier concerned in liaison with third parties involved (IMs, RUs, authorities). Payment of the incentive is conditional upon RU compliance with its commitment of genuine cooperation towards resolution of the barrier (joint letters, etc.)  |
| E Phasing             | 60% year 1 + 30% year 2 + 10% year 3 (or other terms established in the ETICA attribution)   |

The application of qualitative criteria cannot be cumulated, and therefore a given rail freight service may not apply for the attribution of an ETICA incentive under more than one criterion or call for applications (eg. application dossier for «intermodal services» followed by a dossier for «food & beverages transport» for one same flow or service...)

Eurotunnel reserves the right to complete at any time the list of eligible flows for its ongoing or future ETICA calls for applications (in particular to reflect the results of consultations with potential candidates). In that case, Eurotunnel will publish an updated schedule providing details of the additional eligible flows.